

Carlos Salinas

Colonization and Resistance: Oil, War, and the Ongoing Attempt to Destroy the Kofan People of Colombia

Those who paid for the crimes sit
today in the parliament, register
their weddings in the presidencies,
live with cardinals and CEOs,
and on top of the slit throat
of the owners of the South, flowers grow.

—Pablo Neruda, “Los Indios,” *Canto General*;
author’s translation

The A’i are becoming extinct in Colombia. Threatened by some twenty-six distinct, inter-related ways identified by the Colombian Constitutional Court, it is no small miracle that the A’i, or Kofan, indigenous people still survive. They faced down the Spaniards’ steel but not their germs and resisted cooptation by those seeking gold or seeking souls, but they were exposed to the enticements offered by the modern world. Usually when the A’i encountered particularly difficult challenges, they pushed deeper into the vast forest they called home, and some Kofan ended up in modern-day Ecuador and some Kofan in modern-day Colombia. The Kofan who pushed into what became Colombia lived relatively peaceful lives unaware of decisions being made far away that would forever change their lives. For it was only a matter of time before the

Texas Petroleum Company discovered oil in the northern boundaries of Kofan ancestral territory in 1963. The massive forces unleashed by the black gold revisited on the Kofan the territorial dispossession and cultural destruction common to indigenous history since 1492. What were once lives of self-sufficiency and communal harmony became mired in poverty, hunger, disease, violence, and war. Aiding and abetting this stark decline has been the Colombian government's persistent disregard for the rule of law, often in collusion with private actors. The Kofan understand that key to their survival is the government's respect for the rule of law. The A'i also understand that key to their well-being is the respect of the outside world.

El Valle del Guamuéz, Territory of the Kofan, Concession of Ecopetrol

When the colonization arrived, they invaded where I lived, now I am always sick. . . . Some time ago this was nothing but forest, no highway, there was tapir, wild pig, fowl, wild boar. But then the oil company entered with colonization, later came the bonanza of coca, and they took more land. I wait for the day when the government returns our territory to us, returns our forest, that the animals will return, so that the children of my children will have forest in those territories.
—Drigelio Criollo Queta, RIP, eldest Kofan shaman of Santa Rosa del Guamuéz, interview with author, Shamans' Videohistory Project, October 2005

Sometime in early 2008, troops of the Colombian Army escorted technicians of the oil giant Ecopetrol to close a well in Santa Rosa del Guamuéz, a Kofan indigenous reserve in the Colombian Amazon. Described in 1973 as "one of the last surviving nuclei of the numerous communities that once inhabited the Amazonian piedmont,"¹ Santa Rosa is in the heart of the Guamuéz Valley, a region cradled by the Andes to the east and the San Miguel River's border with Ecuador to the south. Located in southern Colombia's Putumayo department, this region was briefly at the center of a policy debate in Washington, DC, when President Bill Clinton's administration and congressional Republicans pushed through Plan Colombia, a substantial increase in U.S. military aid, ostensibly to combat coca production but in reality to combat the FARC, the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia), a guerrilla group. Absent from the debate was any mention of the region's indigenous peoples, including the Kofan. The Kofan, once numbering as many as fifteen thousand people, inhabited a region from the Guamuéz Valley in Colombia to the Aguarico River in modern-day Ecuador.² In ethnohistorical

testimony, the Kofan described their ancestors as periodically moving their settlements, rarely staying in one place.³ This practice was documented by the father of modern ethnobotany, Richard Evans Schultes, and by Hector Mondragón, longtime Colombian indigenist and human rights defender, who described the Kofan as seminomadic and itinerant.⁴

Never conquered by the Spanish Crown (nor by the Incas before) but decimated by their diseases, the Kofan resisted the few attempts by various Catholic orders to incorporate them into national life from the seventeenth through the first half of the twentieth centuries. Although the Colombian and Ecuadorian Kofan are one people, they have had different recent histories, due to the very different historical dynamics of the two countries. The Colombian Kofan lived in relative peace until oil was discovered in Orito, on the northern boundary of their ancestral territory, in 1963.

Founded in the early 1900s by the Capuchin order tasked by the Colombian government to colonize Putumayo, Orito remained a quiet backwater until the Texas Petroleum Company discovered oil there. The oil boom was such that Orito became one of the most expensive cities in Colombia, and although that initial boom came and went, Orito remains an important oil center, with the operations now run by Ecopetrol. During the initial boom, Texas Petroleum penetrated the Guamuéz Valley.

Modernity's Eruption into Santa Rosa del Guamuéz

The company workers first arrived in Santa Rosa in the mid-1960s. Virgilio Queta, the Kofan governor of Santa Rosa at the time, was told by company personnel that he could either sell Texas Petroleum the land where the company was going to drill or it would take the land by force with the aid of the Colombian Army. Queta and his community felt helpless at the arrival of so many workers and machines, and most Kofan did not understand the transformations they were witnessing, to the point that many participated in building the first road.

That road, however, was as toxic to the Kofan as the sludge resulting from the perforation of the first wells. As described in a report by the Colombian government's Institute for Agrarian Reform (Instituto Colombiano de la Reforma Agraria; INCORA):

Parallel to the oil-related work, and taking advantage of the newly opened roads, colonists started arriving almost as in waves; further, many workers of the company left their employ or, while still employed, decided to try their

luck either through their own work, in the case of the former, or through investing, in the case of the second group. That is when the last areas held by the indigenous began to be disputed; there were almost violent conflicts between the colonists and the indigenous, and the latter demanded that the government intervene.⁵

In February 1968, the government sent a lawyer with INCORA to Santa Rosa; in his report, the lawyer noted that the Kofan had clearly demarcated their territory.⁶ Later that year, INCORA established “zones for indigenous communities of the region,” and noted, “in said zones, occupation or subsequent adjudication in favor of people different from the aborigines will not be permitted.”⁷ Inexplicably, given the urgency of the situation, there was no further government action for four years, and a government official warned that because of the omission, “there is about to be a social conflict (violence) between colonists and indigenous people.”⁸

The situation had deteriorated badly. A 1972–1973 government study found that the colonists were decimating the fish and game, leading the Kofan to change their traditional modes of being from hunting to agriculture, and there was a simultaneous power shift occurring away from the elder shamans to the younger people. However, the study also found that the Kofan were not abandoning their culture but were adapting to change, developing a strong bicultural modality. More troubling from a survival standpoint, the study noted an imbalance in the male-female ratio among the Kofan, especially those between the ages of fifteen and nineteen, apparently the result of colonists marrying the women or hiring them as domestic servants.⁹

The investigators also found an alarmingly low number of children between infancy and four years of age, the opposite of a normal demographic pyramid.¹⁰ They noted that it had been precisely four years earlier when Texas Petroleum had entered the area, bringing with it “the greatest wave of strangers to the region, composed of company workers and the rural landless who, taking advantage of the roads opened by the company, came to colonize.”¹¹ The investigators concluded that disease, emotional distress, and deterioration of the Kofan diet had severely affected the Kofan birth rate.¹²

Putumayo had become synonymous with oil and colonization. To the Kofan, oil and colonization had become synonymous with death.

The Arrival of War in the Midst of the Wars against the Kofan

Before we would hunt, we would kill tapir and we would dry its meat, which we would bring back in baskets. Now there is nothing. Where are we going to hunt? . . . Now we eat smelly cows and smelly chicken. In what remains of our forest in our territories, the colonists go with dogs and scare away the game. . . . We were raised with plantain beverage and game meat. Before the colonists' arrival, we lived solely from game. We would eat all kinds of fish and we lived. Now we eat rice, pasta, beans.

—Elder sisters Maria and Benicia Queta Alvarado, interview with author, Shamans' Videohistory Project, September 2005

In early 2008, forty-five years after the initial discovery of oil, the Ecopetrol workers and their armed escorts traveled on what they considered to be home turf. The vast forest their predecessors had encountered with its jaguars and tapir no longer existed; in its place were grasslands, some cultivated, some with cattle, punctuated by streams and wetlands, an occasional patch of forest, and some minor settlements. They might have noticed the trans-Andean oil pipeline through the rolling hills, with an occasional glimpse of the Andes carving their cloud-shrouded silhouette out of the azure sky, perpetually releasing the waters of the Orito, Guamuéz, San Miguel, and Putumayo rivers.

To this day the Kofan elders recall these waters, as well as the innumerable minor rivers and creeks, as their former food sources and highways, which they traversed on their canoes, when not traveling on their footpaths that were later transformed into roads. The Kofan elders recall their idyllic lives in terms of the tapirs, monkeys, and wild pigs they hunted and the many kinds of fish they once caught. Their stories about what became of the past often end in tears. Some forty years ago, an INCORA report noted that the Kofan's encounter with the modern world led to the displacement of hunting and fishing by agriculture and husbandry, in order to obtain currency for clothing, food, and even consumer items.¹³ Yet their territories were drastically reduced, and they were flung into poverty and hunger. The INCORA report states, "[The] community in general has a high index of malnutrition because its sustenance is based on carbohydrates. . . . The high costs of foods that are purchased in the market are also an influence on the family economy."¹⁴

This malnutrition has, of course, had devastating consequences on the health of the Kofan. Medical exams of a small group of Kofan visiting Bogotá in June 2008 revealed that all suffered from medical conditions,

two elders from malnutrition, and one elder, Drigelio Criollo, from anemia.¹⁵ When Criollo died in June 2009, not only did he suffer from anemia and several other conditions, but he also had miliary tuberculosis.

The colonization, deforestation, and elimination of their mainstays were the first of many devastating changes that the Kofan elders witnessed as their territory was taken from them. Another was the arrival of Colombia's guerrilla war in the late 1970s, one of whose actors, the FARC, was the reason for the oil workers' armed escorts.¹⁶ The FARC, notorious for kidnapping civilians, is not the only armed group active in the Guamuéz Valley. Paramilitaries, common criminals, narcotraffickers, and regular army units are also in the mix, traumatizing the region with political violence. Some of this violence is fueled by the pervasive coca cultivation and trade, which arrived with a vengeance in the 1980s, causing another great wave of colonization, deforestation, and territorial loss. The FARC also occasionally targets the trans-Andean pipeline; all armed actors have little regard for the civilian population and resort to torture, extrajudicial executions, and "disappearances."

The war's lawlessness extends to other dimensions, from the most mundane, such as the routine offer by any given shopkeeper to alter a receipt, to the most incredible, like the pyramid investment scheme known as DMG, which was hatched in La Hormiga but soon went national and became so popular that people rioted throughout the country when the government shut it down in 2008.

That said, the lawlessness preceded the war. Indeed, beyond the war and the oil and the colonization, among the many factors afflicting the Kofan, the underlying problem is the blatant disregard for the rule of law by local, regional, and national authorities when it comes to the Kofan. This lack of respect has not been consistent, either across government agencies or over time. Early on, some government agencies like INCORA sought to protect the Kofan, establishing decrees to safeguard their land, while local authorities willfully ignored, if not outright supported, the violent land encroachment into protected areas. But later, even INCORA conspired to reduce Kofan territory, resorting to unconstitutional maneuvers. To this day, Colombian government officials proclaim in international forums such as the Inter-American Commission on Human Rights that Colombia's indigenous protection laws are among the most progressive in the hemisphere, while elsewhere, political leaders publicly have dismissed the indigenous ways of the Kofan.

The inconsistency in government attitudes has led not only to unfet-

tered colonization but also to intrusive construction in Kofan territory, including the recent and ongoing attempt to establish a military base in Santa Rosa, which began in earnest in June 2008. The Kofan have thus come to see Western law as a double-edged sword: offering paper protection but no real enforcement, used to recognize their territory and then to take it away. Yet from their first encounters with the government in the mid-1960s, the Kofan have clearly expressed what is rightfully theirs and have demanded it, as they had demanded official recognition of their land from INCORA's first visit in 1968. While the Kofan have requested that the law be respected, all other local authorities and actors have colluded, consciously or not, to ignore the Kofan's lawful requests. Indeed, it could be argued that the Kofan are among the very few local actors clamoring for the rule of law. Their central legal claim is respect for the reserve established in 1973.

A Pattern of Persistent Disregard for the Rule of Law

In 1973, INCORA established the Santa Rosa Reserve in order to protect the Kofan from the invasions of their territory following the entry of the oil workers. However, almost as soon as the land was demarcated, waves of invasions began; the worst waves were instigated and coordinated by the Municipal Association of Campesinos of Puerto Asís, Putumayo (hereafter, the Campesino association), which focused on invading the Kofan reserves, under the slogan "Indian land is empty land." INCORA tried to stop these invasions but failed due to nonenforcement by local authorities. Indeed, INCORA gave specific orders to local authorities to provide police protection for the Kofan and to dislodge the invaders, but for the most part the orders were ignored. Other government agencies such as the Ministry of the Government also attempted to defend the Kofan, but they, too, were ignored. It appears, though, that INCORA was able to exert some pressure since some invaders began to appeal to it, demanding its intercession on their behalf, perhaps attempting to turn the tables on the Kofan, given that INCORA's purview was not limited to indigenous protection but covered adjudication of rural lands. Thus the invaders appealed to INCORA, feigning innocence but always managing to betray their utter contempt for the Kofan.

The Campesino association wrote in defense of the invasions, "The indigenous have the right to 10,000 hectares, empty zones that [the Kofan] have never cultivated and never will cultivate not even in 100 years."¹⁷

Another invader wrote that INCORA should simply “let us be and send the indians to their places where they can enjoy their laziness, the only patrimony that their god has given them.”¹⁸

Following field visits to examine the situation and hear the invaders’ claims, INCORA wrote that the invaders had no regard for the law and believed that they had the right to do whatever they wanted. However, INCORA also realized that the first founders of the nearby settlements, the few colonists who had preceded the oil companies, “seized land in 1968, sold it at a very good price and today want to do the same with the Indigenous Reserves” and thus were instigating the invaders in order to make more money. When the Campesino association met with INCORA, its representatives openly told INCORA officials about its upcoming plans to invade Siona indigenous lands to the east, so as “not to catch you off guard as we did with the Kofan natives of the Guamuéz Valley.”¹⁹

An INCORA official later wrote to the Campesino association that the invaders interviewed admitted to encroaching upon the indigenous lands in full knowledge that such action was illegal and because of “the massive and unprecedented manner [in which] these lands were invaded, in a zone of immense amounts of other available unoccupied lands, the urgency and extreme necessity of poor colonists as an argument to defend said action lacks credibility.”²⁰

Local authorities contributed to the problem. In an internal INCORA memo, an INCORA project manager stated, “The situation in the invaded reserves is due to . . . the lack of decision and support from the part of the mayor of Puerto Asís and the previous intendant of Putumayo, who did not hide their discord with the creation of the reserves and who [feared violent upheaval].”²¹ The work of INCORA and other ministries was “useless given the position” of the local authorities, from the Putumayo Intendant on down.²² These letters and most of the documentation up to 1998 were obtained by the Colombian nongovernmental organization *Corporación Visión Renacer* in early 2008 from the INCODER, the Colombian Institute for Rural Development, the government agency that took over the duties of the now-defunct INCORA. *Visión Renacer* approached INCORA seeking information about the boundaries of Santa Rosa since the Kofan elders wanted to defend the land from encroachment by the Colombian Army. Most of this information is in the author’s archive.

While INCORA’s historical archive of communications regarding the Santa Rosa Reserve does not contain anything from the Kofan prior to a 1985 letter by Santa Rosa governor Luis Antonio Criollo Queta, there are

ample references to calls by the Kofan for government intervention. All local actors, however, were bent on depriving the Kofan of the last remnants of their once-vast territory, disregarding the Kofan insistence that their legally recognized territory, established by the government, be respected.

INCORA Succumbs to Market and Global Forces

We have to be careful, because one never knows—in five minutes everything that one has worked for can disappear.

—Santa Rosa governor Hernando Criollo Umenda speaking during an aside to the negotiating delegation during a discussion with then-defense minister Juan Manuel Santos, January 2009

Since the drilling began in the late 1960s, the oil wells in Santa Rosa have continued to operate, and despite the years of oil extraction and the revenue it generated, minimal improvements have been made to the local infrastructure. The quality of life in Santa Rosa has continued to deteriorate. Yet, the Kofan seem to be stuck with Ecopetrol, depending on it for meager incomes and carefully distributed jobs, as well as the occasional handout, negotiated in the occasional meeting in Orito. In the 1980s, a different boom arrived in the Guamuéz Valley, that of the illicit cultivation of coca and the production of coca paste. Unlike the Ecopetrol crumbs, this boom presented quick cash to anyone interested in participating. This resulted in not only another wave of invasions but an increase in the violence associated with the drug trade, an increase in the interest of the different armed actors, and eventually in Plan Colombia. The Kofan, like the rest of the region's inhabitants, were caught up in the coca boom, which distorted the local economy, driving the prices of local commodities sky-high and further deepening the vicious cycle of poverty and dependence.

In the meantime, INCORA was changing. For the first time in the historical archive, in 1988, an INCORA manager sought to subtract a lot from the Santa Rosa Reserve and adjudicate it to the National Telecommunications Company (Empresa Nacional de Telecomunicaciones; TELECOM), so that it could build a communications tower. The manager's reasoning echoed the earlier letters from the invaders and certainly resonates today, in that the subtraction of a Kofan lot from the reserve was necessary for the greater good, due to the "great importance to the region of the Lower Putumayo, affected by grave security problems, where communications with the rest of the country are very deficient."²³ The "greater good" argument

has been used by a wide range of actors, from the Ministry of National Defense to the National Highways Administration (Instituto Nacional de Vías; INVIAS).

The manager later complained that Santa Rosa consisted of 3,750 hectares for only thirty families and that establishing rural phone service would lead to regional development.²⁴ The communications tower was built, but there is no further record in the INCORA archive of how this came to pass. While the shift in approach is readily apparent in the INCORA archive, this record is woefully incomplete and chronologically disorganized, including years-long gaps and missing documents, as well as irrelevant records. Without proper records, we cannot piece together the key decisions that have affected the fate of the Kofan.

More ominously, other INCORA communications were no longer oriented to protecting the entire Kofan reserve. As one letter notes, if there were “numerous colonists or [if] these [colonists] have [land] improvements that are very expensive, an agreement needs to be reached with the indigenous local governments for the possibility of restructuring the areas, leaving outside of the reservations the improvements that are too expensive.”²⁵ INCORA was now pursuing a strategy to buy the invaders off.

The Kofan Reinvalidate Their Legal Claims

The Kofan did not perceive INCORA’s shift in attitude, from unabashed protection of the Kofan territory to accommodating the invaders, only INCORA’s inability to protect their reserve. Due to the apparent inefficacy of the reserve designation to protect the Kofan territory, Santa Rosa’s governor and leader of the recently constituted indigenous organization, Association of Indigenous Governments of the Guamuéz Valley (Asociación de Cabildos Indígenas del Valle del Guamuéz; ASCAINVAGUAP), Hernando Criollo Umenda wrote to INCORA in 1987 and asked that the reserve be turned into a reservation.²⁶

The legal concept of the “reservation” had existed since the Spanish colonial period, but in 1961 INCORA was given the task of formally titling communal land for the benefit of indigenous communities.²⁷ INCORA needed the intercession of the Ministry of the Government to create reservations, not reserves. “Reserves” were a much broader concept by which the government could set aside land for any purpose it devised, whether for conservation, natural resources extraction, or the protection of indigenous people. Unlike for a reservation, the government could lift a reserve designa-

nation at any time. Criollo recalled that at the time of the reserve's creation in 1973, the Kofan agreed to a reserve as a strategic first step toward the eventual collective land title of a reservation. Criollo approached INCORA knowing that reservation status would be better protection for Santa Rosa, but he was unaware of INCORA's changing attitude regarding the Kofan territory.

In internal INCORA correspondence, reacting to Criollo's letter, INCORA staff noted that if the reservation could not be demarcated with the same boundaries as the 1973 reserve, then the boundaries could be redrawn with the community's approval.²⁸ In June 1990, INCORA staff visited the Kofan reserve and learned that the Kofan possessed only 300 of the original 3,750 hectares. The remaining land was in the hands of the invaders, now called colonists. Despite INCORA's sympathy with the Kofan, INCORA staff concluded that constituting the reservation with the same boundaries of the original reserve would "unleash a social conflict of grave consequences."²⁹ The Kofan of Santa Rosa, however, would accept nothing less than the original boundaries, which they repeatedly made clear. Ten years after Criollo's first letter demanding reservation status, the Council of Ministers met in Bogotá in June 1997 to consider the Kofan demand.³⁰ By that time, the issue had escalated on both sides, again due to the government's disregard for the Kofan. The Kofan's position was becoming increasingly strident; the government was facing a situation it needed to resolve urgently.

In 1963, the same year oil was discovered in Orito, the governments of Bolivia, Peru, Ecuador, Colombia, and Venezuela signed a pact for Amazonian integration through the eventual creation of the jungle's border highway (*Carretera Marginal de la Selva*).³¹ It just so happened that the highway needed by Texas Petroleum for its operations matched the needs of Amazonian integration. However, when Colombia and Ecuador began constructing an international bridge across the San Miguel River in 1994, the Colombian side was located in another Kofan reserve previously established by INCORA, Yarinal.³² The Kofan, led by Criollo, rejected the inauguration of the international bridge and the continuing delays in the constitution of all the Kofan reservations, demanding that the original boundaries be respected.³³

Thus, the secretary general of the Interior Ministry gathered various government representatives to "find a solution to the bridge."³⁴ The Kofan issue was being viewed in a much broader context, one involving the project of regional economic integration. Unknown to the Kofan, in October 1997,

INCORA proposed new boundaries for the Santa Rosa del Guamuéz Reservation, reducing its lands from the original reserve by 80 percent.³⁵

Gladys Jimeno Santoyo, the Interior Ministry's general director for indigenous affairs, gave a more than questionable, if not carefully hedged, green light to INCORA's new boundaries, but she made two points that remain problematic for the government to this day.³⁶ First, she required community participation in the demarcation, and there clearly had been none. Second, she observed that any remaining land not converted into a reservation should remain an indigenous reserve and could be adjudicated by the government to the indigenous community. Regardless of these contingencies, plans for the reservation moved forward.

All this came to a head on May 13, 1998, during an extraordinary meeting of the INCORA board of directors. Had it not been for the intervention of Hector Mondragón, delegate of the National Organization of Indigenous of Colombia (Organización Nacional Indígena de Colombia; ONIC), the harsh territorial reductions might have been ratified. Mondragón pointed out that the Kofan had not been consulted and that the process was thus null and void. In fact, a consultation had been scheduled for the following days, but the INCORA board had moved to reduce the reservation ahead of schedule.

The chairman produced meeting minutes of a binational encounter of the Ecuadorian and Colombian Kofan, claiming that it constituted prior consultation. Prior consultation is a minimal standard of human decency enshrined in the fundamental protection for indigenous peoples recognized by Colombia and by the international community. Simply put, it is a process whereby an indigenous community is informed of a project that may potentially impact it and is then given the opportunity to discuss the impacts and potential mitigating courses of action. In this case, it would involve whether the community acquiesced to the territorial reduction. But Mondragón and another observer pointed out that it was not the Kofan organization ASCAINVAGUAP signing but instead a non-Kofan indigenous person by the name of Sebastian Jansasoy. A meeting participant went further and denounced Jansasoy's involvement. Thus, the minutes reflected ONIC's opposition and denunciation that this was a fabricated prior consultation.

According to the Colombian constitution and its implicit adherence to the International Labour Organization's Convention 169, the process was null and void. Regardless, that day INCORA issued Resolution 0009 of 1998, constituting the Kofan reservation Santa Rosa del Guamuéz, with

a total of 756.55 hectares. These meeting minutes, crucial to understanding how Santa Rosa's territorial reduction came to pass, are absent from the official archive and were obtained by the Corporación Visión Renacer from a friendly source.

INCORA had thus completed its devolution, from an entity protecting the Kofan from encroachment to one that ratified what can only be called another land grab. Even as the government tried to justify the reduction of Kofan territory, arguing that the indigenous reserves were really for the purpose of transforming the indigenous peoples into campesinos so that they could join national life, the government could not escape the conclusion that until the reserve status was lifted from Santa Rosa, any remaining reserve lands could not be transferred to anyone else.³⁷ Since then, all the external actors have acted as if the reservation was the only reality and that the reserve had somehow passed out of existence; it never did, of course. The reserve is alive and well, as the Kofan and some of the local campesinos have always known.

Indeed, in early 2010, as INVIAS contractors approached campesinos along the highway, inside the reserve, looking to negotiate right-of-way, it found that most had no land titles. Some even explained that they had no titles since they were inside the Kofan reserve. However, both the contractors and INVIAS proceeded to widen the road for eventual paving, without consulting the Kofan. Even after they were successfully sued by the Corporación Visión Renacer, demanding prior consultation for the Kofan, the contractors have continued their work.

Many Kofan have a clear vision of their territory and are not afraid to speak out. In March 2010, an elder shaman was stopped by an army patrol that wanted to confiscate his gasoline. But instead of acquiescing, the elder angrily told the soldiers that they had no right to tell him what to do in his territory and demanded to see their commanding officer. As he later told the author, the elder then said, "You are the new ones here, and you are in my territory, and so do not tell me what I can or can't carry." This has happened on a number of occasions, including during a dramatic meeting between the Santa Rosa community and the Colombian Army in July 2010.

Consent Manufactured to Dispossess— and Ultimately Destroy—the Kofan

The significant difference between the reserve and the reservation probably escaped a group of oil workers and their armed escorts as they crossed

the Guamuéz River in early 2008 and passed through the small town of El Tigre. The location of several notorious massacres that followed the paramilitaries' offensive in 1998 to take the lucrative coca traffic from the FARC, El Tigre probably appeared to the oil workers and their escorts as just another small town. Except that it is the territory of the invaders, inside the Santa Rosa Reserve.

Indeed, according to INCORA, "official entities, banks, municipalities participated with the invaders building public works, schools, bridges, roads, giving credit and all manners of assistance, ignoring the reserve zone and traditional habitat of this Kofan community of Santa Rosa del Guamués [*sic*]." ³⁸ El Tigre was one such beneficiary, but other settlements inside the reserve also benefited: La Concordia, Villa Duarte, La Raya, all established with the collusion of the local authorities and their disregard of the rule of law in order to dispossess the Kofan.

Only aware of the legal fiction — really a manufactured consent because any cursory examination of the region's history and regional planning documents would reveal the continuing existence of the reserve — the oil workers and their armed escorts would have thought that the highway they were on marked the southernmost boundary of the Kofan land, since part of the highway is indeed the southern boundary of the reservation. They might have noticed that the reservation side of the highway was forested while the other side was mostly deforested.

Eventually the group turned right, going north on the road to San Antonio, a road also made from river rocks like the "highway," but narrower. They were now deep in the reserve but still bordering a side of the reservation — to their left, an expanding cattle ranch, to their right, more forest. A closer look at a saddle in the road would have revealed that the local campesinos had been using that part of the reservation as a local trash dump — occasionally used as a body dump by armed actors. As disordered as this is, it does not match the fact that the town of La Hormiga had established its municipal trash dump inside the reserve many years before.

Current Ills, the Logical Consequence of Colonization's Discontent

Halfway to San Antonio, the oil workers turned left onto a path, almost immediately after passing over the La Raya Creek; this seemingly insignificant creek serves as an important water source for several Santa Rosa families. A tributary of La Raya passes right behind the oil well that the workers were looking for, fed by a marsh next to the well.

Further to the south, this same creek becomes the Afilador Creek, passing through another Kofan reserve by the same name, before emptying into the San Miguel River. La Raya's headwaters were about a kilometer west, draining from a grassy plateau that was now the home of the Colombian Army's 13th Mobile Brigade. When the construction of the military base began in June 2008, the contractors ripped open the plateau, and the La Raya Creek came down muddy. As the creek was no longer the black water biotope of before, algae began growing, betraying the presence of added nutrients. The creek has yet to recuperate. This newly established base was inextricably linked to both the oil workers and the sorry history of Santa Rosa, and the Kofan's resistance to the base would lead to the discovery of INCORA's Santa Rosa archive, the reactivation of the Kofan land claim, and the resurgence of the Kofan traditional authorities.

This plateau and drainage, which had once provided good hunting for the Kofan, was deforested as the invaders clear-cut their claims from the reserve in the 1970s. As the invaders advanced, a local landowner bought up the newly cleared lots. Years later, in 2006, this landowner began negotiations with the Colombian Army to sell his lots. In July of that year, Santa Rosa governor Hernando Criollo Umenda, the late Drigelio Criollo, and others had protested the proposed sale, explaining that the plateau was Kofan ancestral territory. The owner replied by threatening Don Hernando's life, a fact that the *Corporación Visión Renacer* noted in its November 2006 petition for precautionary measures to the Inter-American Commission on Human Rights. Surely the lot's owner knew that his possession was not completely clean—most of the lot is within the reserve—and surely the Ministry of National Defense was aware of these circumstances as well.

It turns out that the Ministry of National Defense needed a new base in order to boost the poor morale of an army battalion. According to army documents, the special battalion, tasked with protecting oil infrastructure, was actually based on Ecopetrol land in Orito and thus could not expand its facilities to improve morale.³⁹ And thus, the army identified this lot in the Kofan reserve (one of only four lots reviewed in all of Putumayo) and, unbeknownst to the Kofan, bought it in September 2006 with funds provided by Ecopetrol.⁴⁰

The Kofan would not have known about the transaction were it not for the Army's 13th Mobile Brigade's arrival in December 2007 to control that lot, setting up a defensive perimeter and installing checkpoints on the road. Working with the *Corporación Visión Renacer* and Healing Bridges, the Kofan were able to engage eventually with then-defense minister (now

president) Juan Manuel Santos in an unprecedented meeting that lasted approximately four hours, which resulted in the beginning of a dialogue.⁴¹ Santos later acceded to suspend construction of the base so that its potential impacts could be evaluated.⁴²

This agreement has been maintained in part due to the United States' diplomatic support of the Kofan, and the U.S. Agency for International Development has supported the effort to evaluate the impacts of the military base, a process that also counts with the involvement of the Universidad Javeriana, one of Colombia's top universities, tasked with carrying out impact evaluation studies.

While one can discern people of good will in different ministries and positive encounters such as the one with Santos, translating these moments into sustained momentum is difficult at best, in large part because the historical *modus operandi* of the nonindigenous world with the Kofan has been malicious and disrespectful. Indeed, the rule of law has not been respected at all.

A Case Study in Disrespect

The arrival of the oil workers and their special battalion escorts to Santa Rosa in early 2008 had not been announced to the Kofan. The oil well is located in the middle of a large clearing that is outside of, but nearly encircled by, the reservation, but it is well within the reserve's original territory. These convoluted reservation boundaries were the product of INCORA's 1998 maneuvers to reduce the Kofan territory and to ensure that the wells, two of them on the actual road to San Antonio, fell outside the reservation's boundaries.

The special battalion soldiers set up camp in the nearby woods, clearing the undergrowth to create a cool area shielded by the forest's canopy. None thought to seek permission to camp inside the reservation, much less to chop down what turned out to be a local shaman's medicinal garden. Hernando Criollo Umenda later told me that the soldiers claimed ignorance about the reservation, contradicting the Ministry of National Defense's assurance that all army units have indigenous reservations "geo-referenced" to ensure good relations and protection.⁴³ To the Kofan, however, this contradiction between stated or written assurance and the facts on the ground was the hard lesson of the past forty years of business as usual.

Standing in the devastated medicinal garden in May 2008, Criollo

said that it was always the same: they enter like they own the place (“como Pedro por su casa”) and then feign ignorance. Criollo has seen this behavior up close for decades, having been a leader of the Kofan, whether officially or unofficially, for most of his adult life. Until the Colombian Army’s 13th Mobile Brigade arrived, army patrols inside Santa Rosa had been infrequent. Now they are common, to the point that some Kofan will not leave their homes unattended, for fear of theft, while young people are afraid to go hunting for fear that they will be mistaken for FARC guerrillas.

The oil workers did not do much better in fostering good relations with the Kofan: in capping the well, they spilled crude, and as they washed the area next to the well, the crude flowed into the adjoining marsh, which would flow into the waters of La Raya, which would impact families in the Santa Rosa and Afilador reserves, as well as any others living in between. Any time the marsh floods, which is with certain frequency because of the downpours, some of the contamination washes downstream.

More than two years later, the marsh has yet to be cleaned up, and an analysis of the mud in May 2010 revealed a high content of hydrocarbons. Details like this did not prevent the president of the U.S. Export-Import Bank from announcing in January 2010 a \$1 billion line of credit to Ecopetrol, citing in part Ecopetrol’s environmental best practices.⁴⁴

The soldiers left, leaving trash behind. The workers left, leaving behind a toxic pool guaranteed to generate disease for years to come. Another routine operation with its routine disregard for the Kofan.

Malicious Neglect, Unlawful Disregard, and Kofan Resistance

In January 2009, the Constitutional Court of Colombia warned that the Kofan were among the indigenous groups in danger of physical and cultural extermination, and it identified twenty-six detrimental factors.⁴⁵ While these factors generally act simultaneously on the Kofan, the underlying problem is a disregard for the Kofan by the Colombian state and most other nonindigenous actors. Time after time, Western thirst for Kofan resources has characterized Kofan contact with the nonindigenous world: first for gold, then rubber, then oil, then coca, then oil again.⁴⁶ All the recent times have involved invasion, colonization, and dispossession of the Kofan.

Since March 2010, the Kofan have had to contend with a highway contractor working feverishly on a section of the jungle border highway that cuts through the heart of their territory. The contractor appears to be frantically working since an appellate court (Consejo de Estado) ruled in

June 2010 that a prior consultation needs to be carried out with the Kofan. Although the Interior Ministry is attempting such a consultation with the Kofan, the construction continues unabated. When Corporación Visión Renacer approached the appeals court and asked that the construction suspension be made explicit, it was told that suspension of the construction was implicit in the court's order for prior consultation.

Despite so many challenges over such a long period of time, the Kofan know who they are and what is right, and they will continue resisting the unlawful conduct perpetrated by state and nonstate actors. To some policy makers, the fate of the Kofan may appear insignificant or their seemingly imminent destruction an inevitability of history, but it is an excellent example of the problems facing indigenous peoples and a good litmus test not only to assess the Colombian government's respect for its indigenous citizens but to assess its respect for the rule of law.

Epilogue

In February 2008, a delegation of Kofan walked the grounds of the military base with the commander of the Army's 13th Mobile Brigade and his men, and pointed out a sacred tree, the burial site of an old curaca. Its GPS coordinates were later shared with the colonel and other government officials, and the Ministry of National Defense pledged to protect the site. In May 2009, the ministry reiterated its protection. However, in late July 2010, another visit by Kofan and their companions revealed that personnel had built defensive constructions almost up to the tree and found clear evidence of repeated attempts to burn the tree down.

Notes

Unless otherwise noted, all documents, letters, and memoranda cited are from Expediente 40109 of the no longer extant INCORA. These documents were obtained by the Corporación Visión Renacer through a *derecho de petición*, a legal petition for information, in 2007. Here and throughout, unless otherwise noted, all translations are by author. Unless otherwise noted, all documents are in the author's archive.

- 1 INCORA, resolution no. 01981, April 30, 1973, 1–2, para. b.
- 2 All pre-1963 data are from a historical and historiographic study by Juan Guillermo Buenaventura prepared for the Corporación Visión Renacer, with the generous support of MSD Colombia Ltda., implementing partner for USAID.
- 3 Interview by author with Kofan elders, shamans, apprentices, spouses, and families, Santa Rosa del Guamuéz, March 16–17, 2010.
- 4 Richard Evans Schultes and Robert Raffauf, *Vine of the Soul: Medicine Men, Their Plants*

- and *Rituals in the Colombian Amazonia* (Oracle, AZ: Synergetic Press, 1992), 114; and INCORA, act no. 814, May 13, 1998, 6.
- 5 Yolanda Sarmiento S. and Roque Roldan Ortega, report for INCORA (c. 1973), 23; cover page absent in historical archive.
- 6 INCORA; and Roque Roldan Ortega, memorandum to Carlos Sanchez Ramos, March 1, 1968.
- 7 INCORA, resolution no. 168, October 28, 1968, article 3.
- 8 Leonardo Gómez Muñoz, Putumayo Indigenous Commission chief of the Ministry of the Government, letter to Fabio Zuluaga Cardona, director of Proyecto Nariño no. 1, INCORA Pasto office, January 25, 1972.
- 9 Sarmiento and Ortega, untitled report, 28.
- 10 *Ibid.*, 29.
- 11 *Ibid.*, 29–30.
- 12 *Ibid.*, 30–31.
- 13 *Ibid.*, 25.
- 14 Eutimio Córdoba Castillo, Operative Section, regional office of Project Nariño-Putumayo, INCORA, “Estudio Socioeconómico, jurídico y de tenencia de tierras. Comunidad Indígena de Santa Rosa del Guamués [*sic*]. Etnia Kofan. Municipio del Valle del Guamués [*sic*]. Departamento del Putumayo” (“Socioeconomic, Legal, and Landholding Study: Indigenous Community of Santa Rosa del Guamués: Putumayo Department”) (report for INCORA, 1997), 39. Unless otherwise noted, all translations by author.
- 15 Hernández Barrios, Ana Julieta Devia Ayala, and Ricardo Andrés Devia Ayala, “Preocupante situación de salud en el Resguardo indígena de Santa Rosa del Guamués. Preguntas, respuestas y necesidades. Aproximación al problema por un grupo de médicos” (“Disturbing Health Situation in the Indigenous Reservation Santa Rosa del Guamués: Questions, Answers, and Needs: An Approach to the Problem by a Group of Medical Doctors”) (report prepared for Corporación Visión Renacer, June 2008).
- 16 Roberto Ramírez, “Conflictos sociales en Putumayo,” in *Conflictos Regionales—Amazonia y Orinoquía*, ed. Jose Jairo Gonzalez et al. (Bogotá, Col.: FESCOL, 1998), 104.
- 17 Asociación Municipal de Usuarios Campesinos, Puerto Asís Putumayo, letter to general manager of INCORA, July 30, 1977.
- 18 Vicente Grueso Hurtado, letter to inspector general’s office, October 18, 1976.
- 19 Ignacio Salomon Rodriguez, advisor to Indigenous Affairs Division, Ministry of Government, memorandum to Angela Gomez de Martinez, general director of Integration and Development of Community, agency unknown, September 5, 1977, 2–3.
- 20 Ivan Arbelaez Contreras, acting head of Land Titling Division, INCORA, letter to Lorenzo Timana CH and Mardoqueo Parra, Campesino Association of Puerto Asís, n.d.
- 21 Edgar Davila Muñoz, regional manager Project Nariño-Putumayo, INCORA, letter to Julio Cesar Quintero, legal submanager, INCORA national office, June 16, 1978.
- 22 Edgar Davila Muñoz, regional manager Project Nariño-Putumayo, INCORA, letter to Armando Mendoza Mendoza, head of Land Titling Division, INCORA national office, January 19, 1978.
- 23 Jesus Yesid Fonseca Silva, acting regional manager Project Nariño-Putumayo, INCORA,

- letter to Marina Garzón, head of Office of Indigenous Reservations, INCORA national office, February 24, 1989.
- 24 Orlando Cordoba Guerrero, regional manager Project Nariño-Putumayo, INCORA, letter to Maria Cristina Vivas de Ceron, head of Land Titling Division, INCORA national office, April 27, 1989.
- 25 Maria Cristina Vivas de Ceron, head of Land Titling Division, INCORA national office, letter to Orlando Cordoba Guerrero, regional manager Project Nariño-Putumayo, INCORA, July 7, 1989.
- 26 Hernando Criollo Umenda, governor of Santa Rosa del Guamuéz, letter to Favio [sic] Bermudez Gomez, general manager, INCORA national office, September 9, 1987.
- 27 Roque Roldán Ortega, *Indigenous Peoples of Colombia and the Law: A Critical Approach to the Study of Past and Present Situations*, trans. Efraín Sánchez (Bogotá: Tercer Mundo Editores, 2000), 11; and Juan Houghton, "Legalización de los territorios indígenas en Colombia," in *La Tierra contra la muerte: Conflictos territoriales de los pueblos indígenas en Colombia*, ed. Juan Houghton (Bogotá: Centro de Cooperación al Indígena, 2008), 84.
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- 29 Gustavo Cediel Muñoz, Reservations Division, INCORA, "Informe visita a las reservas indígenas de Yarinal—San Marcelino, Afilado—Santa Rosa del Guamuéz—La Hormiga Putumayo" (report for INCORA, June 1990), 10.
- 30 Author unknown, "Estudio socio-economico, jurídico y de tenencia de tierras," a report complementing Córdoba Castillo, "Estudio Socioeconomico," c. 1997–1998, 2.
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- 33 Asociación de Cabildos Indígenas del valle del Guamuéz, letter to Otilia Dueñas de Perez, president, INCORA, August 28, 1997.
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- 35 Narciso Rodriguez Pinzón, chief of Land Acquisitions and Adjudication Division, INCORA national office, memorandum #12402 to chief of Indigenous Communities Division, INCORA national office, containing document "Technical Boundaries" by Pero José Cruz Guevara, administrative assistant, October 27, 1997.
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- 38 Eutimio Córdoba Castillo, Operative Section, regional office of Project Nariño-Putumayo, INCORA, Section 5.2.1 "Los colonos" in "Estudio Socioeconómico, jurídico y de tenencia de tierras. Comunidad Indígena de Santa Rosa del Guamués [sic]. Etnia Kofan. Municipio del Valle del Guamués [sic]. Departamento del Putumayo" ("Land Tenancy, Legal, and Socioeconomic Study. Indigenous Community Santa Rosa del Guamuéz. Kofan Ethnic Group. Valle del Guamuéz Municipality. Department of Putumayo"), c. 1997–1998, 48.

- 39 27th Jungle Brigade, National Army, Armed Forces of Colombia, memorandum, “Estudio de conveniencia y oportunidad” (“Study of Convenience and Opportunity”), n.d.
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- 45 Constitutional Court of Colombia, Auto 004 of 2009; www.corteconstitucional.gov.co/relatoria/autos/2009/a004-09.htm (accessed November 12, 2010).
- 46 In various conversations with the author, Colombian professor Juan Guillermo Buena-ventura has called this an “unquenchable thirst for resources.”