



Governance and resistance in Jujuy: territorial discourses and mechanisms of land control

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In northern Argentina's frontier zones of expanding mining, agroindustrial and tourism developments, discourses of territorial resistance linked to indigenous land struggles find new spaces of political negotiation within participatory territorial development governance models. In Jujuy, a province where nearly half of the productive land is untitled, these debates take shape primarily in and around the judicial system over the dynamics and implications of titling programs. This study examines the participation of resistance actors in state governance institutions and the potential of judicial activism to provoke change in patterns of land control. This work analyses the use of territorial discourses in the context of Jujuy's land conflicts, and the impacts of territorial discourses on mechanisms of land control. Drawing on frameworks of governance and resistance, this study highlights the ways in which these two concepts and their corresponding discourses interact and mutually shape relations of power over land.

Key words: *Jujuy, territorial discourse, mechanisms of land control, indigenous land rights, governance, resistance, judicial activism*

Introduction

Since the 2008 surge in commodity prices, demand on the global market for Argentina's primary products has continued to rise. In Latin America, a region rich in farmland and mineral-filled mountains, the exploitation of natural resources is increasingly common in order to take advantage of the seductive commodities boom. This pattern is intensified by the emergence of China as a large buyer of cash crops from countries like Argentina and the general trend of large-scale land acquisitions, or *land grabs*, which are causing international alarm over the threat they pose to food security in host countries.¹ The notion of a land grab as something that only applies to massive tracts of land has been called into question (Borras, Franco, Kay and Spoor 2011) and, as the Argentine case demonstrates, transfers of land control, which often have negative impacts on food security, are not limited to large-scale deals.

Across the continent this shift in land politics means that regions previously ignored by investors now find themselves in the crosshairs of capital expansion. After the crisis of 2001, Argentina turned to three primary industries to reinvigorate its ailing economy: mining, agribusiness (especially soy) and tourism (Manzanal 2007). The expansion of these industries has and continues to require the accumulation of new lands, and the displacement of current occupants by way of physical force, economic pressure or

¹ In a 2011 Food and Agriculture Organization (FAO) report land grabs are defined as a phenomenon with three key characteristics: i) recent large-scale land acquisitions; ii) transactions involving foreign governments; & iii) having negative impacts on the food security of the host country (Borras, Franco, Kay and Spoor 2011).

expropriation. The northwest region of Argentina (NOA, *for its Spanish acronym*) has seen the highest numbers of land conflicts in recent years where, according to the Chaco Argentina Agroforestry Network (REDAF, *for its Spanish acronym*) 153 cases have been registered, affecting 97,995 people and involving 1,720,158 hectares, 89% of which began after the year 2000 (REDAF 2010: 54). Much of the land in the sights of national development plans are inhabited by indigenous communities, and efforts to displace these communities have renewed discussions and tensions over their territorial rights.

The spike in commodity prices and the new land requirements of Argentina's expanding industries coincides with a new era of indigenous politics based on recognition of territorial rights and social inclusion, illustrated by the constitutional reform in 1994. Presidents Néstor and Cristina Kirchner have consistently drawn support from the lower classes marginalized by the neoliberal policies of the '90s — which, in rural areas, are the very same populations made vulnerable to losing land by the expansion of capital. Like other leftist governments in the region (Morales in Bolivia, or Correa in Ecuador), President Cristina Kirchner is in a precarious position in that she must negotiate the tension between the exploitation of the country's very profitable natural resources, upon which the country's 8% average annual economic growth has rested (Stewart 2011), and the socio-environmental costs of said exploitation, which may negatively affect her political base. The northern province of Jujuy is an excellent microcosm of the convergence of these factors. Situated in something of a triple frontier, with mining expansion coming from the north, agribusiness from the south and tourism flying in from all over, Jujuy is also one of the regions with the highest percentage of its population identifying as indigenous. Nearly half of all of the farms (EAPs — *the Spanish acronym for farming and livestock exploitations*) are not titled and do not have clearly defined limits (INDEC 2008). The lack of complete or clear land registry makes it seem as though some of these lands are literally up for grabs. Given the legal advances in indigenous territorial rights at the national and international levels, native communities are increasingly turning to the judicial system to articulate their claims. Given the chaotic incomplete realities of land registry systems, much of this *indigenous judicial activism* revolves around land titling disputes and programs, yet it also inspires other forms of protest in and outside of governance institutions like roadblocks, protest marches, land occupations and participation in governance processes. Here there is no single large-scale land grab but rather a series of localized processes, power struggles and land claims out of which systems of access, distribution and land concentration are determined (Peluso and Lund 2011).

This article examines the territorial claims that frame these disputes primarily between 1994 and 2012. Examining the language of both governance and resistance in this context reveals how different territorial discourses emerge from specific international contexts and are used in political negotiations to influence land power. In the case of governance institutions, the adoption of a territorial discourse is directly linked to a particular development model, which promotes social inclusion and articulation with dynamic markets, in a climate of decentralized policy-making. On the other hand, resistance movements have begun to link land struggles to broader notions of territory — a concept that includes the natural resources on a given piece of land and the complex networks of socio-cultural relations that interact with it. Advances in international law, which governs indigenous territorial rights, provide a framework and a language within which to make land claims that are linked to ethnicity. Despite the conceptual separation of governance and resistance, what becomes clear in the case of Jujuy is that these political processes and the actors involved in them overlap and converge in the judicial system and employ legal territorial discourse both in and outside of state institutions.

This analysis sheds light on how these territorial discourses of governance and resistance affect the different mechanisms of control that govern land access and use in Jujuy. Mechanisms of land control are conceptually grouped into judicial and economic mechanisms. Both resistance and governance discourses advocate for titling programs and the strengthening of legal instruments to determine who controls land. However the main argument here is that despite a discursive emphasis on the importance of judicial mechanisms, neither the territorial discourse of governance nor the territorial discourse of resistance ultimately changes the status quo, which is that land access and use are largely determined by market forces (economic mechanisms).

Much of the focus on titling programs is clearly due to the fact that they can help secure land rights for small holders and indigenous communities vulnerable to eviction. However, the privatization of land by the distribution of private property titles also effectively converts lands into easily bought and sold commodities, thus contributing to a process of land distribution which reflects patterns of economic concentration in the region (Hall 2011). As long as rural communities are living in conditions of poverty and economic disadvantage, a land title will not necessarily alleviate the economic pressures that cause migration and/or forced displacement. In other words, without either policies that protect small rural landholders or changes in the mode of production, in the present context of globalization and soaring commodities prices — both of which favor the expansion of large agro-industrial and mining companies — the granting of private land titles simply ensures that small scale land grabbing is legal.

Some academic work on judicial activism and land conflicts exists in the Brazilian and Colombian contexts (Houtzager 2007 and Rodríguez Garavito and Carlos Arenas 2007). There are also various studies that highlight the political and social consequences of capital expansion for rural farmers in northwestern Argentina (Domínguez 2009; Ataíde 2010; Manzanal 2007; Manzanal *et al.*, 2011). However, the politics of land control in Jujuy understood as relevant to the literature on land grabbing has received very little academic attention. This work seeks to contribute to this emerging literature.

This work is divided into two main sections. The first explores the discourse of governance based on the territorial development model, the political and economic implications of its use and its impacts on land control mechanisms. The second section looks at the discourses of resistance in the context of both increasing indigenous mobilization and the fragmentation of the peasant economy, a context in which the struggle for land has become a struggle for territory — a concept that moves beyond land to encompass questions of ethnicity and culture. The intention throughout this article is to illustrate how the interaction between the politics of governance and the politics of resistance have created new spaces of political negotiation where judicial activism is used to secure access to land.

Governance and resistance

This interaction evokes images of a Gramscian negotiation over power between hegemonic governance forces and counter-hegemonic resistance movements. Not only does a governance/resistance analytical framework allow for a better understanding of international politics in general (Rupert 2003; Marchand 2003; Brassett and Higgott 2003; Clark 2003; Campbell 2003; Colás 2003; Robinson 2003; Shaw 2003) in an age of declining state power and powerful private actors (Fuchs 2004; Cutler *et al.*, 1999; Murphy 2000; and Soederberg 2006). It also serves as a useful framework for understanding land politics in particular. However, it is important to note that in the case of Jujuy, this dichotomy falls

apart; in many instances, resistance discourses emanate from and reside within governance institutions. According to the work of globalization scholars, the politics of resistance goes beyond the local and acquires transnational characteristics (Keck and Sikkink, 1998), emerges ‘from below’ (de Sousa Santos 2007), is anti-capitalist and is concerned with inequality and concentrations of power (Saguier 2012). On the other hand, the politics of governance is made up of institutions² and processes, which according to some authors attempt to facilitate the incorporation of private authority into a politics of accountability (Rosenau 2007; Zadek 2006), but for others legitimize private power and the hegemony of the ruling class (Fuchs 2004; Cutler, Hauffler and Porter 1999; Murphy 2000; and Soederberg 2006). In any case, the negotiations between governance institutions and resistance movements involve economic, political and cultural factors and employ discourses that reproduce a system of meaning and values (Fairclough 1989; Shaw 2003), all of which question and impact the way that land power is distributed (Raubert 2007).

Mechanisms of land control

This paper breaks from material understandings of power and treats land power as a fluid bundle of processes or ‘mechanisms of control.’ Mechanisms of land control change or maintain access and use patterns (Peluso and Lund, 2011: 668). The primary mechanisms of land control in Jujuy relevant in this research fall into two categories: 1) *Judicial mechanisms*: granting of land titles (private and collective), demands for prior consent of affected communities based on international indigenous rights declarations, and land occupations; and 2) *Economic mechanisms*: dispossession by differentiation by way of adverse incorporation or exploitative rental arrangements and dispossession by displacement by way of privatization or externalization of socio-environmental costs.

Judicial mechanisms of land control are rights-based ways of ensuring control, but they may also include action that calls on international law to challenge or provoke change in local legal contexts (Ribot and Peluso 2003). The idea of judicial activism is understood as a negotiation of power that takes place within the judicial realm by way of a dialectic relationship between social movements and governance structures, where legal frameworks and social movement dynamics mutually change one another (Houtzager 2007). Through this back-and-forth diverse interpretations of the law can come to co-exist, creating ‘legal pluralism’ (Pospisil 1971; Griffiths 1986a; Moore 1986a, cited in Merry 1988: 870). With their demands for “self-determination, land rights and cultural survival,³” (Rodríguez Garavito and Carlos Arenas 2007: 221) the transnational indigenous movements that gained force in the 1990s as a response to the effects of neoliberal globalization “have given way to one of the most powerful challenges to established international and national systems of justice” (Rodríguez Garavito and Carlos Arenas 2007: 222). Judicial norms have become a site of political struggle at the local, national and international levels, and disputes over how judicial mechanisms are created and used increasingly frame negotiations over land power between governance institutions and resistance movements.

Many authors refer to David Harvey’s (2003, 2007, 2011) concept of capital accumulation by dispossession in order to explain land conflict in zones of capital expansion (Makki and

² “[g]overnance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interests (CGG 1995: 2, cited in Soederberg 2006: 1).

³ All quotes originally in Spanish are translated by the author, who claims responsibility for any errors that may have occurred in that process.

Geisler 2011; Harvey 2003, 2011; Safransky and Wolford 2011). In the case of Jujuy, this process of dispossession is understood to occur in two ways, by differentiation or displacement (Araghi 2000), both of which are largely driven by economic forces.

Differentiation, taken to mean the conversion of peasant-farmer to worker, depeasantization, or the proletarianization of the peasant class, does not necessarily entail loss of land but rather loss of some control over how it is used (Araghi 2000). Historically, this process of dispossession has been carried out in Jujuy by way of adverse incorporation into the labor market and/or exploitative rental agreements. Work on adverse incorporation (Hickey and du Toit 2007) seeks to explain the causes of rural poverty beyond the effects of inclusion or exclusion, proposing that the dynamics of incorporation into the market might in fact be reproducing poverty and dispossession (cited in Forntin 2011). Rental agreements are one way of limiting an occupant's control over land without displacement and, in many cases, the dynamics between land owners and renters in Jujuy are reflections of exploitative colonial relationships.

Displacement on the other hand implies not only loss of land control, but also losing the possibility of inhabiting that land. The primary economic mechanisms that facilitate displacement in Jujuy are 1.) the privatization of common or untitled lands, which transforms land into a commodity whose access and use are determined by the interests of capital; and 2.) the externalization of socio-environmental costs, which are often born by the communities with the fewest resources. The mechanisms that drive processes of differentiation and displacement are often layered in complex ways, may be sequential or simultaneous, and often work in conjunction with judicial mechanisms. The push for titling programs effectively packages and puts land on the market so that economic forces can have a greater impact on how it is used and who has access to it. Despite the claims of governance institutions like the World Bank that private land titles make small farmers more secure, privatization of land can in fact accelerate processes of dispossession where inhabitants have a different, non-Western understanding of property and/or are under extreme economic pressure. In areas with minimal infrastructure, many of these inhabitants are essentially forced to sell their land in order to survive (De Schutter 2011, 274, cited in Hall 2011).

Governance discourse: Territorial development

In the 1990s, the so-called territorial approach to rural development emerged from international research organizations⁴ as the new development solution to poverty. Despite its discourse of inclusion and its promotion of judicial mechanisms of land control, in practice the introduction of this development model in Argentina has not changed the status quo, which is that land use and access are determined by market logic. The territorial approach has therefore helped maintain the conditions favorable to capital expansion.

A seminal text titled "Rural Territorial Development," authored by Schejtman and

⁴ According to Fernandez *et al.* (2008: 49, cited in Ataide 2010: 12) the territorial approach originated in international research organizations associated with countries in the global north (ISC-Institute for Strategy and Competitiveness, IDS-Institute of Development Studies & GDY-German Development Institute) and from there spread to intergovernmental development agencies (UNCTAD, ILO Centro Internacional de Formación- DELNET & ONUDI Cluster/Network Development Programme) and financial organizations (World Bank Local Economic Development, InterAmerican Development Bank, and CEPAL). The adoption of the approach into official agendas was extensive among many international organizations. The International Fund for Agricultural Development (IFAD) incorporated the model into its strategic plan in 2002. The IDB followed suit in 1998, the World Bank in 2002, and the FAO and IICA in 2000 (Schejtman and Berdegúe 2004: 16).

Berdegú in 2004 and published by The Latin American Center for Rural Development RIMISP⁵ outlines the key ideas behind the territorial development model and thus offers a window into the politics of governance, which this discourse reproduces. In fact, RIMISP was one of the main organizations responsible for the diffusion of this approach in Argentina. The text speaks of inclusion but does not deal deeply with the question of power, with the result that established power relations that dispossess rural communities of control over their land remain unchanged. The model promotes policies based on geographic regions rather than industries (as in past development trends) in order to consider institutional and productive relations in an integrated way, establish participatory processes and remain competitive in dynamic markets. The intention is therefore to integrate all of the sectors, both agricultural and non-agricultural, within a given territory, as well as rural and urban areas, while decentralizing governance processes and allowing them to occur from the bottom up (Bebbington and Bebbington 2008; Schejtman and Berdegú 2004; Manzanal, *et. al.* 2009). The implementation of the territorial development model implies a break from the notion of rural development as a set of policies primarily dedicated to the farming sector, and a move toward viewing agriculture as just one of many components involved in the process of development (Nardi 2011; Manzanal *et al.*, 2009).

Institutional development vs. productive development

According to Schejtman and Berdegú, territorial development is based on both productive and institutional change in a given region. The territorial approach introduces institutional changes geared toward creating a more participatory and inclusive development process that integrates a diversity of perspectives from an array of sectors (Schejtman and Berdegú 2004). Meanwhile, promoted productive changes are geared toward a single end: linking local economies to larger, more dynamic markets. Inclusion is treated as if it alone will eradicate poverty, rather than as a way to come up with policies that provoke systemic transformation. The authors recognize “the need for states and political systems to have the capacity to absorb and reflect the new practices of social movements” (CEPAL, 2001, cited in Schejtman and Berdegú 2004: 16), and the institutions that help do so are claimed to be “indispensable in order to ensure that development processes overcome, rather than reproduce power relations that marginalize sectors excluded from opportunities and the benefits of development” (Schejtman and Berdegú 2004:16) Despite this discursive attempt to deal with unequal power relations, the very same paragraph claims that the goal of institutional development is “technical progress and competitiveness,” a goal which has in practice favored large-scale industrialized producers and facilitated a concentration in land wealth.⁶ This text emphasizes social inclusion without providing any guidelines for overcoming power differences between the different actors included in the development process, thus maintaining the status quo. Including a reference to power relations therefore seems more motivated by trends in development discourse than by a real intention to understand and transform power dynamics.

In practice, however, the institutional changes that promote greater land access to small farmers have been notable since the 2004 seminar, and have introduced critical, counter-hegemonic discourses into governance structures. A measure of support for small farmers within the Secretariat of Agriculture, Livestock, Fishing and Food (SAGPyA) came with the creation of the sub-secretariat of Family Farming, created in 2008, and through the National Institute of Agriculture and Livestock Technology’s (INTA) Family Farming Research centers (IPAF), formed in 2005. Based on the territorial development model,

⁵ The Latin American Center for Rural Development, (RIMISP) is funded, in large part, by the International Fund for Agricultural Development (IFAD), The World Bank, the FAO and the IDB.

⁶ See Aranda, 2011 on industrial soy farming.

these programs have drawn on multi-disciplinary research teams to engage with small farmers. The center in Hornillos, Jujuy (IPAF-NOA) has recently become involved in research on land control, which according to one INTA researcher, Walter Mioni, was a 'taboo' subject within INTA before the implementation of the territorial development model. At the time of writing, Mioni and his colleague, Gastón Godoy Garraza, are about to publish a study of forced evictions of small farmers in the wake of soy expansion in the province of Salta. With the introduction of the territorial approach, new spaces have opened up, giving way to analysis and critique of the territorial development model itself as well as of the effects of the dominant modes of production driving Argentina's economy on land distribution.

According to Schejtman and Berdegué, the purpose of productive change is to "competitively and sustainably articulate the economy of the territory with dynamic markets" (Schejtman and Berdegué 2004: 30). However, the incorporation of a territory into the international market tacitly favors those forms of production which operate at a scale large enough to compete in the international market, like industrial agriculture or mega-mining projects, the expansion of which means increased concentration of land under control of those large industries (Aranda 2011; McMichael 2011; Holt-Giménez, Patel and Shattuck 2009). The productive changes introduced since the shift to the territorial development model have simply been intensifications of the kinds of production already dominant in the market: agribusiness, mining and tourism.

Finite land and broken promises

On one hand, the territorial approach promotes supporting small farmers, but at the same time it proposes the expansion of the very industries that compete for their lands and threaten their livelihoods. Manzanal (2007, cited in Ataide 2010) argues that the turning point for development policy in Argentina was a seminar in Buenos Aires in October, 2004 organized by RIMISP with the support of the Secretary of Agriculture, Cattle Ranching, Fishing and Food (SAGPyA). The event, titled "Productive and institutional transformation of rural Argentina," strategized the implementation of the new development model in the country and land use and established access priorities. The general idea that emerged is a clear reflection of Schejtman and Berdegué's kind of thinking, calling for "the articulation of the production with needed services and markets" (RIMISP 2004: 16). To make this happen, the seminar report recommends developing the "most dynamic elements of current production chains" (RIMISP, 2004: 16) and the most profitable modes of production linked to "global investment," leaving behind "modes of production that rely on protected markets" (RIMISP 2004: 19). Since 2004, these priorities have been apparent, validating a strategy of economic growth based on the expansion of soy, mining and tourism (Manzanal 2007). Taking into consideration the fact that territorial development discourse proposes to *support* small farmers, these recommendations to expand the industries that *compete* with small farmers for their land seem rather contradictory.

The Jujuy Provincial Ministry of Production's Strategic Production Plan (PEP) proposes to expand and strengthen soy, mining and smallholder agricultural production. However, this document promises to facilitate the growth of each of these industries with the same public lands. What is more, many of these public lands are inhabited by small farmers and/or indigenous communities. The authors of the plan admit that, in the case of mining for example, expansion implies social conflict with rural communities, yet what is not clarified is the obvious fact that not everyone can use Jujuy's public lands, and failing to prioritize who has the right to those lands effectively leaves small rural communities of limited

resources on their own to fight the pressures of large capital interests. On this point, the PEP explicitly offers no solution, saying, “A particularly important issue which is not dealt with in this plan is the issue of land for production. This is a national debate that transcends the possibilities of this Plan, but the solution to which should not be put off” (Ministerio de Producción de la Provincia de Jujuy 2011: 365). It is worth mentioning the irony that the territorial development model promoted largely at the national level suggests that processes of land governance should be resolved at the provincial level, while in this document the provincial government emits contradictory statements about who should have access to Jujuy’s lands and for what purpose, and ultimately avoids the entire issue by claiming it is a national matter.

Decentralization with no accountability

Indeed, the strongest proponents of the territorial development model in Argentina have tended to be institutions at the national and international level, yet they promote a decentralized approach where the provinces are the key facilitators of development. In other words, those who embrace the changes the model promises neither have the power to enact them nor are held accountable for the results.

In the context of competing interests over land, the primary proposal to alleviate conflict in Jujuy is titling programs. Since its implementation in 2004, territorial development discourse has promoted decentralization and increased social participation in governance processes. There is renewed interest in land titling programs (which have been the subject of debates throughout Jujuy’s history since the founding of the Republic), but the majority of indigenous land rights claims are given voice through participation in national government bodies, while decision making and implementation power remains concentrated in provincial government offices. Historically, any provincial effort to title land sought to put land on the market through privatization, but Jujuy’s history is colored by tensions between private property claims and communal use patterns practiced by indigenous communities. A brief review of titling efforts illustrates that the provincial government’s agenda was and largely still is the privatization of land, regardless of how long it may have been communally used by its occupants or what model of development the national government is promoting.

In the highlands of Jujuy called the Puna, where many titles given to large colonial land holders remain disputed, farming economies are primarily pastoral, requiring large open space for animals and therefore don’t conform well to a system based on small, divided, private parcels. In 1947, President Perón promised to expropriate and grant land titles to many of the indigenous communities living in Jujuy’s highlands.⁷ Those communities are still waiting for the provincial government to fulfill that promise. Today, nearly half of all registered farms in Jujuy are on public or otherwise untitled lands with no defined limits (INDEC 2008). The size of these areas is not calculated in official statistics since their legal boundaries are not defined, but much of the land promised by Perón to their occupants

⁷ Proposed Law N°880 of 1930, the result of the efforts of governor Miguel Tanco, authorized the acquisition of these lands by purchase or expropriation, with the intention of leasing them to those who worked them. However, the coup d’état in September 1930 changed the political climate and the project fell by the wayside until 1945 when indigenous communities marched from Abra Pampa in the Puna to Buenos Aires to reclaim land rights that had been promised to them in Law N° 880, in what is known as the Malón de la Paz (Fleitas and Teruel 2011). Two years later, the legislature of Jujuy approved the initiation of the process of expropriation. In 1949, Perón approved a corresponding declaration, but after converting the territories into public lands the province never completed the process of expropriation (Kindgard 2005).

have remained in provincial control as public or ‘fiscal lands.’⁸ The decentralized nature of the titling programs promoted by the national government in the context of territorial development follows this same dynamic. Communal land titles are promised by the national government, but efforts to grant them are undermined by the provincial government.

The province didn’t take up the issue of land titling again until 1988 when it formed the Jujuy Institute of Colonization (IJC), formed by the Jujuy legislature with the passage of Law N° 4394, with the objective of privatizing public lands. In the ‘90s, national government institutions began to see greater indigenous representation and calls for communal titles offered an alternative to the efforts of the IJC and the provincial government (Schmidt and Salleras 2009). In an agreement signed by the national government’s Institute on Indigenous Affairs (INAI) and the provincial government of Jujuy in 1997, the Program to Regularize and Allocate Lands to Jujuy’s Indigenous Population (PRATPAJ) was launched, officially recognizing indigenous collective territorial rights as part of the province’s land-titling program.⁹ These communal titles cannot be sold and thus represent a kind of judicial land control mechanism which intends to protect communities from market forces. Despite this discursive shift, the way the program was carried out reveals that the provincial government’s priorities remained the privatization of public lands. The IJC, an organization whose mission is the privatization of public lands, was chosen to provide communal titles. Moreover, private titles can be sold to occupants, while communal titles are granted at no cost (De Pascuale 2012). PRATPAJ thus not only counted on a provincial organization with conflicting goals to carry out the national plan, it also established a system of monetary incentives in which granting private titles generates money for the organization while granting communal titles does not.

In 2006, a push for communal titles reappeared on the national agenda with the passage of Law N° 26.160. This law, implemented by the INAI and the Secretary of Social Development (which subscribes to the territorial approach), seeks to halt all evictions of indigenous communities that lack titles to their lands until every province carries out the National Survey of Indigenous Territories Program (RETECI), which enables the granting of communal titles. Given that the majority of resistance actors in Jujuy’s land conflicts are indigenous communities, the implementation of this program transformed the INAI into one of the central governance institutions dealing with land issues. At the provincial level, implementing the program relies on the participation of the Provincial Secretary of Human Rights. In line with the territorial development model, a space for indigenous participation in these land-titling processes called Indigenous Participation Councils (CPIs) was created, but resistance movements have criticized the councils for their lack of real decision-making power (IWGIA 2012).

Demonstrating the lack of accountability built into the decentralized territorial development model, the granting of communal land titles through PRATPAJ as well as its

⁸ According to the calculations of the author (using statistics from the National Census of Agriculture and livestock in 2002), of the 4,922 EAPs without defined limits in Jujuy, 75.72% are located in the highlands where they make up 66.53% of all EAPs in the area. In the lowlands 35.34% of the EAPs don’t have defined limits. The departments considered highlands in this calculation are Rinconada, Santa Catalina, Susques, Tilcara, Tumbaya, Humahuaca, Yavi and Cochinoca. The lowlands include the departments of Dr Manuel Belgrano, El Carmen, Santa Bárbara, Ledesma, Palpalá, San Pedro, San Antonio and Valle Grande.

⁹ The provincial Law N° 5030 allotted a subsidy of \$1,538,185.00 pesos to determine the land occupancy situation of indigenous communities on the 1,238,300 hectares of public rural land and 15,583 urban parcels in the departments the Puna, Quebrada, Valle and Santa Bárbara (Borghini 2010)

new version, Law N° 26.160, has been painfully slow. Since 1996, “only 15% of the titles promised by the Fellner government [1998-2007 and re-elected in 2011-present] have been granted, and with serious irregularities” (La Hora de Jujuy 2011: np). In 2006, only seven of the communities demanding communal titles had received them (Borghini 2010: 146). Expressing her frustration, a member of one indigenous community in Jujuy states, “new programs replace old ones, but they do not guarantee any concrete granting of communal titles [...] and to top it off, they propose that the IJC offer private titles to these communities, which creates divisions among us; a strategic way for the state to avoid handing over territory” (La Hora de Jujuy, 2011).

The territorial development model has reignited a long-standing tension in Jujuy around titling programs, but the emphasis on participation and decentralization sheds light on the contradictions of the territorial approach. While indigenous participation in governance institutions at the national level has resulted in the promotion of non-Western notions of property (like collective ownership), the mechanisms to implement these proposals are left to the provincial government to carry out. The result is two parallel titling efforts with different motives and protagonists. One comes out of a long history of privatization efforts by the provincial government, and the other, the product of a politico-legal opening at the national level, which seeks to secure control over land in indigenous communities. The decentralized territorial development model ultimately favors the agenda of the provincial government, which in this case has proven to be the privatization of land.

Governance, power and economic mechanisms of land control

Despite the fact that there is much discussion of land titling as a way of securing land control for indigenous communities in Jujuy, the effect of territorial discourse on power dynamics in the province has been minimal. With judicial mechanisms slowed by differing national and provincial agendas, other economic mechanisms continue to determine land control. Looking at use and access patterns historically in Jujuy reveals the changing function of provincial lands, yet what is consistent throughout is that land has been used to provide the resources necessary for the expansion of capital. In other words, use and access have been determined by market forces — something that has not changed with the implementation of the territorial development model. Economic land control mechanisms function to two main ways: dispossession by differentiation or by displacement.

In the beginning of the 20th century a process of social differentiation transformed a large portion of farmers into wageworkers. Populations in the highlands of the Puna and the Quebrada de Humahuaca supplied manual labor to the mines in the north and the sugar plantations to the south. This process of proletarianization formed a new class of workers by way of dispossession of land control. Many plantations managed to buy large estates from colonial families in the highlands and then force the indigenous communities who lived there to work in order to pay rent (Arzeno 2003: 125). Systems of *enganche*¹⁰ were also common, where in collaboration with local stores, plantations would extend workers credit at exploitative rates and then offer to relieve debts in exchange for their manual labor (Karasik 2006). Sugar harvest did not require the displacement of rural highland communities in order to serve the interests of capital. Rather, loss of control over land via exploitative rental and debt arrangements facilitated the process of proletarianization and differentiation of Jujuy’s highland peasants¹¹ and ensured the expansion of industrial sugar

¹⁰ Literally to hook or get caught.

¹¹ “According to National Census data from 1937, there were 2,883 EAPs in the Puna and 1,885 in the Quebrada, compared to the 1,114 that existed in the central valleys and the 836 in the Subtropical region, which demonstrates that subsistence farming was predominant in the highlands of Jujuy at the

production.

Today, a similar process of market incorporation with adverse effects has developed in association with tourism development. A survey of tourism workers in the Quebrada de Humahuaca shows that the majority of waged workers come from the region or other parts of the province, while the majority of managers and owners are people from other provinces (Troncoso 2008). In other words, tourism development offers locals lower paying positions with less authority. The dynamics of the incorporation of local communities into the labor market don't offer much mobility and very few tourism developments are spearheaded by the local population (Salleras 2011). The articulation of the territory with the tourist market has also meant adverse cultural impacts. The traditional ceremonies in celebration of the Pachamama (mother earth) have increasingly been altered, used or packaged as tourist attractions. "We have the tradition of celebrating Pachamama for the entire month of August. The whole month, should be the 1st through the 30th, 31st of August; this is our tradition, but in some areas they'll put on these ceremonies at any time of the year, and these things aren't like that" (interview with a resident of Tilcara, 2008, cited in Salleras 2011: 1131). It is true that tourism brought new flows of capital and job possibilities in a very difficult time just after the crisis of 2001, but its effects have been complex.¹² Jobs in this sector reproduce structures of social differentiation and sacred cultural practices are increasingly shaped by their marketability to tourists.

With the mechanization of Jujuy's major industries, the need for manual labor plummeted and the function of indigenous lands changed, as did the primary mechanism of dispossession. These lands are no longer needed by capital for the social reproduction of workers, and the displacement of communities living on them by privatization or externalization of socio-environmental costs facilitates their conversion to other newly profitable productive pursuits.

In addition to processes of differentiation, tourism is also motivating displacement, particularly in the Quebrada de Humahuaca. Fueled by the devaluing of the peso in 2001, tourism in Argentina suddenly became more accessible to foreign travelers and was promoted as a way out of economic crisis. In this context, Jujuy was deliberately put on the tourist map. Winning the bid to be named a UNESCO World Heritage site made the region's beautiful colored mountains a destination. In the mid-1990s, the province received 114,964 tourists per year, compared to 2011 when in July alone a total of 90,389 visitors were registered, up 27% from the previous year (Observatorio Turístico de Jujuy 2011). The expansion of this industry has meant the construction of numerous new hotels and a considerable spike in rents and property values, pricing locals out of the real estate market and creating new economic incentives to sell.

The result is a restructuring of land power reflecting concentrations of wealth among a population with new flows of tourism entrepreneurs and investors able to take advantage of inflated land values. In a capitalist economy the purchase and sale of private property is normalized as a voluntary decision for all parties involved, and in many cases it is. However, Jujuy's history of land titling efforts and broken promises has made determining ownership difficult. In the case of Cueva del Inca in Villa Florida, rising real estate values in this small community near the tourist hot spot of Tilcara have sparked the arrival of "new owners" carrying old land titles from large land-owning families, making claims on land

time" (Kindgard 2005).

¹² There are various examples of sustainable rural tourism projects, which propose an alternate model that directly benefits the communities — something that warrants more research.

inhabited by indigenous families for generations. One of the grandmothers of the area, Primitiva Ramos claims, “The Mendoza family has done no work in this community, they don’t live here...they say they are the owners, but they aren’t, our children were born here, grew up here [...] they just need the land so they can sell it...” (CCAIA 2012: np). The volatile real estate market doesn’t just affect “new owners,” old owners with titles to there land are also tempted to sell. However, it is important to consider just how voluntary these decisions are in the context of limited job possibilities, poverty and inequality.

Beyond tourism, other sectors have notably expanded and created new pressures on land, particularly soy cultivation and lithium exploration (Ministerio de Producción de Jujuy 2011). Both of these industries require new lands to grow, not more people for manual labor as in past eras. Between 2005 and 2012 the area planted with soy in Jujuy increased by 310.2%.¹³ Although the total surface area is relatively small compared to other neighboring provinces like Salta or Santiago del Estero, all of the production is destined for export (ProReNOA — INTA Salta 2010, cited in Ministerio de Producción de Jujuy 2011: 146). This crop is almost exclusively grown in the lowlands, historically controlled by sugar plantations. As soy is very new in Jujuy its effects are not well understood, but the suggestion of the authors of the PEP is that fiscal lands will provide the space needed for its continued expansion, which implies the displacement of the communities who currently inhabit those areas. Making those lands sellable by granting private titles assures that areas can be cleared legally by economic pressure, rather than by force, as in the case of Palma Sola, where in 2009 a conflict emerged between a small farming community and the soy producer CRAM S.A. run by the Mecedo family. According to a press release from families who mobilized in resistance, “employees of the company violently broke into the property of one of the families, threatening them with firearms and beating them with sticks” (El Libertario 2010: np). As has been reported in other provinces (Aranda 2011), the frontier of soy expansion in Jujuy incites dispossession by displacement, whether by purchase or force.

Jujuy has a long history as a mining province, but the past nine years have seen a dramatic increase in production. The debate around mining revolves around the socio-environmental costs that it implies. Since 2003, there has been an increase of 1,948% in mining investment (El Libertario 2012). In large part this is due to the fact that Jujuy is situated at one corner of the so called “lithium triangle” between Chile, Bolivia and Argentina. There are two pending projects that propose to produce 55,000 tons of battery grade lithium carbonate, “with which Jujuy will substantially immerse itself in the lithium business” (Ministerio de Producción de Jujuy 2011: 338). Thanks to new battery technologies, the 2011 rate of lithium consumption is 100,000-120,000 tons per year and is estimated to grow to 400,000 tons by 2025 (Ministerio de Producción de Jujuy 2011: 338). The limiting factor to the growth of this sector in Jujuy according to the Ministry of Production is “the eventual conflicts with rural communities” (Ministerio de Producción de Jujuy, 2011: 350). Indeed lithium exploration in the Salinas Grandes has sparked a conflict with the indigenous inhabitants of the area who worry that in an area where water is already scarce, a water-intensive mining operation would rob them of the water they need to sustain their way of life, which is based on the production of llamas and sheep. In other words, local communities pay the socio-environmental costs of mining development.

The PEP states that to support small farmers the province needs to “strengthen and

¹³ In 2005-2006, it covered 3,970 hectares and in 2009-2010 it reached 16,285 has (ProReNOA — INTA Salta, 2010, cited in Ministerio de Producción de Jujuy, 2011: 144).

operationalize the program of land titling and colonization¹⁴ for family farmers” (Ministerio de Producción de Jujuy 2011: 299). Despite this rhetoric, territorial development discourse makes no effort to change the patterns of production and wealth concentration in the province, so the expected result of privatizing land and externalizing socio-environmental costs would be the displacement of those who have the fewest resources. In 2008, between 30% and 44.3% of the population in Jujuy found itself below the poverty line (La Voz de Jujuy 2009).¹⁵ The failure to grant collective land rights, together with the expansion of tourism, soy and mining demonstrates that land use and access priorities largely favor the most profitable activities and those who have the capital to invest in land, despite the social consequences that this may generate. Though judicial mechanisms of land control have received much political attention in the context of territorial development, in keeping with its historical pattern, what most determines access and use of land in Jujuy are economic mechanisms.

Resistance discourse: the struggle for land and territory

Resistance strategies in the face of land conflicts in Jujuy are diverse, from land occupations to participation in state development programs, but almost all are marked by a territorial discourse associated with indigenous politics and the use of the judicial system to make claims — *indigenous judicial activism*. This judicial turn in resistance discourse coincides with legal shifts towards the recognition of indigenous territorial rights at the provincial, national and international levels. A politics of participation has allowed resistance actors to access these new legal tools. This territorial discourse draws on new legal frameworks to strategically to mobilize a politics of resistance and encompasses land conflicts as well as broader debates about control over natural resources and cultural survival. In Jujuy, rural communities faced with a history of depeasantization processes are struggling for more than just land; they are often defending a way of life, an economy and a non-Western way of relating to the earth, all of which are associated with an indigenous cosmovision. This vision, while at times constituting an essentialized picture of indigenous culture, contributes to the construction of a counter-hegemonic discourse, an alternative to the culture and economy of capitalism. Using this kind of territorial discourse by no means denies the importance of economic factors, but it does reject the commodification of land and draws on the legal system to link a politics of resistance with indigenous identity.

The Red Puna, one of the oldest rural grassroots organizations advocating for farmers’ and indigenous rights in the region, calls their program area “the struggle for land and territory” (Red Puna website). It adopts an indigenous cosmovision in its approach to land, rejecting the idea that it is merely a commodity to be bought and sold. “According to our Andean cosmovision, today we are not simply fighting for land, meaning we are not simply fighting for a physical space, rather territory, which means much more: culture, spirituality, cosmovision, medicine, language, living in community and other ancient beliefs” (Los Pueblos Kolla y Quechua de la Puna, cited in La Hora de Jujuy 2011: np). Territory is also the basis of economic vitality: “For us our territory is the pharmacy, the supermarket [...] what would we do with schools, housing or health, if there is no territory for indigenous peoples” (Sarapura, quoted in Aranda 2011: np). Used this way, the concept of territory culturally resonates with resistance actors, highlighting the problems of identity and

¹⁴ Translator’s note: this term is often used to mean settlement. In the case of Jujuy it is closely associated with the activities and goals of the IJC, which are to grant private titles and put land on the market.

¹⁵ Population census data from 2010 on unsatisfied basic needs has not been processed, but according to IADER the INDEC statistics from 2006 of 30% doesn’t reflect inflation. They calculate the adjusted number to be 44.3% (Lo Tartaro 2008).

economy faced by indigenous communities involved in land conflicts.

Depeasantization and ethnicity

This cultural resonance reflects changing conditions in rural Jujuy linked to the process of depeasantization. The era of neoliberalism, characterized by deregulation, the opening up of the local economy to the international market and the withdrawal of the state, put pressure on small producers and gave way to a ‘new rurality’ (Giarraca 2001). This term refers to the regional processes that created an “agriculture of two speeds”: one in which capitalist producers supply an export-oriented market and see rapid growth and high profits, and another in which family farmers supply a weakened domestic market and compete against subsidized imports from rich countries (Kay 2008: 918). This undermines profits to small farmers and forces many to seek income from non-farm activities. The question is whether in this post-neoliberal context of ‘pluri-activity’ the peasant sector can survive and re-build a peasant identity and economy that is sustainable (the re-peasantization argument); or if the process of proletarianization is irreversible (as argued by depeasantization theorists). In Jujuy, there is a notable effort to reconstruct a peasant-farming sector based on indigenous identity and politics, but results have been limited.

In a reflection of global trends, the process of depeasantization began early in the 20th century in Jujuy. Prior to this era the majority of indigenous communities in Jujuy were farmers. In the pre-colonial era, the highlands were home to a variety of ethnicities from different indigenous groups of the southern Andes, organized in agricultural and pastoral societies. The basic social structure was the *ayllu*¹⁶ and land was used communally. Land titling programs beginning in the 19th century and the incorporation into the capitalist market as workers in the 20th century began the decomposition of the communal agrarian structure of *ayllus* (Cowan Ros and Schneider 2008: 168). The intensification of sugar production, which converted many farmers into waged workers, also established a system of labor relations that became conditioned by ethnicity and contributed to the construction of the indigenous *Colla* identity, which in reality is made up of a number of different indigenous groups living in the highlands along with Bolivian immigrants. In this way, the strongest indigenous identity in the region is based on a homogenization of a variety of ethnic groups¹⁷ and breaks from the peasant-farmer identity (Karasik 2006: 131).

These processes had a strong impact on the dynamics of resistance. While the most famous uprising in an attempt to reclaim control of rural lands in the Puna during the pre-sugar era in 1879 developed from an “indigenous condition” (Karasik 2006: 292), the politics of resistance after articulation with the capitalist market was associated with the labor movement and working conditions.¹⁸ Then, legal shifts brought about by the national constitutional reform in 1994 and the subsequent indigenous land titling program (PRATPAJ) in Jujuy in 1996 helped to renew the link between resistance politics and the ‘indigenous condition,’ but this time the ‘peasant’ identity that was once nearly interchangeable with the ‘indigenous’ identity had been weakened by a century of

¹⁶ “The *ayllu* was a space in which intricate relations of reciprocity and kinship existed. Natives organized an assembly, which among other functions, planned work and use of resources, resolved internal conflicts and articulated with other communities (Isla 1992: 173, cited in Cowan Ros and Schneider 2008: 167).

¹⁷ “The farming communities of the highlands of Jujuy, Salta and Tucumán were characterized as Collas during the 20th century, without distinction between ethnic affiliations like calchaquies, omaguacas, casabindos o chichas” (Karasik, 2006: 131).

¹⁸ “One exception is the Malón de la Paz in 1946 where the farmer and the indigenous conditions converged again, without managing to sustain the convergence” (Karasik 2006: 292).

depeasantization processes.¹⁹

Even though the adverse incorporation of peasant farmers into the labor market at the time of sugar harvest meant that they could continue living on lands titled under someone else's name, depeasantization theorists argue that is only so because their survival and social reproduction served the needs of capital (Rey 1975; Meillassoux 1981; Arrighi 1973; Wolpe 1972; Kautsky, [1899] 1988, cited in Araghi 1995: 342). Since mechanization, the accumulation of capital needs more land and less manual labor from rural communities. Maybury-Lewis (1984: 129) calls this new phase the “‘Second conquest’ of indigenous peoples, where unlike the first it is not particularly interested in indigenous labor. It is interested in indigenous territory. The threat to Indians this time is not slavery, rather the expropriation of their lands and total destruction of their way of life, if not their people also” (cited in Rodríguez Garavito y Carlos Arenas 2007: 220). The association of resistance with indigenous politics in Jujuy implies a reconstruction of identity politics among a sector transformed by the expansion on capital and strengthened by judicial opportunities granted to indigenous communities.

Territorial discourse also implies a rejection of the exploitative nature of capitalism. The idea of territory expands the struggle of resistance actors beyond land and challenges the hegemonic notion that land use and access should be determined by the market. It's worth mentioning, however that the distinction between the indigenous cosmovision and the culture of capitalism is by no means clear-cut. In the region of Susques in the north of Jujuy, where not one farm has a title or defined limits (INDEC 2002), the company EXAR S.A. signed various agreements with representatives of five communities²⁰ granting ‘social license’ to begin exploration for lithium (Diario Jujuy 2012). This seems to work against a politics of resistance that promotes a relationship to the land where modes of production are determined by cultural values — even if the culture associated with an indigenous cosmovision is essentialized — while at the same time rejecting the superiority of the market and the profits associated with Western capitalist culture. This demonstrates how territorial discourse nourishes what is ultimately a political project, with the intention of mobilizing communities on the basis of their indigenous identity.

Land titling programs represent new spaces of political negotiation at the frontier of capital expansion. The opening of these spaces has shaped resistance politics around indigenous identity, which provides access to certain territorial rights. One of the primary resistance strategies, obtaining communal land titles, has emerged as a way of using the tools provided by the state to advocate for a different kind of relationship to the land — one that resonates with an indigenous cosmovision. Even though technically indigenous communities can and do apply for either private titles or collective titles, communal lands have become the key way for resistance movements to reclaim their territorial rights. According to the Red Puna, with those papers the land belongs to the community; “possession is respected and using land for sale, rent, mortgage, credit leveraging, auction, etc. is not permitted. No one can take it away for any reason.” On the other hand, the organization's explanation of private property states, “if you don't pay taxes to the state

¹⁹ With the crisis of the neoliberal model in this era and the decrease of work in the sugar plantations or the mines, there was a return to the country, in particular among sugar plantation workers. However, the types of work available in the countryside began to diversify in the context of the “new rurality.” Among the income sources were: occasional sale of manual labor, non-farm activities, and public assistance programs” (Cowan Ros and Schneider 2008: 172).

²⁰ It is beyond the scope of this paper, but the internal dynamics of communities coming to these agreements warrants more research.

lands can be taken and given to any other interested party, whether they are from the area or not [...] For ten years sale, rent, charging for grazing, and credit leveraging are not permitted, but after ten years, yes!” (La Red Puna 1998: np). It is clear that what motivates different judicial strategies for the Red Puna is an attempt to maintain control of land, and communal titles are proposed as the most secure way of doing so. The conception of land as something that can’t be sold resonates more strongly with the indigenous cosmology, and the use of territorial discourse facilitates the construction of resistance politics based on ethnicity. The ultimate goal however is not simply cultural recognition, but rather obtaining and maintaining land control, which is the basis of economic livelihood and cultural survival.

Politics of participation

Much of the collective action that has resulted from indigenous mobilization around land and territory takes advantage of the favorable political climate and is based on participation in legal processes. The territorial development discourse of governance helped to open up new political spaces in and outside of state institutions where the issue of land access can be discussed in ways that include grassroots organizations. This inclusion doesn’t always assure collaboration between the state and resistance movements, but the bulk of resistance strategies promote participation in governance processes and in one way or another are rooted in judicial activism and claims to land based on indigenous territorial rights.

One of the indigenous groups promoting a politics of participation as part of their territorial struggle is the National Coalition of Indigenous Territorial Organizations (ENOTPO), whose aim is to “try and occupy the spaces that open in all areas of government, even if there is still no place for us to work from, and no salary, we try to occupy those spaces because if we don’t, they destroy our communities...we have to be there” (David 2012). According to Néstor Jerez, a representative of the organization, the communities that form the alliance are proposing a shift away from a politics of resistance and protest and toward a politics of participation and proposal. In order to achieve that, “the priority is to fight for the law to recognize us, recognize our territories, our way of life, our social structures, our education, and our health” (Jerez 2012: np). This participation in state institutions has made judicial language and strategies of defending indigenous lands more accessible. “Government representatives we are in contact with often go to our territories with information, but at the base of it what we are seeking more than anything is to deepen our rights as indigenous communities — our territorial rights, prior informed consent, communal titles — these are all issues that before no one discussed” (Jerez 2012: np). Through this it becomes apparent that in the spaces of political participation that ENOTPO occupies, the struggle for land and territory is exercised through *indigenous judicial activism*.

Another example of a new space of political negotiation that opened within IPAF-NOA, a state governance institution where a politics of participation has strengthened judicial capacity among resistance movements, is the Formation of Judicial Promoters Program (PFPJ). The Red Puna requested that state employees participate in their leadership school by providing training in the area of legal rights of indigenous communities. This program illustrates how in the post-neoliberal era these spaces of participation aren’t always opened at the invitation of the state; rather, in this case, there has been a rapprochement between the state and resistance movements.²¹ At the same time, this program strengthens social

²¹ Another example of this rapprochement and the way in which actors blend the politics of governance and resistance is the fact that Damián Lisandro Alcoba, who was a leader of the Red Puna in previous years, is the current director of the IPAF-NOA (Longoni 2012, personal communication).

movements in general in all of their judicial activism, both in and outside of state institutions. The PFPJ attempts to make judicial mechanisms of land control accessible to rural communities, and in so doing creates spaces where movement leaders can build alliances throughout Jujuy and Salta, which has in turn strengthened bonds within the National Movement of Indigenous Peoples and Peasants (MNCI) (Tolaba 2012; Mioni 2012; Godoy Garraza 2012).

Beyond the judicial system, which at times is slow and ineffective, programs like the PFPJ and the alliances they encourage indirectly support more radical strategies of protest like roadblocks and land occupations. Notably however, even these protest tactics outside of state institutions encourage the use of the judicial system to resolve land conflicts. In an effort to demand communal land titles, a press release from a roadblock in October 2011 in Purmamarca states, “today we as indigenous peoples are reorganizing and recuperating our ancestral ways of life, not only in our territories, but also in the way we coexist. Today the situation requires that we take to the streets because we have tried all of the administrative and judicial avenues, dialogue with the government, and we have received very little in the way of real answers” (La Hora de Jujuy 2011: np). Here, protesting in the street is a last resort to demand a more effective judicial system so that participation in that system can continue.

The trajectory of collective action in Jujuy in the face of land conflict largely reflects the political climate of the time. The implementation of the territorial development model encourages the use of the judicial system, but also opens up new spaces of political negotiation that have given rise to counter-hegemonic discourses which question dominant patterns of land control. As Bengoa argues, through a politics of indigenous participation, resistance actors are able to appropriate parts of the state and transform them into “the instruments of their own development and liberation” (Bengoa 2009: 13). Indigenous participation in these new spaces serves various purposes. It strengthens judicial activism within established legal channels, but it also facilitates new legal interpretations of ownership, as seen in the case of communal land titles, and strengthens social movement alliances outside of government institutions as well (Godoy Garraza 2012).

Judicial activism and mechanisms of land control

Advances in international and national law protecting indigenous territorial rights have effectively created new judicial mechanisms, of which resistance movements primarily employ three different kinds in an attempt to obtain and/or maintain control over land. First, resistance to the concentration of land control is expressed through a language of collective territorial rights, which seek to title land communally so that it may not be bought or sold, thus shielding indigenous lands from market forces and challenging Western ideas of property. Second, the right to prior and informed consent is used to slow mining development and ensure that neighboring communities do not pay the socio-environmental costs. Finally, land occupation is also a common strategy used to acquire titles to land. In general, territorial resistance discourse reflects a tendency to employ judicial tools available to indigenous communities (*indigenous judicial activism*) to redistribute land control. However, the success of these judicial mechanisms in slowing capital expansion into indigenous occupied lands has been limited.

Resistance politics in Jujuy draw support from various laws and declarations to strengthen judicial activism strategies. The 2007 United Nations Declaration on the Rights of Indigenous Peoples and the 1989 International Labor Organization, Convention 169 have served as guides for constitutional reform efforts and given backing to local rights claims.

Historically, the Argentine government has promoted assimilation of indigenous communities and generally denied cultural difference (Schmidt and Salleras 2009). It wasn't until the end of the 20th century that national policy began to recognize special rights for indigenous communities. In 1992, Argentina formally adopted the ILO Convention 169 in the form of Law N° 24.071 which states, "Governments shall respect the special importance of the cultures and spiritual values of the concerned peoples as expressed through their relationship with their land, territory, or both depending on the case, that they occupy or use in some way" (REDAF *no year*). This convention emphasizes the respect of indigenous peoples' "cosmovision, the preservation of their natural resources, respect for the environment, [and...] establishes as a basic principle that indigenous peoples shall not be moved from their lands and establishes that their traditional economies shall be respected" (Albarracín Sánchez 2011: 72). In an historical moment in which indigenous rights gained significant ground internationally, the national constitutional reform of 1994 introduced article 75, clause 17, which recognizes the ethnic and cultural preexistence of indigenous peoples in Argentina. Until this moment the state officially promoted a "peaceful treaty with the Indians and their conversion to Catholicism" (Schmidt and Salleras 2009: 3). On the other hand, in Jujuy, one of the provinces with the largest indigenous population in the country, the provincial constitution hasn't been reformed since 1986 and still holds a "protectionist and integrationist" position with respect to indigenous communities (Schmidt and Salleras 2009: 3). Because of this difference of approach, resistance strategies tend to turn to national and international legal precedent to bolster attempts to gain control of land. In the words of one representative of ENOTPO, "the key issue is territory [...] In the realm of international law, the objective is the UN declaration [on the Rights of Indigenous Peoples], that is what we want" (Jerez 2012).

Communal land titles

The debate over communal land titles has been treated by many theorists (Rodríguez Garavito y Carlos Arenas 2007; Albarracín Sanchez 2011) as an attempt to generate legal pluralism and greater space for various legal interpretations of property within one judicial system. However, when it translates to reality in Jujuy, the concept is far less effective at moving toward a pluralist property law system. Beyond the implementation issues that result from a decentralized governance model, the decision to seek communal vs. private land title is in general not clear-cut among resistance actors and indigenous communities in Jujuy. Even though communal titles reflect the indigenous cosmovision encapsulated in the UN and ILO declarations, not all of Jujuy's communities involved in land conflicts identify with that vision. Some perhaps don't identify as indigenous at all, while others, after a century of incorporation in the capitalist market as wage workers, have not maintained the same type of relationship to the land as was once held by their ancestors.

Even where communities have maintained a collective understanding of property, the legal language and know-how required to obtain communal titles must often be learned and constructed. The president of the Red Puna explains,

Generally every year we study what communal titles are, understanding the fact that there is a lot of money involved in the process, to survey the land, the lawyers, etc. and all of it goes to "experts", who aren't really fit for the job, hired by the government, and finally it gets left unresolved [...] it's not that there aren't possibilities, it's that there is no will. The government wants to exploit natural resources, it's pro-mining, but we've got to keep fighting (Tolaba 2012).

The struggle for communal land titles is part of a process that seeks to rebuild the link between indigenous communities and the land, in response to a history of depeasantization that has dramatically changed the socio-economic fabric of Jujuy, but at times it is a slow

and problematic struggle. External to resistance movements, the judicial system has proven to be unreliable in its efforts to grant communal titles, while among resistance actors there is an array of different, sometimes conflicting perspectives. Activist leaders like Néstor Jerez of ENOTPO are very clear about the political function of collective land rights as part of a broader strategy of resistance (Jerez 2012), but for others collective property is an idea of the past (Mioni 2012). In any case, the communal land titling agenda tries to interweave notions of how indigenous peoples used to be in the past with the reality of how they are today, as well as to repair the damaging effects of the process of depeasantization that has shaped Jujuy's history.

Prior and informed consent

The principle of prior and informed consent established by the ILO Convention 169 is a mechanism that, unlike communal land titles, which take land off of the market entirely, slows capital expansion by requiring that impacted communities benefit from development by participating in the management process and through the sharing of profit. Article 15.1 of the ILO Convention 169 states, "The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources." In 2011, for example, thirty-three indigenous communities of the Salinas Grandes denounced the arrival of lithium mining companies in their territories by presenting a precautionary measure to the National Supreme Court. In a press conference, one community representative explained that residents fear the impact of mining on already scarce water resources, stating that water is "a sacred part of life, of who we are." (Comunidades de la Mesa de Pueblos Originarios de la Cuenca de Guayatayoc y Salinas Grandes 2012) However they also clarified that they are not necessarily opposed to lithium mining; rather, they are exercising the right to prior informed consent as extended by the ILO Convention 169. Indeed a 2011 report on the effects of mining by the UN Development Program (UNDP) in Argentina highlights the complex relationship between mining and rural communities regarding land use. "There is ambivalence among actors regarding the dilemma, on one hand of responding to economic development needs linked to mining projects in regions like the Puna (where many actors perceive that there are no viable economic development alternatives), and on the other hand contributing to the respect of traditional ways of life" (Jujuy al Momento 2012: np). In an area with some of the highest levels of poverty in the country, the opportunity to participate in the development of a growing industry like large-scale lithium mining may be hard to pass; economic questions at times trump remaining faithful to an essentialized indigenous cosmovision and the rejection of large-scale mining that it prescribes.

Land occupation

Faced with long delays and low confidence in the land titling programs advanced by the provincial government, direct occupation of land is a common form of exerting control over territory. The Argentine civil code establishes that possession may be granted to those without titles after 20 years of uninterrupted occupation with the "intention of ownership" (REDAF *no year*). This judicial mechanism of occupation is fully incorporated into the politics of resistance. According to a pamphlet on land rights published by the Red Puna, "occupation has always been the best way to demonstrate that land is ours" (1998: np). In all of Jujuy, 52% of the farms without defined limits are categorized as "de facto" occupied (INDEC 2002: np). Walking through the streets of the towns in the Quebrada de Humahuaca, one can't help but notice the signs on the outsides of houses announcing their intention of claiming possession of the property.

The strategy of occupation is also used to try to solicit expropriation by the state, as successfully occurred in August 2011 in the city of Libertador General San Martín, when the Jujuy Legislature approved the expropriation of 40 hectares of land belonging to the sugar estate, Ledesma. (La Nación 2011). Since then, occupation efforts have increased as a means of gaining control over both ancestral and non-ancestral lands. Using the judicial system in this way is increasingly common in precarious urban settlements. The statistics released from the 2010 population census (which at the time of writing are not yet published in full) indicate a trend towards urbanization in Jujuy and a shrinking of the rural population since 1980 (INDEC 2001). In 2009, Néstor Barrios, the director of an organization called Urban Habitat that is located in the provincial capital, San Salvador de Jujuy, stated that the census carried out by the provincial government and capital found some 5,200 families living in precarious urban settlements around the capital (El Libertario 2009: np). After the incident at Ledesma, senator Morales claimed “the problem is poverty and lack of housing or urban land for the families of this region” (Diario Jujuy 2011: np).

Land occupation, essentially a mechanism that tries to extend judicial protections to occupants, is at once a strategy promoted by the Red Puna as a way of maintaining control of ancestral lands and a tactic used in new spaces of urban expansion. However, the precarious nature of much needed new urban housing on the outskirts of the capital indicates changing structures of land control and migratory pressures in nearby rural areas. In some cases, lack of running water, electricity, gas, health care or education motivate people to migrate to cities. In other cases, the expansion of new industries brings socio-environmental costs that make sustaining life in those areas unfeasible and drive neighbors to migrate. Clearly the factors that incite migration and changing relationships to land are complex and, with the high levels of untitled or undefined territories in rural Jujuy, it is difficult to measure transfers in land control, as they do not appear on any register. However, changes in the socio-economic structure of the province do indicate a conflict of interests over how to use land. Roberto Cruz, member of the Red Puna, for example, is involved in an occupation of public lands his family has lived on for generations in Churcal in the Quebrada de Humahuaca, where along with his community he has resisted eviction and continues constructing a new home. Meanwhile however, he rents a room in Tilcara where his children can go to school (Cruz 2012). A representative of the community in the Salinas Grandes explains that he also feels the pull of urban areas, but still fears “that the kids will have to go to the city.” He asks, “Where did *villa 31* come from? [referring to one of the largest precarious urban settlements outside of Buenos Aires] Brothers who migrated in search of work” (Comunidades de la Mesa de Pueblos Originarios de la Cuenca de Guayatayoc and Salinas Grandes 2012: np). The increasingly frequent use of occupation in urban areas and these anecdotes indicates that in fact there are migratory flows that move back and forth between rural lands and cities. The processes of rural displacement are gradual in Jujuy, poorly defined and rarely documented in public land registries.

Territorial discourse in Jujuy strongly associates resistance actors with a particular cultural vision of indigenous politics, but it is about much more than culture. Returning to the idea of cultural, political and economic factors as interdependent variables that are used as resources in the construction of counter-hegemonic resistance is useful when evaluating the key drivers of resistance politics in Jujuy. Indeed, the loss of land not only affects one’s sense of identity and culture, especially in rural areas, it also limits one’s ability to survive economically — a crucial point in Jujuy, one of the poorest provinces in the country. According to UNDP, Jujuy displays a low level of human development (0.851), the lowest in Argentina. Poverty affects nearly one third of the population, the top 10% has an income 18.1 times that of the lowest 10%, and the rate of unemployment hovers around

16.5%. (Jujuy al Momento 2012). There is a lack of updated statistics, but in 2001 rural poverty (47.14%) was double the rate of urban poverty (21.21%) (Murmis and Craviotti 2001). Hirstov (2005) claims that in many cases cultural discourse is the only resource available to indigenous communities that offers any political leverage in the face of big capital interests. In fact, various authors (Brysk 1994; Ulloa 2003; Eriksson 2004; Keck and Sikkink 1998) argue that indigenous activists strategically use symbolic cultural discourse in order to achieve economic emancipation. This by no means invalidates cultural demands, rather it demonstrates that cultural survival and social reproduction are intimately related to economic issues.

Conclusion

This work has analyzed the use of territorial discourse in the context of land conflicts in Jujuy. Using the relationship between governance and resistance as a conceptual framework, this research highlights the ways in which these processes overlap and give way to new spaces of political negotiation both inside and outside of state institutions. On one hand, a governance discourse of territorial development promotes increased social inclusion and support for small farmers, but does not promote the kinds of productive changes required in order to help redistribute land control in favor of those small farmers. The model does not recognize that land is finite, essentially recommending the expansion of multiple industries that compete for the same land. The result is that small farmers are left alone to fight big capital over ancestral lands. Land titling schemes are promoted to protect small farmers and indigenous communities, but a decentralized policy implementation model ultimately leaves land use and access decisions up to provincial governments, and in the case of Jujuy market logic continues to determine who controls land. Thus, economic mechanisms of land control, including adverse incorporation, privatization and the externalization of socio-environmental costs, are shown to be most dominant despite a rhetorical and political emphasis on using judicial mechanisms to grant land titles. On the other hand, a different territorial discourse links resistance to indigenous politics and judicial strategies of maintaining land control and a politics of participation facilitates access and familiarity with the judicial system. This *indigenous judicial activism* consists of communal titling efforts, prior informed consent principle and land occupations.

Discussing governance and resistance as two distinct categories runs the risk of setting up a false dichotomy that obscures reality. The tendency when looking through the lens of resistance politics is to talk about private property as bad, and communal property as good. The culture of capitalism is associated with large extractive and exploitative industries that concentrate land power and undermine indigenous communities. In the same way, family farming is presented as an ideal model that doesn't externalize socio-environmental costs. Certainly many of these tendencies are real and have been discussed at length in this article. However, this picture lacks detail and is not entirely representative of reality. The use of agro-chemicals among small farmers in Jujuy, for example, is incredibly high and implies serious socio-environmental costs, while mining and tourism provide needed jobs and generate revenue for the province. To fully explore these contradictions is beyond the scope of this paper, but certainly warrants further research.

Despite the rich hegemonic/counter-hegemonic dialectic between governance and resistance discourses, significant transformation of established land power relations has been minimal. This has meant the maintenance of the status quo — letting market logic determine land use and access patterns despite its social impact. However, judicial activism has its own rhythm and legal delays do not necessarily mean defeat, simply that the struggle

continues.

To conclude, it is important to think for a moment about the human consequences of this judicial waiting game, of maintaining the same productive patterns and the status quo. Despite the superiority and neutrality of the market that capitalism proposes, it is the communities with the fewest resources that are paying the costs of capital expansion with their most important resource: their land. The logic of expansion is infinite in the capitalist system, yet the land that the growth of Jujuy's industries requires is finite. It is for this reason that land struggles have sparked so much conflict and activism. Farmers and indigenous communities pushed off their lands face hunger and homelessness. The food security of all city dwellers and food consumers is also threatened by the conversion of food-producing lands to fuel-producing lands. Argentina is banking on a globalized agro-industrial system based on the extraction of wealth (cultural, natural and economic) to escape financial crisis, but that system is generating its own series of crises at the margins of society, in far away rural places, among the subordinated classes, expelled from their territories, their homes and their lives. And there is nowhere left for them to go. This is what maintaining the status quo means for the people of Jujuy.

List of Acronyms and Abbreviations

- CCAIA – Coordinadora de Comunicación Audiovisual Indígena Argentina (*Argentine Coordinator of Indigenous Audiovisual Communication*)
- CEPAL – Comisión Económica para América Latina y el Caribe (*Economic Commission for Latin America and the Caribbean*)
- CPI – Consejos de Participación Indígena (*Indigenous Participation Councils*)
- EAP – Explotaciones Agropecuarias (*Farming and livestock operations*)
- ENOTPO – Encuentro Nacional de las Organizaciones Territoriales de los Pueblos Originarios (*National Coalition of Indigenous Territorial Organizations*)
- FAO – Food and Agriculture Organization
- GDY – German Development Institute
- IADER – Instituto Argentino para el Desarrollo de las Economías Regionales (*Argentine Institute for the Development of Regional Economies*)
- IDB – InterAmerican Development Bank
- IDS – Institute of Development Studies
- IFAD – The International Fund for Agricultural Development
- IICA – Instituto Interamericano de Cooperación para la Agricultura (*Inter-American Institute of Cooperation in Agriculture*)
- IJC – Instituto Jujeño de la Colonización (*Jujuy Land Settlement Institute*)
- ILO – International Labor Organization
- INAI – Instituto Nacional de los Asuntos Indígenas (*National Institute on Indigenous Affairs*)
- INDEC - Instituto Nacional de Estadística y Censos (*National Institute of Statistics and Census*)
- INTA – Instituto Nacional de la Tecnología Agropecuaria (*National Institute of Agriculture and Livestock Technology*)
- ISC – Institute for Strategy and Competitiveness
- IPAF – Instituto de Investigación y Desarrollo para la Pequeña Agricultura Familiar (*Family Farming Research and Development Institute*)
- IWGIA – International Working Group on Indigenous Affairs
- MNCI – Movimiento Nacional Campesino e Indígena (*National Movement of Farmers and Indigenous Peoples*)
- NOA – Noroeste Argentina (*Northwest Argentina*)
- PEP – Plan Estratégico de la Producción (*Jujuy Provincial Ministry of Production's Strategic Production Plan*)
- PFPJ – Programa de Formación de Promotores Jurídicos (*Judicial Promoters Training Program*)
- PRATPAJ – Programa de Regularización y Adjudicación de Tierras a la Población Aborigen de la Provincia de Jujuy (*Program to Regularize and Allocate Lands to Jujuy's Indigenous Population*)
- REDAF – Red AgroForestal, Chaco Argentina (*Agro-forestry Network of Chaco, Argentina*)
- RETECI – Relevamiento Territorial de Comunidades Indígenas (*National Survey of Indigenous Territories Program*)
- RIMISP – El Centro Latinoamericano para el Desarrollo Rural (*The Latin American Center for Rural Development*)
- SAGPyA – Secretaría de la Agricultura, Ganadería, Pesca y Alimentos (*Secretariat of Agriculture, Livestock, Fishing and Food*)
- UNDP – United Nations Development Program
- UNESCO – United Nations Educational, Scientific and Cultural Organization

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