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Depoliticization and Criminalization of Social Protest through Economic Decisionism: the Colombian Case

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Abstract

This article argues that current manifestations of criminalization of protest in contexts rich in natural resources can be inscribed in a wider economic context that contributes to the neutralization of political claims to land, natural resources and self-determination. The first part suggests a view of the tendency to criminalize protests as underpinned by a biopolitical immunization of economic decisions from political contestation. By effecting a normative, impassable disjuncture between what is considered juridical-political and what is considered economic, a biopolitical articulation appears in order to functionally present economic decisions as technical and necessary, and consequently, non-political. The second part of the article presents a preliminary approach to the current configuration of criminalization of protests in Colombia. I argue that recent initiatives to criminalize protests exemplify the manner in which physical violence, whether realized or implied, is playing an important role in the legitimization, foundation, and operation of a new property regime characterized by a de facto land reform, a selective enforcement of property rights and an increasing shielding of economic decisions - concerning natural resources exploitation - from political debate.

Key words

Social protests; criminalization; depoliticization; biopolitics; Colombia

Resumen

Este artículo sostiene que las actuales formas de criminalización de la protesta social en contextos de riqueza en recursos naturales, pueden estar inscritas dentro de un contexto más amplio, que contribuye a la neutralización de las luchas en torno a la tierra, los recursos naturales y la autodeterminación. La primera parte presenta una perspectiva de la tendencia a la criminalización de la protesta, justificada como un medio eficiente de inmunización biopolítica de las decisiones

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económicas y de la confrontación política. Al producir un desentendimiento entre lo que se considera jurídico-político y lo que se considera económico, aparece una articulación biopolítica al presentar las decisiones económicas como herramientas de gobernanza técnicas y necesarias, y por consecuencia apolíticas. La segunda parte del artículo presenta una forma preliminar de entender la configuración actual de la criminalización de la protesta social en Colombia. El artículo demuestra que las recientes iniciativas para criminalizar la protesta ejemplifican una forma mediante la cual la violencia física, bien sea reconocida o supuesta, está jugando un papel importante en el fundamento, legitimidad y operatividad de un nuevo régimen de propiedad caracterizado por una reforma agraria de facto, una selectiva forma de implementación de los derechos de propiedad y un alto desplazamiento del debate político de las decisiones económicas en torno a los recursos naturales .

Palabras clave

Protestas sociales; criminalización; despolitización; biopolítica; Colombia

Table of contents

1. Introduction

The increasing criminalization of social protest that we are witnessing today entails a form of depoliticization understood as neutralization in political terms. Legal dispositions criminalizing protest, whether directly or indirectly, provide a legal form inside which the autonomy and immunization of economic decisions are determined. For this reason, the legal use of force underlying criminalizing dynamics needs to be referred to in terms of its economic function which ultimately unfolds into an economic entitlement to unspeakable violence. When physical violence is deployed against protest vindicating, defending and protecting territories and natural resources from economic extractive dynamics, such violence constitutes, to borrow Nicholas Blomley's words, "the means through which property acts" (Blomley 2003, p. 129). The type of property that acts through violence is that which must be inscribed in a complex global regime in order to be understood. The question at stake here concerns what it is that criminalization prevents from being discussed and even said. This includes (i) the exclusion of economic self-determination from development discourses, (ii) the geo-economic overtones of criminalization, and (iii) the silent complacency over a global demand for resources that requires the exposure of entire populations to both instant and long term death.

This article will argue that the criminalization of protest is inscribed in a wider economic context that contributes to the neutralization of political claims to land, natural resources and self-determination. It will then focus on the case of Colombia. To these ends, the article is structured in two parts. The first part will argue that a biopolitical immunization from political contestation of economic decisions underpinnes, to a significant extent, the dynamics of this kind of criminalization. By effecting a normative, impassable disjuncture between what is considered juridical-political and what is considered economic, current forms of criminalization functionally presents economic decisions as technical and necessary, and consequently, non-political. The wider context in which criminalizing practices are embedded will then be addressed. Three aspects in particular will be highlighted: (i) the limitations and the economic functionality of development led programs, (ii) the consolidation, at the transnational level, of an economically mediated and synthesized rule of law model, and (iii) the inscription of conflict societies in a globalized project for opening up national resources to global networks of capital production. Then, the second part of the article will examine the current configuration of criminalization of protests in Colombia. I will argue that criminalization exemplifies the manner in which physical violence, whether realized or implied, is playing an important role in the legitimation, foundation, and operation of a new property regime characterized by a de facto land reform, a selective enforcement of property rights and an increasing shielding of economic decisions - concerning natural resources exploitation - from political debate.

2. Contemporary forms of articulations of the juridical-political and the economic: the biopolitics of depoliticization

2.1. An economic politics of 'letting die'

The increasing criminalization of protest we are witnessing today reflects a biopolitical unfolding of a reformulation of life central to the regulating principles of modern liberal and neoliberal political rationality. This centrality has been developed from two different but related angles. On the one hand, life has been made paradoxically reliant upon death; on the other, life is reformulated through an increasingly flexible economic intervention, in order to make it productive. Before analyzing the depoliticizing character of the criminalization of protest (as a neutralizing technique grounded upon an allegedly indisputable conception of "security" that draws a route from open war and confrontation to a procedural and economically functional type of peace), I will first provide a brief introduction to the

Oñati Socio-Legal Series, v. 4, n. 1 (2014), 139-160
ISSN: 2079-5971

question of contemporary biopolitics. Here, biopolitics will be understood as a continuous expulsion of political and economic self-determination.

One of the most salient forms of biopolitical power today concerns a myriad of economic reformulations of life. In this reconfiguration a shift in the sovereign right to kill (Foucault 1978, 2008) has taken place. The right to kill and to expose to death manifests today as "the reverse" of an alleged need to secure and develop the life of a totalizing and excluding 'society' (ibid). *Developing life* in this context takes place through an estimating calculus of worthy and unworthy lives, a calculus that constitutes the underlying logic both of waging war and the correlate need to 'secure' democracy. As a result of this power over life, wars are waged on behalf of a totalized humanity and massacres become a vital necessity:

> Wars are no longer waged in the name of the sovereign who must be defended; they are waged on behalf of the existence of everyone; entire populations are mobilized for the purpose of wholesale slaughter in the name of life necessity: massacres have become vital. (Foucault 1978, p. 137)

In synthesis, this sense of biopolitics relates life and death such that the power to guarantee humanity's and society's life depends on the exposure of whole populations to death. Achille Mbembe has described the economic character of current configurations of life as *productive* through what he calls necropolitics. It entails a drive for total control traversed by processes of economic extraction that ultimately culminate in a long exposure to death. A drive for total control incapacitates whole sections of the population politically, economically and structurally. Incapacitation here is a constituent element of the phenomenon of "private indirect government" (Mbembe 2001), namely a particular form of relation in-between capital and power that entails a decisive connection between new configurations of power, the privatization of violence and the economy. Importantly, private indirect government takes the place of the state (but also dictates what particular goods and rights the state must enforce) in controlling individual conduct. In this context, 'necropower' refers to a power that is set up for the creation of deathscapes, as forms of social existence in which vast populations are subjected to conditions of life akin to the status of living death (Mbembe 2001, 2003). This is a "process of privatizing sovereignty" which "has been combined with war and has rested on a novel interlocking between the interests of international middlemen, businessmen, and dealers, and those of local plutocrats" (Mbembe 2001, p. 93). Referring to the case of Africa in particular, Mbembe contends that current dynamics of environmental exploitation, extraction and warfare are the result of a continuous control over the territory and natural resources. Specifically, Mbembe argues that a simultaneous formal – often rapid and violent – de-linking of many sub-Saharan states and their simultaneous informal integration into global economic arrangements during the 1980s and 1990s was the consequence of the interaction of three conditions: government policies, structural adjustment programs, and/or armed conflict. Primary commodities and movement of currencies and wealth (such as tropical hardwoods, gold, diamonds, oil, ivory, diamonds, or timber) were the target of control by multiple forms of private indirect government. In addressing these dynamics, Mbembe highlights the problematic economic entitlement to violence that characterizes private indirect government. For this type of government to control resources and extract rents, violence is required to replace law (Mbembe 2001, 2003). As I will explain later, in the case of the increasing criminalization of protest we witness today, it is not just that violence takes the place of law but that law enforces economic entitlement to violence.

Similarly, Warren Montag speaks of biopolitics as sustaining a contemporaneous "letting die" whose origin he finds in Adam Smith. Smith's work sets up the notion of economic theodicy, for which the infliction of death is both rational and necessary for the operation of a providential production of life. Such a theodicy identifies the market with "a meta-human realm which neither individual nor collective entities can master", and relies upon a morality according to which evil "arises only from

human attempts to 'interfere' with the workings of a providential design". Letting die (or exposing to death) is positioned as a necessary condition for the maximization of life; a condition with strong moral overtones (e.g. Montag 2005). The harmony of the market is conceived of as "not only [allowing] death" but actually demanding that those who suffer it "allow themselves to die" (Montag 2005, p. 14). At this point, Montag rightly points to the external intervention of the sovereign (this is the task assigned to the state in the global order) in order for markets to work:

> It is here that the sovereign power must intervene, not necessarily to kill those who refuse to die, but to ensure, through the use of force, that they will be exposed to death and compelled to accept the rationing of life by the market. (Montag 2005, p. 17)

This is a demand for qualified intervention, which in neo-liberalism does not rest upon the direct invocation of a natural economic order to be followed (or the rationing of life by the market) but in the deployment of notions such as market failure, transaction costs and more recently, fiscal sustainability. Montag signals that under this perspective "those who lack food or water or medicine cannot legitimately be killed by the state or by private individuals", but that it is "legitimate" not only "to refuse them the sustenance they demand or simply require in order to continue living", but also "*to resist by force* (…) their attempts to take that to which they have no claim" (Montag 2009, p. 127, my emphasis).

These approaches (Mbembe's notion of private indirect government and Montag's articulation of the logic of "letting die") describe the contemporary thanatopolitical impulse whereby life is made reliant upon death. Investing "life" through and through has translated in the last two decades in particular into an allegedly inescapable need for massive extraction, legitimized as opening up natural resources for the consolidation of (low intensity) democracies. This article will reveal that the increasing criminalization of protest is inscribed in this logic, whereby a depoliticizing articulation between the economic and the juridical-political categorizes social mobilization against aggressive extraction as non-political and, therefore, as unqualified to question matters that belong to an allegedly neutral and technical economic domain. Once framed in an economic paradigm of investment, massive extraction and economic growth, it is clear that criminalization is a function to the current identification of economy with a particular type of market transaction, an identification that continuously takes preeminence over every other aspect of political life. Locally, criminalization of protest materializes the economization of the command of law and the security of the population. As a result, and this is the culprit of today's economic coding of spaces and people according to their relationship to property and resources, the possibility of economic democracy and self-determination are expelled from what is acceptable as a "proper" political demand. We will see how criminalization operates through, on the one hand, occasional restrictions and suspensions of law and on the other, through its selective enforcement.

2.2. The wider (globalizing) context

The wider economic context in which the criminalization of protest is inscribed structurally contributes to the neutralization of political claims to land, natural resources and economic self-determination. Such a context works at various interrelated levels that are often overlooked. I will engage with two of these levels.

The first level concerns the inscription of societies in conflict, or so called "divided societies" in a globalized project for the opening up of national resources to global networks of capital production. The wider context of a global need to open up resources is not possible without the controlled insertion of local economies and the right to self determination into the machinery of production and the adjustment of legal systems to broader economic processes. This insertion relates to a wide range

Oñati Socio-Legal Series, v. 4, n. 1 (2014), 139-160
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of peacemaking and transitional justice projects, economic recovery programs, state-building and constitutional engineering standards, all of which converge into the creation of "low intensity democracies". In such democracies a minimum of civil and political rights is formally secured but political decisions on economic concerns such as structural inequality are indefinitely postponed or rendered as non-political, technical matters. As Susan Marks points out, a "set of ideological strategies legitimates low intensity democracy by means of an imaginary resolution of social and political antagonisms". The normative insistence and almost exclusive focus on "the importance in democratic reconstruction of constitutional guarantees of the right to vote and stand for election, along with rights to freedom of expression, freedom of assembly, and other such civil rights" fundamentally "detaches the need to protect these rights from the issue of how economic deprivation and social marginalization affect opportunities for political participation" (Marks 2003, p. 66). The promotion and establishment of these low intensity democracies "serves to reduce the justification for challenging the existing order, and thus to weaken the impetus for radical social and political change" (Marks 2003, p. 52).

It is in this sense that the very limited understanding of political change in peacemaking and mainstream transitional justice approaches, for instance, is so depoliticizing.[1] While political change is most of the time defined in a manner completely alien to economic questions, economic self-determination is not even seen as politically debatable. Moreover dissensus in this regard is often viewed as a threat to the alleged fragile peace achieved with transition or peace-making (e.g. de Greiff and Duthie 2009). All of this favors the criminalization of protest in divided societies.

The link between what could be called "political reconstruction programs" and low intensity democracies is clearly exemplified in the relatively recent positioning of development as the natural channel for the inclusion of social injustice concerns within societies going through transitional justice "transformation" (see e.g. contributions in International Journal of Transitional Justice 2008, also cf. de Greiff and Duthie 2009). Such a link to development as the answer to socio-economic concerns is part of a transnationally driven discourse whereby a particularly constraining and yet widely deployed developmental paradigm structurally – although implicitly – excludes economic self-determination and the right to decide on natural resources and the uses of land. Since the 1980s, international financial institutions and other developmental agencies have promoted foreign and private investment as part of the fundamental core of economic-growth-oriented programs for developing countries. This process intensified in the 1990s with the intensification of neoliberal institutional reforms. Although in the last decade a social component entered the agendas of transnational developmental and financial institutions, the increasing interest in incorporating social concerns has not been accompanied by any relevant corresponding modification within legal reform programs. In fact, the components of the legal reforms have remained the same: protection of property rights, enforcement of contracts, and the provision of rules and institutions necessary for a "stable and attractive investment climate" (Rittich 2006, p. 210, Perry-Kessarys 2011, World Bank. Investment Climate, 2014). Hence the inclusion of principles of participation and local ownership and the opposition to one-size-fits-all formulas consolidated into a rhetorical procedural declaration (e.g. Tamanaha 2010, 2011, also Tan 2011 and Nagy 2008) accompanied by a series of highly regulated procedures to localize and normalize local participation (e.g. OHCRH 2009); and yet, such restricted commitment to social concerns has served as a legitimizing response to the strong criticisms of top down and expert led

[1] The cases of South Africa and Colombia instantiate the economically mediated character of the transitional projects implemented in those places. While political change in these two cases excluded questions of economic self-determination, dispossession and structural inequality, transition coincided with an opening of resources and the introduction of large-scale programs for the promotion of foreign direct investment.

processes characterizing adjustment programs, peacemaking and transitional schemas.

Two recent examples evidence the implicit and structural exclusion of economic self determination and the right to decide over the uses of natural resources. The first relates to the Millennium Development Goals: these constitute "the latest and most visible effort on the international plane to address the social deficit in the global order" (Rittich 2008, p. 482). Conceived of as the contemporary "'meta-platform' for change" (Rittich 2008, p. 482) "they have virtually come to 'stand in' for the problem they seek to address" (Rittich 2008, p. 482) namely, poverty reduction. Their positioning as "the template for global progress on an interrelated set of social objectives" relies on a set of ironically assumed formal states' consensuses such that the "goals, policies and institutional structure of the global order" are taken as "largely given" (Rittich 2008, p. 483). Indeed, signals Rittich, the MDGs' focus on poverty reduction commands a widespread assent "because the initial, even 'natural', reaction to it is, 'of course it is a good idea. Who could be against it?'" (Rittich 2008, p. 465). What a focus on disseminating claims concerning "the degree and nature of poverty" does is to "reinforce the perception that poverty itself, rather than something else, is self-evidently the problem that should be addressed" (Rittich 2008, p. 477). Notably, as Rittich signals, economic inequality as a condition of global markets becomes out of the question. This is because the formal consensus around the "need" to reduce poverty is grounded upon a more general and assumed consensus determining the solution for what is conceived to be the source of social injustices. It relates to the position adopted by the international financial and economic institutions (IFIs) since about 1980, according to which "welfare gains are largely coterminous with economic growth, while maintaining that the fundamental condition of poverty alleviation (and the achievement of other social objectives too) is the adoption of policies and rules to facilitate greater private-sector activity" (Rittich 2008, p. 469). Since then and despite the introduction of some "'pro-poor' policies" and "greater environmental and labour protections" "the fundamental commitment to market-centred, export-focused and privately-led economic growth" has remained intact (Rittich 2008, p. 469). The normative assumption is that without economic growth, social issues, including those targeted in the MDGs, can never hope to be successfully tackled. And yet, as Rittich clearly notes, increased poverty and widening economic inequality "have undercut the argument connecting market-centred development to economic growth and welfare gains at a quite basic level" (Rittich 2008, p. 469).

The MDGs, positioned globally as the authorized platform for change, hamper other forms of problematizing socio-economic issues. The normalization operates by presenting poverty, inequality, deprivation and disempowerment as exceptional and as the target of economic development (rather than, for example, their product). In doing so, the manner in which poverty is addressed can be seen as an evolved form of disciplining the achievement of change. This is because MDGs reflect a commitment not only to particular goals but also to particular and excluding modes of pursuing those goals (Rittich 2008, p. 467). This leads us to the second example of contemporary developmental forms of expulsion of economic self-determination and the right to decide over the uses of natural resources at the global level. Celin Tan's (2011) analysis of the disciplinary character of the Poverty Reduction Strategy Papers, PRSPs, (introduced in 1999 as preconditions for concessional financing and for debt relief in the World Bank and the International Monetary Fund) explains this point. The PRSPs, explains Tan, entail a new disciplinary framework for developing states in that they dictate the manner in which states should relate to the global economy and international law. By creating an image of self determination grounded on the principle of ownership, whereby states and societies allegedly implement adjustment and neoliberal policies on a voluntary basis, the PRSP obscures the economic overtones of the democratic project underlying legal reforms. The PRSP framework thus serves as a legitimizing

function in respect of the asymmetries that continue to characterize a postcolonial economy. Although the PRSP is regarded as the opposite of the doctrine of conditionality, it should be understood as a "refinement" of the doctrine (Tan 2011, p. 95).The incorporation of social concerns can be seen as an assemblage, wherein pluralism and all-inclusiveness are not incompatible with the prevalence of the economic in the functional reading of law. The new "official rhetoric" of participation and ownership evidences the crucial reconfiguration of the forms of global governance and the postcolonial juridical order where economic projects other than the hegemonic normative core of economic growth are obscured and neutralized. Therein lay the political implications of increasing criminalization of protest vindicating economic self-determination. As these protests directly contradict and make visible the normative core underlying low intensity democracy, they are not merely to be prevented but deemed illegal.

The second interrelated level concerns a myriad of transnationally driven legal and constitutional reform projects, orientated towards establishing an economically mediated and synthesized rule of law model. And yet, there is a surprising lack of reflection in this regard whenever the rule of law is invocated as a "cure" – rather than a site of struggle – for all the problems afflicting many non-Western countries (e.g. Rajagopal and Tamanaha). The synthesized version is linked to particular economic ends and its form and content are significantly shaped by its categorization as a governance indicator (Kaufmann *et al*. 2006, for the argument Rittich 2008). Fundamentally, in terms of governance, the rule-of-law cannot be separated from its assigned role in securing foreign investment and the optimal legal configuration for economic-growth (e.g. World Bank Indicators). As such, this optimal configuration is characterized by a neoformalist view of public law, orientated towards protecting property rights, contract enforcement and judiciary independence. The World Bank's work as a development agency illustrates this point. According to the Bank's account, the alleviation of poverty, for instance, depends on the strengthening of a rule-of-law which, in turn, enables private sector confidence, foreign investment and, as a result, growth. An instrumental policy-oriented character seems to constitute the rationale behind the adoption of the rule-of-law. The economic shaping of the rule-of-law in the Bank's account appears unmistakably reflected in the priority areas recommended by the Private Sector Development Action Program:

> (i) improving the business environment for private sector; (ii) restructuring or privatizing public enterprises; (iii) developing the financial sector, particularly to improve the operation of financial intermediaries and the transfer of resources; and (iv) undertaking research and policy analysis to lay the basis for future operations (Humphreys 2010, p. 136)

Among the depoliticizing features arising from such deployment of the rule-of-law, Humphreys highlights that while the rule-of-law provides "legitimacy for the Bank's law reform work" it also "[naturalizes] a certain view of economy and the role of law within" (Humphreys 2010, p. 148). In summary, and without denying the fact that the meaning of rule-of-law is a contested matter, the preeminence of this synthesized version cannot be underestimated when evaluating the obstacles that social protest faces when vindicating economic self-determination and the right to decide on the use of natural resources.

Criminalization is thus part of a wider dynamic of a politics of depoliticization, characterized by economic constructions and interventions of the juridical-political, the widespread mandate for the 'incorporation' of the social as a mere procedural requirement, and the embracing of a synthesized rule-of-law. These elements converge into a sort of economic decisionism, namely a power to decide what is political, which determines to an important extent the scope of what is admissible in terms of legal reforms and political change. As such it designates a set of particular economic knowledges and practices constituting a site of truth formation in relation to what must remain foreign to political disputability. I would like to

suggest that the implicit removal of the right to economic self-determination and the possibility to decide on natural resources from what are regarded as the "legitimate" spaces for political discussion according to legal reform, development and political reconstruction programs, is a form of economic decisionism. Criminalization plays a central role in this dynamic of implicit removal as it stigmatizes and deems illegal protests that take place outside the coordinates that determine the scope and boundaries of what are "acceptable demands" – this is a very common form of disciplining political demands among political reconstruction programs. While under colonialism a continuing transformation of global property relations occurred, today we are witnessing a seemingly more subtle imposition of an economic and spatial order on a similar but yet historically different 'new territory'. This new territory corresponds in part to those areas subject to economic and political 'recovery' as a result of a global project of restricted democratization. Here economic indicators of governance, the very poverty reduction strategy, and a myriad of expert-knowledge-based reconstruction institutions become powerful triggers of the reconfiguration of property and resource exploitation, in that they establish the proper use of land and resources.

3. Criminalization of protest in Colombia

Physical violence shapes the contours of survival, dispossession and political obliteration of millions of inhabitants in Colombia. It constitutes the defining deed and the operative means of total removal practices such as forced disappearance or human remains concealment tactics. While it is common to associate Colombian violence with paramilitary groups, guerrillas, drug cartels and the armed forces, it was not until recently that corporate complicity and a wider geopolitical network of interests were recognized as profiting from, and to be the engines of, violence. Although the question of land ownership and the control of territory has been regarded as 'the central social conflict of Colombian history' (Valencia Villa 2010, p. 18-19), the features of a major counter agrarian reform taking place today are complex. Notably, these features remain overshadowed by the disarticulation of the discourse about violence from global demands for the opening up of natural and human resources, and, at the local level, from the economic policies remapping the territory according to an extractive model for the promotion of private investment. I would like to argue that the current economic model championing mining extraction (including gold and coal) and monocultures (such as African palm and sugar cane) as the corner stone of the government development program is carrying out a de facto land reform on the basis of a legitimizing public discourse in favor of the victims of conflict. The current commitment to returning land to victims by means of the Victims' Law (enacted in 2011) might be in fact obscuring current acts of violence and dispossession not just by separating the conflict from structural economic inequality and the current promotion of economic mega agro-industrial and mining projects, but by positing these projects as a precondition for a long lasting peace. Finally, the recent enactment of criminal offences framed within a discourse on national security further enlarges the scope of criminalization of protest by creating criminal offences that ambiguously and indirectly criminalize practices inherent to social protest. It is under these circumstances that current and intensified acts of physical violence against protesters are not simply the expression of exceptional circumstances but a facilitating precondition for land redistribution from peasants, Afro-descendants and indigenous communities and smallholders to larger landowners and corporations.

3.1. A de facto land reform: The Victims' Law, economic mega-projects and the right to economic self determination

The main purpose of this subsection is to expose the conditions and features of a de facto agrarian reform taking place in Colombia. In order to understand the complexities of legal and illegal redistributions of land, including a myriad of recent

decisions over natural resources, it might be helpful to look at the de facto reform from a relational approach and as an escalating process. For this purpose it is possible to speak of two interrelated and consequential forms of de facto land reform. The first – scattered and openly illegal – involved, to an important extent, the deployment of forced displacement in the midst of the battle over control of the territory. Forced displacement, constitutes both a means and an outcome of the actors involved in the internal conflict. With approximately 5.2 million persons internally displaced since 1985[2] the scale of the redefinition of land-appropriation and land uses following displacement cannot be underestimated. According to *Acción Social*, the former Presidential Agency for Social Action and International Cooperation, people have been forced to abandon 6.8 million hectares (IDMC 2010, p. 10).[3] Control over land in this context entails a strategic advantage for the establishment of zones of political influence, corridors to export drugs or import arms or to grow drug crops (Olarte and Wall 2012). But control over the territory is also closely related to another phenomenon which has only started to acquire public visibility in the last couple of years, namely alliances between paramilitaries and entrepreneurs (sometimes with the connivance of the armed forces) in order to carry out illegal appropriations of land for agro-industry projects.

The second series of dynamics leading to a consolidating stage in de facto land reform is implicit in the interconnections between the political project contained in the 2011 Victims' Law (Law 1448), the economic project contained in the development plan of the current government (condensed in the four year governmental plan *Democratic Prosperity Program*), and a wider global context demanding the opening up of natural resources. Even though the Victims' Law represents to some extent a positive step forward for the victims, once the interconnections of the two projects are located in the wider perspective mentioned in the first part of this article, a myriad of serious issues arises, particularly in relation to the right to decide on the uses of natural resources and economic self-determination. It is in view of the depoliticizing consequences emerging at the crossroads of the two projects and the global context that the functionality and continuity of criminalization of social protests appears more clearly.

3.2. The Victims' Law

Since the Victims' Law came into effect in 2011, Colombia's media coverage has presented President Santos' policy of land restitution as an example of "a genuine agrarian revolution". In this sense the President has often called himself the 'President of the Peasants'. However, the inflation of figures regarding the real number of hectares so far returned to the victims of violent conflict in the frame of the Victims' Law,[4] along with some dispositions therein directly hampering the

[2] Forced displacement affects today between 8 and 11.6% of the national population (IDMC 2011, p. 25, also CODHES 2010, 2011). While government figures as of 2011 differ considerably from those provided by the Advisory Committee for Human Rights and the Displaced, CODHES, and other estimates, most of them agree on a figure oscillating between that of 3.8 million people displaced between 1997 and 2011 as provided by the government (CODHES 2011, p. 4, IDMC 2011) and the 5.2 million registered by CODHES – whose counting covers a larger period starting in 1985 (CODHES 2011, p. 3). The number is uncertain also due to irregularities with the registry of the displaced population and the high rates of underregistration. For a detailed account on these irregularities see the analyses of the Commission to Monitor Public Policies on Forced Displacement, a commission set up to monitor the displacement crisis following the Colombian Constitutional Court's rulings ordering the government to protect the rights of displaced persons (Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado 2009).

[3] This is however a contested figure, as the National Movement of Victims against State Crime (MOVICE) put the figure at around 10 million hectares which amounts to 8.8% of the territory (Serralvo 2011, unpaged). Finally, the Commission to Monitor Public Policies on Forced Displacement stated that between 1980 and July 2010, 6.6 million hectares of land (which represents approximately 12.9% of Colombia's agricultural land) were abandoned or usurped (Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado 2011, p. 9-10 and ABColombia 2011, p. 2).

[4] The Government committed to return approximately 160.000 land units by August 2014. However, official figures indicate a significantly smaller figure. According to the Director of the Dispossessed Lands Unit the goal of the Government was to return 2,100 land units as to 2012, adding that the figure will

possibilities for the dispossessed to decide on the use of their land, seem to indicate the contrary. To start with, the law separates the right to restitution from the right to return to the devolved land. The text of the law (Article 99), ambiguous at best, suggests that victims will not have their land returned to them when an agro-industrial plantation has been developed on it – whether the land has been purchased legally or illegally. In those cases, however, the law establishes that victims' ownership of the land will be *recognised*. But *recognition* seems to exclude the right to determine the use of that land. This is because whenever it is considered that those developing an agro-industrial project have bought the land 'in good faith', the victim will receive land titles but will be required to rent the land to the company or become an associate or partner of said company.

Economic self-determination is thus undermined, as those recovering their land will be denied the possibility to decide how they will develop it, while being forced to choose between renting it and entering into partnership agreements with the companies developing agro-industrial projects. Ironically, the very condition of victimhood deprives them automatically of the possibility to decide on the use of the land. This situation shows how a history of violence and dispossession enables the intense economic exploitation of a vast amount of territory.[5]

Besides, even ignoring the problems that the law in itself might present, its implementation has met multiple obstacles and the overall results of land restitution efforts are still precarious. By June 2013, 77 restitution sentences had been delivered, which amounts to barely 1% of the land claimants (Salinas 2013a). Moreover, the concentration of approximately 330.000 hectares among national and international companies and which might have formerly belong to peasants

quadruple in 2013 (which will amount to 8,400 rural properties). Thus by the end of 2013 total land returns would amount to only 11,199, that is 149,146 fewer units than the 160,345 promised by President Santos to 350,000 families dispossessed through violent means. The Agriculture Minister stated that the land program had "achieved the historic record of awarding titles covering 800,000 hectares to peasants, displaced persons, and ethnic communities". However, as the opposition Congress member Jorge Robledo pointed out, according to the official figures, by August 2011 only 14,208 of the stated total were restitutions for victims of violence. Robledo further noted that "a breakdown of the aggregate figures shows that only 18,119 hectares -just 2.2% of the total - represent land returned to (699) victims of dispossession". In fact, "2,535 hectares represent lands confiscated from narco-traffickers; 165,374 are made up of land in indigenous reservations; and 598,857 hectares that required little action by the Administration as they correspond to the titling of idle State lands that were either long occupied by settlers or granted to Afro-descendants".

[5] There was another disposition within the victim's Law which significantly limited victim's possibility of deciding on the use of their land by curtailing their means available to recover it. Thus, Article 207 of the Victim´s Law penalized those protesting and organizing to recover their land outside the terms fixed by the law for land restitution program: "Any person who claims the status of victim in the terms of Article 3 of this Law, and who uses de facto methods to invade, use or occupy a property for which restitution or relocation is claimed as a means of reparation, while the claimant's legal standing in the process of restitution of dispossessed or forcibly abandoned land has not been resolved in the terms of Articles 91 and 92 of this Law, or provisions amending, replacing or supplementing them, will lose the benefits established in the in Chapter 3 of Title IV of this Law". The wording and vague language of the article seemed to suggest that those victims of violent acts of land dispossession who attempted to regain their land by means of, for instance, a peaceful invasion before a formal decision had been taken by the corresponding authorities, could lose their right to the land. In doing so the law problematically disarticulated and neutralized future land-related forms of resistance and protest. Peaceful land occupations, deployed as a means of regaining possession of and powers of decision over the use of land, were thus indirectly criminalized by the Victims' Law. This provision openly disregarded the political condition of the dispossessed and ignored years of social organization among displaced communities. Specifically, the norm ignored the efforts of some communities that, facing the risk of death, torture, rape and disappearance, organized themselves and peacefully returned together to small sections of that land. A regulation enacted "for" the victims seemed to paradoxically dispossess them from their political right to organize. In late 2012, the Constitutional Court declared this norm unconstitutional. The constitutional tribunal considered that it was disproportionate and unreasonable regarding the due protection to the rights of the victims in so far as it ignored the condition of 'victim' itself and her right to land restitution on the basis of their factual situation. Even though the Constitutional Court declared it unconstitutional, this norm demonstrated the contradictions within the Victims' Law: while this law recognizes the situation of precariousness and the vulnerable condition of the victims of the Colombian conflict, it also established regressive regulations that limited their right to organize and protest.

might further question the actual scope of the land restitution program within the Victims' Law framework (cf. Salinas 2013b).

3.3. Extractive and agro-industrial mega-projects: private direct investment as an organizing principle of the territory and politics

The Victims' Law might be playing a complementary political and economic role in legitimizing the main extractive policy underlying President Santos' development program, which seeks to transform the Colombian territory into a *mining locomotive*. In contrast to the previous administration, the current government has adopted the language of human rights, social concerns, and ownership. For instance, in September 2011 during the Canadian Council of the Americas, an event sponsored by several Canadian mining and oil companies with investments in Colombia, President Santos stated that his government would focus not only on security and economic growth, but also on respect for human rights. To support this affirmation, he mentioned the enactment of the Victims' Law (Mining Watch Canada, Mines Alerte 2011).

This formal commitment to victims of conflict, however, cannot cover up the existing clashes between the rights of the actually and potentially dispossessed and the priority given to mining, agro-industrial and energy projects. The increasing mobilization of grass roots movements opposing these projects is an expression of a clear antagonism. Nonetheless, the institutional discourse on progress confusingly obscures the scope and visibility of social mobilization. Portrayed as "engines of growth" that will lead the country towards "democratic prosperity," these economic mega projects are rhetorically presented as a precondition for overcoming social injustice (e.g. DNP 2011). Moreover, within the framework of the development program, four further factors indicate that in the coupling "democratic prosperity", it is "prosperity" – understood in terms of economic growth and the primacy of private investment – that determines the boundaries of democracy. The first factor indicates that within the development plan of democratic prosperity, idle state land can be given to anyone. This is very problematic in terms of dealing with high levels of land concentration and the millions of dispossessed people around the country. While in the past, idle land could only be adjudicated to poor peasants who had to demonstrate their lack of rural property and who would only receive small areas, it can now be adjudicated to corporations. This excludes the possibility of envisaging long term support and resources for small-scale agricultural models of development and food security programs. The second and related factor is the criminalization and demonization of small scale mining. The criminalization operates through a generalizing association between small scale mining, money laundering and the activities of armed groups. As a result, artisanal mining has been deemed illegal, leaving thousands of small miners – many of whom are not associated with armed groups – with no alternative source of income. In the meantime, an extractive mining economy has been consolidating in a very irregular context since 2002. Since then, thousands of licenses for the exploration, and in some cases extraction, of minerals have been conceded on natural reserves and the territories of indigenous and Afro-descendants. The proliferation of licenses, however, has not been accompanied by appropriate environmental risk studies. The impact of extractive projects on water resources, for instance, has been underestimated when not ignored altogether. The third factor concerns the real scope of so-called consultancies. The need to consult those who might be affected by the projects has turned into a mere procedural requirement. This situation replicates the depoliticizing phenomenon of *social incorporative practices* characterizing the recent concern of international financial institutions and development organizations with principles of ownership and participation. The final related factor relates to the free trade agreements (FTAs) currently in force and the pending ratification of further agreements (e.g. US, UK Trade and Investment's new strategy, the EU-CAN Agreement with Colombia and Peru, among others). The FTAs have found multiple

forms of resistance among peasants, small scale farmers and indigenous groups. They have repeatedly argued that the priority given to foreign economies, products, investors and national elites will aggravate the already appalling level of poverty, land concentration and inequality. Crucial agro products (e.g. wheat, barley, cotton and maize) will be deeply affected while others will face ruin or serious damage under the terms set by the FTAs (rice, kidney bean, milk and meat, for example).

In view of these circumstances, multiple social organizations have raised their voices against the current economic program and model. The increasing force of social mobilization has been nevertheless subject to both new and continuing forms of criminalization and stigmatization.

3.4. Criminalization of protest via broadly defined and conflict-related criminal offences

One of the most effective contemporary forms of protest criminalization is indirect. This is partly a response to the myriad international and national instruments and decisions which, in protecting rights such as association and freedom of expression, (cf. IACHR Relatoría para la Libertad de Expresión 2008) make it difficult to explicitly criminalize social protest. Thus, the criminalization of protest by associating its modes of operation with criminal offenses such as terrorism, public intimidation, coercion, sabotage, incitement to violence and kidnapping, among others (e.g. IACHR Relatoría para la Libertad de Expresión 2006, par 217), has become a worryingly widespread phenomenon. These are offences often defined so broadly and ambiguously that they are open to arbitrary interpretation and deployment by prosecutors, judges and security forces. Moreover, as some charges seem legitimate in principle, it is difficult to make visible the arbitrary potential of their use against social protest. Sanchez and Uprimny have categorized a number of indirect forms of criminalization of protest in Colombia, while emphasizing their particularities in the context of internal conflict. Indirect forms of criminalization include (i) prosecuting activists on the grounds of criminal offences associated with armed conflict, (ii) opening criminal investigations unlikely to reach the trial stage and culminate in a prison sentence which can nevertheless disarticulate, demoralize and discourage social protest, and (iii) applying disproportionate sentences for offences that do not affect the nucleus of any fundamental right but which punish practices often deployed in social protests. Among the criminal offences the authors list that are used to indirectly criminalize social mobilization are violent rioting (*asonada*), terrorism and criminal offences committed with a terrorist objective (Sánchez and Uprimny 2010). Here, however, I would like to focus on a recent form of indirect criminalization by means of the enactment of a Civil Security Law (Law 1453 of 2011) establishing disproportionate prison sentences for the obstruction of public roads and transport. The Colombian Congress issued the Civic Security Law in order to highlight and enforce a key component of the concept of public order, that is to say 'civic security', as part of the State's criminal public policy (Colombian Constitutional Court, 2012b: paragraph 5.12). For this purpose, the law created a new criminal offence – blockade of public roads – and modified an existent one – perturbation of public transport service. Significantly, this law has recently been turned into the standard bearer of the current government's security policy in response to numerous protests taking place throughout the country. Article 44 reads:

> Obstruction of public roads affecting public order: Any person that *by illicit means* urges, directs, restricts or provides the means to obstruct, temporarily or permanently, either in a selective or general way, the routes or the infrastructure of transport in such a way that it threatens human life, public health, food security, the environment or the right to work, will incur imprisonment of twenty-four (24) to forty-eight months (48) and a fine of thirteen (13) to seventy-five (75) effective monthly minimum legal wages (…) (own translation)

The article's subsection establishes, problematically, that the criminal offence excludes those social mobilizations that have obtained permission from a 'competent authority'. As a result, any protest realized without previous permission itself becomes a criminal offence.

The next article of the law dramatically increases the prison sentence for someone convicted of obstructing or disrupting public transport:

> Disturbance of public, collective or official transport: Any person that by any *illicit means* prevents the circulation of or inflicts damages to a ship, airship, vehicle or any motorized means of transport destined for public, collective or official transport, will incur imprisonment of four (4) to eight (8) years and fines of thirteen point thirty three (13.33) to seventy and five (75) effective monthly minimum legal wages.

By introducing tougher and disproportionate prison sentences for blocking and disrupting public roads and public transport, these dispositions entail an indirect criminalization. Practices common to social protest are criminalized by making them coincide with conduct that can be qualified as a criminal offense. Moreover, the ambiguous, broad and confusing wording of the article does not make it clear if by "illicit means" is meant criminal conduct itself. If so, social protest disrupting public roads or public transport would not constitute criminal conduct. However the subsection that specifically refers to social mobilizations that have been "authorized" by a competent authority seems to indicate that any other social protest constitutes in itself an illicit means conducive to the obstruction or disruption of transport. Besides, the declarations given to the media by the Minister of Defense last March when he invoked the law to threaten protestors with the "new criminal offence" left it clear that the government interpretation is that any unauthorized social protest disrupting public roads and traffic constitutes a criminal offence. The statement of the Minister was triggered by a series of protests against irregular concessions and the management of an important system of public transport in Bogota. In a clear act of criminalization of protest, the government generalized all the protests taking place at that time (from peaceful student protests paralyzing transport to cases of vandalism and robbery) as illegal.

Although these provisions contradict the consolidated position of the Inter American Commission of Human Rights (IACHR Relatoría para la Libertad de Expresión 2006, 2008), the Constitutional Court denied in late 2012 an allegation of unconstitutionality brought against them.

The Court decided the criminal offence of blocking public roads in violation of public order was not against the principle of legality. From the point of view of the enforcement and guarantee of freedom of expression and the right to protest, the decision is problematic on various grounds.

Firstly, the main motivation and purpose of the Law of Civic Security is to deter acts of terrorism and organized crime. Indeed this was the view expressed by the Government when proposed the bill as well as those supporting it during the debates in Congress. In this order, the regulation that punishes with prison sentence the action of blocking roads during manifestation assumes that such action constitutes, at least implicitly, an expression of terrorism. This might amount to an indirect way of disarticulating and deterring protests as it targets a frequently deployed mechanism within public demonstrations. The Court, however, did not consider that this issue might be relevant for the constitutional review of the norm.

Secondly, the criminal offence described in article 44 establishes the same consequence for those who "jeopardises human life, public health, food security, the environment and the right to work" when blocking roads as part of public demonstrations. In doing so, the offence puts on the same level, for instance, a threat to the life of a person who needs urgent medical attention and cannot access it because public roads are blocked, and a disruption of the daily routine of those

who cannot go to work due to a group of protestors blocking a road. In this respect, the new law - and the Constitutional Court in declaring according to the Constitution - ignored the fact that many typical mechanisms and behaviours associated to social protest include blocking roads or burning tires affect the environment or interfere with daily working routines. These type of disruptions or interferences cannot amount to a serious menace to fundamental rights, which otherwise could justify a restriction to liberty and freedom of expression within the frame of the current constitutional regime.

Thirdly, as mentioned before the criminal offences contained in articles 44 and 45 of the Civil Security Law establish that any person that by illicit means urges, directs, restricts or provides the means to obstruct the routes or the infrastructure of transport, or prevents the circulation of a ship, airship, vehicle or any motorized means of public, collective or official transport, will incur imprisonment. The plaintiff who brought the constitutional action against the regulations argued that the expression "illegal means" (medios ilícitos) was vague and ambiguous. In fact, the expression "illegal means" might mean both the commission of a crime (e.g. kidnaping) and a breach of a legal procedure or a civil duty (e.g. committing a traffic offence). While both kinds of behaviours are forbidden, the sanction for each of them is completely different. Yet, the Court concluded that the element "illegal means" was clear enough to pass the constitutional review without addressing this interpretative issue in deep.

Fourthly, despite the constitutional challenge brought against the referred articles held that the offences disproportionately interfere with the exercise of free expression and the right to organize and meet (derecho de reunión), the Court chose to avoid examining this charge. In this sense, the Court simply asserted that the charge for violation of the right of freedom of expression was not an independent accusation as it relied upon the plaintiff's particular understanding of the articles. Without providing further reasons to support this assertion, the Court excluded the possibility of studying whether the criminal offences might hamper actions and behaviours protected by the Constitution.

As a result, the Court not only lost the opportunity to address the issue of indirect criminalization of protest while avoiding providing elements to clarify the undetermined and ambiguous content of the offences contained in the Civic Security Law. It also provided, albeit unintendedly, a constitutional judgment backing an ambiguous discourse which on behalf of a general security allows the regressive limitation of the exercise of protest and expression..

It is in the context signaled above that social protests today are so relevant. They are crucial in contesting the emergence of a new property regime grounded upon the most depoliticizing biopolitical premise: for the sake of the life of a totalizing society some have to be removed from life, exposed to death, economically incapacitated and politically paralyzed. Peasants, the dispossessed, fisher-communities, indigenous and Afro-Colombian peoples, intellectuals, environmentalists, students, small scale mining associations, and rural communities are all contesting the significance of the economic initiatives of the mega agro-industrial and extractive projects taking place in Colombia. They have denounced the lack of security conditions for the return of most of the violently dispossessed, the threat to water and food resources, and the dubious character of the sustainability studies upholding mining, agro-industrial and energy projects. As a result, social organizations have resisted in order to protect their jobs, their lands, their livelihoods and their water supplies in an attempt to prevent the consolidation of an economic war on their right to economic self-determination and the possibility to decide on the uses of natural resources. The interconnections between criminalizing laws, the new Victims' Law and the economic development plan of the current government have converged into a restricting recodification of the political rights of the victims in relation to their territories in terms of a reconfiguration of

the economically productive areas of the country. The transitional scheme might be providing a founding moment for this reconfiguration of the territory by symbolically demarking a break from a violent past. The economic continuities of violence related to the internal conflict, however, have not receded. As mentioned at the beginning of the article, in 2010 alone more that 280.000 people were forcibly displaced and at least 20 land leaders were assassinated between August 2010 and the end of 2011. The Victims' Law, in turn, is providing legitimization to the promotion of aggressive mining extraction and mega agro-industrial projects, as well as giving preeminence to private investors' interests over the victims' interests and rights to decide on the uses of their land. Finally, the economic development plan itself is providing the operative means to reconfigure the territory in terms of investment and extraction. In this regard, criminalizing practices might be supplementing these operative means by neutralizing social mobilizations contesting the reconfiguration of the territory and removing the ability of victims of armed conflict, peasants, and indigenous and Afro-descendant communities to decide over the uses of land and natural resources. Physical violence against protestors, therefore, has benefitted this new property regime.

The recent case of El Quimbo dam project demonstrates that criminalizing legislation is being used and invoked to undermine social mobilization.[6] More specifically, the case shows how law, under the circumstances described so far, is being increasingly deployed as the enabling device of an economic entitlement to violence.

4. The Quimbo Infamy: physical violence as an economic necessity

El Quimbo Dam is a hydroelectric power project being carried out in the region of Huila in Colombia by Emgesa, a Colombian subsidiary of the Spanish electricity giant Endesa, in its turn owned by Italian giant ENEL. Work started in 2008 and the site was officially opened on February 25, 2011. The new dam, constructed by Emgesa on the country's largest river, will divert the Magdalena River, which will flood 8,250 hectares of land and create a reservoir 34 miles in length, displacing some 1,500 inhabitants, uprooting eight cottage industries and destroying the only source of income of various communities, in particular the fishing community. It will affect parts of the region's most fertile and valuable land. More than 15,000 people in the Huila region depend on this land for employment and food production and as a result, flooding this land will completely devastate the region and the people who depend on it. Hundreds of communities and social movements have denounced the environmental and social catastrophe the dam represents. The protests have intensified since January 2012, when the affected communities blocked a bridge and road access for 15 days in order to paralyze dam construction and the announced diversion of the river, which the protesters affirm will cause irreversible damage. As a result of the occupation, several high government authorities agreed to convene a public consultancy and to sign an agreement with local communities. Given the violence that followed weeks later, the agreement to hold a consultancy seems to have been deployed as a dissuasive instrument. On February 14th the ESMAD (riot police) evicted with brute force, tear gas and pepper spray hundreds of protesters who were occupying the banks of the Magdalena River in order to block

[6] The Quimbo case is only one of numerous instances of criminalization of protests in Colombia. The following are only a sample of this phenomena in the country: (i) the widespread irregularites including the arbitrary detention of various leaders of the Group for Social and Community Resistance (Minga de Resistencia Social y Comunitaria) and different indigenous groups in Cauca in the southwest of Colombia; (ii) the important case of the Peace Community of San José de Apartadó whose members and leaders are constantly stigmatized besides having been subjected for years to forced displacements and multiple human rights violations (cf. CPSJA website); (iii) the arbitrary detention in 2013 of various leaders of the organization Rios Vivos following a protest against the construction of an hydroelectric in Ituango, Antioquia (cf. Movimiento Rios Vivos website); and (iv) the recent denounces regarding multiple arbitrary detentitions during the Campesinos Strike (Paro Agrario) in late 2013 on the basis of terrorist related accusations (cf. CINEP 2013).

its diversion. They were attacked despite being within 30 meters of the shore, an area that is legally designated as public. In an attempt to both defend the river and escape the violence of the riot police, some protesters held hands and stood in the water. The violence that unfolded was registered in a video that was quickly disseminated among social networks, showing the irrational reaction of the riot police. The events that followed sadly exposed the problematic and deeply depoliticizing character of current criminalizing dynamics in Colombia. In response to the complaints against the violence deployed on the protesters, President Santos defended the project by invoking the progress it will entail for the whole nation – without engaging with the detailed criticism of the dam or the rights of the communities affected – and justified police violence with a heartless and all too common reference to the protocol for the use of force deployed by the SMAD. This case shows how criminalization is not confined to specific events of disproportionate use of force and law enforcement. What took place in the aftermath of the evictions and the vicious intervention of the riot police was a *following up* form of criminalization. Non explicit objectives inherent in a politics of protest criminalization (namely to disarticulate, exhaust and demoralize protest and social movements) started to appear clearly. Bladimir Sánchez, the journalist who published the video, has received multiple death threats and has been subjected to all forms of intimidation and categorization, including stigmatization as a "guerrillero" (FLIP 2012). Despite the undeniably disproportionate and abusive use of force by the riot police in early March 2012, President Santos stated that the government would not permit the continuity of actions preventing and hindering the progress of the project.

5. Preliminary conclusions: "Foundation", legitimization and operation of a de facto land reform

With this article I wanted to suggest that the inscription of criminalization of protests in a wider economic context shows how criminalizing practices are silently contributing to the neutralization of political claims to land, natural resources and self-determination. We are witnessing a proliferation of processes whereby, whenever social protest concerns the vindication, defense and protection of territories and natural resources and the defense of the right to self-determination, legal violence becomes, to borrow Nicholas Blomley's words, "the means through which property acts" (Blomley 2003, p. 129). At stake is perhaps a question of what is being prevented from being said. In this regard it is important to examine the possible links between mega economic projects, the geo-economic overtones of the exclusion of economic self-determination from development discussions, and the increasing criminalization of protest. Locally, it is crucial to examine the manner in which the criminalization of protest hides or obscures the link between physical violence and economic mega projects by shifting the focus from the protests themselves to the criminal act. This is important insofar as criminalization entails a depoliticizing substitution. In all its forms it substitutes symbolically and materially the antagonism between social groups and the state (particularly in terms of use and ownership of natural resources and land) for an antagonism between society and social protesters. In resisting this substitution we might be able to reverse, in turn, the disjunction between physical violence and the re-organization of land and resources, and between violence itself and the legal possibilities to oppose it. Finally, an increasing realization that space, property and violence are being performed simultaneously as part of an economic recoding of spaces and people according to their relationship to property underpins the awakening of multiple social mobilizations. Such simultaneity, often present in the violence deployed against protesters, demands a resistance not only able to articulate the problems associated with it but also to bring economic decisions back to political contestation.

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