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Cartography, territory, property: postcolonial reflections on indigenous counter-mapping in Nicaragua and Belize

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The attention given to indigenous peoples' use of maps to make claims to land and rights of self-government raises the question: what exactly it is that these maps do? This paper outlines an analytic for examining indigenous mapping projects, drawing upon two prominent instances – by the Maya of Belize and the Mayangna community of Awas Tingni in Nicaragua – where human rights lawsuits have been woven together with participatory mapping. In each case, map-making was intricately linked to the formulation of legal claims, resulting in a pair of much-celebrated maps and legal precedents regarding the recognition of indigenous land rights. We argue that these strategies do not reverse colonial social relations so much as they rework them. Notwithstanding the creativity expressed through these projects, they remain oriented by the spatial configuration of modern politics: territory and property rights. This spatial configuration both accounts for and limits the power of indigenous cartography. This impasse is not a contradiction that can be resolved; rather, it constitutes an aporia for which there is no easy or clear solution. Nonetheless, it must be confronted.

Keywords: cartography • law • postcolonialism •property • territory

Introduction: the cartographic-legal strategy

During the past two decades, indigenous peoples and their allies have made a remarkable effort to map indigenous lands.[1] This trend is often attributed to the intersection of indigenous social movements with the advent of participatory research methodologies and the growing availability of cartographic technologies, including handheld GPS units and GIS software. In this paper, we argue for a closer examination of the role of the law in the emergence of indigenous mapping through a discussion of the ways in which maps are used to advance legal claims to land. Lawyers for indigenous peoples need maps and affidavits about cultural land use patterns (often produced by geographers) in order to render their clients legible as indigenous people and rights-bearing subjects before the law. Mapping this cultural space is a precondition for securing legal

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recognition for indigenous land rights.[2] Law often solicits spatial representations of indigenous communities – representations that presuppose a definite space where resources have been used in some cultural fashion.[3] Partly for this reason, the late Barney Nietschmann – a source of inspiration for many advocates of indigenous cartography – once wrote that 'more indigenous territory can be reclaimed and defended by maps than by guns.'[4]

We aim to bring to light some of the implications of this strategy – what we will call 'the cartographic-legal strategy' – which calls for making maps to advance legal recognition of indigenous land rights. The conjuncture of legal and cartographic techniques has contributed to a pair of important legal cases that we describe here – one concerning Maya communities of southern Belize, another involving the Mayangna community of Awas Tingni in eastern Nicaragua.[5] The two cases are important sites for the development of legal standards recognizing indigenous peoples' right to property as based on customary use and occupancy. In both cases, recognition of that right is held out as a corrective to state-sanctioned practices that have characteristically resulted in the displacement, dispossession, and destruction of indigenous livelihoods. Each produced a precedent-setting legal victory. Yet these successes have met unexpected limitations and produced unintended effects that complicate their translation into justice. Moreover, we argue, the legal-cartographic strategy positions indigenous struggles upon a political terrain aptly described by Hale as 'neoliberal multiculturalism.'[6] Both cases we describe here illustrate this concept by their emphasis on the right to *property* (defined in these cases by customary patterns of land use and occupancy).[7] The cartographic-legal strategy aims to correct the injustices of the colonial past by extending property rights to indigenous peoples. This recourse to property extends liberal formulations of national identity founded on a social contract among property owners. The legal and cartographic strategy thus confronts a racist and exclusionary colonial past, yet reinforces differences and inequalities in the colonial present.[8]

Our argument complicates the celebratory descriptions of the 'power of maps' for indigenous peoples made by geographers and activists like Nietschmann, Brody, Herlihy, Stocks, Chapin, and Harris.[9] Within this literature, indigenous cartography tends to be viewed as a practice of replacing bad colonial maps with good anti-colonial ones. We agree that colonial representations of space that deny the existence of indigenous peoples are violent, and this violence must be addressed by a postcolonial geography. Yet the existing literature tends to provide only superficial analysis of the dynamics shaping map production. We contend that these new maps of indigenous lands are neither inherently good nor beyond question: they are open to multiple readings, and they may have potentially undesirable outcomes.[10] Accordingly, we focus our analysis on the social processes through which maps are produced and read.[11] This approach cautions against an analysis of maps as self-evident representations of national territory or indigenous property.

Our approach

> It is a deconstructive questioning that starts … by destabilizing, complicating, or recalling the paradoxes of values like those of the proper and of property in all their registers, [and] of … the subject of law. … [S]uch a deconstructive questioning is through and through a questioning of law and justice, a questioning of the foundations of law, morality, and politics. (Derrida, 'Force of law'[12])

Cartography constitutes a way of representing the world, of doing geography in the literal sense of 'writing the world.' In the act of reading the map – whether in the concrete-block walls of

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a rural school room or the mahogany-paneled chambers of the court – the viewer is obliged to place themselves in relationship to the particular perspective that the map conveys.[13] Maps invariably reduce the complexity of the world to produce an effective abstraction of some set of spaces and relations.[14] John Pickles captures the *work* performed by a map in these lapidary lines:

> The map is a conjured object that creates categories, boundaries, and territories: the spaces of temperature, biota, populations, regions, spaces and objects attain the reality that is particular to them through the combined and multiplied acts of mapping, delimiting, bounding, categorizing. ... Maps create objects whose existence is mythic, at least to the extent that these identities are highly formalized abstractions whose effects (once represented as a real object) become very real.[15]

Cartography always involves flattening, simplification, abstraction, and representation. Maps made for use in court must execute these practices in ways that preserve the power of the map to appear truthful, objective, and universal. The metadata used to locate indigenous claims thus extends far beyond questions of projection and coordinate systems. Indigenous maps work within the typical set of cartographic abstractions that treat the world as an object comprised of spaces – polygons manipulated in a GIS – that are universally definable in terms of a set of points, lines, and polygons defined by latitude and longitude, scale and projection.[16] Mapping indigenous lands involves locating indigenous peoples within such a grid of intelligibility.

Because the thorny matters of power, inequality, and representation have not withered away in the era of counter-mapping, examining the purposes and processes of map-making remains necessary.[17] Even maps of indigenous lands may reproduce unequal social relations.[18] Here we are particularly concerned with a tendency to view maps of indigenous land claims as an absolute statement of rights, particularly when those rights are inscribed in terms of property and cultural difference. Indigenous lands have come to be defined by the area that a particular indigenous community has 'traditionally owned, occupied or otherwise used or acquired.'[19] Customary use provides the basis for indigenous rights to land. An effective map should therefore demonstrate to the court that indigenous communities exist within such a space or region by long-standing customary, i.e. cultural, ties to the land. Conversely, access to traditional lands is seen as essential for indigenous peoples to continue *being* indigenous.[20] The right to existence implies the right to land.

These concepts are not specific to indigenous peoples. Anti-colonial struggles throughout the 20th century typically invoked claims to a *national territory*, an approach widely used by contemporary movements of indigenous peoples in the Americas.[21] And yet for indigenous peoples, claims to territorial rights often rearticulate a long-standing affiliation in Western thought between indigenous people and nature, particularly where the latter is construed as *terra nullius* a space devoid of property claims. The key question is how cartography and law put this geographical imaginary to work, that is, how they represent indigenous peoples spatially.[22] The cases from Belize and Nicaragua that we consider here mark a shift towards conceiving of rights to land in terms of *property*. In keeping with Hale's notion of neoliberal multiculturalism, the Belize and Nicaragua cases have helped leverage indigenous claims away from territorial approaches that imply a direct challenge to the state, and towards property rights, which deepen capitalist social relations (and depend upon law and state power for enforcement). Persistent inequalities are reorganized, yet sustained, through recognition of indigenous difference in terms

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of bounded land claims.[23] In this way, indigenous land claims are made commensurable with development.[24]

Our reflections upon the cartographic-legal strategy hinge on a distinction between law and justice. To paraphrase Jacques Derrida, it is just that the law exists to cast light on injustices. And yet, Derrida insists, 'law is not justice.'[25] Rather, law is 'the element of *calculation*, and it is just that there be law, but *justice is incalculable*, and aporetical experiences are the experiences, as improbable as they are necessary, of justice…'.[26] We ask: what sort of justice is made possible, and experienced, in consequence of these maps and lawsuits? What are the possibilities, and limits, of this particular effort to calculate the incalculable, to demarcate the indemarcatable? How does indigenous rights law extend and mobilize particular spaces or categories that come to be taken as universal? What forms of justice does this enable and foreclose?[27]

In sum, our approach questions the conditions that allow for indigenous maps to articulate claims, enabling the *recognition* of indigenous subjects and their property or territory. Of course, cartography is but one among many ways that indigenous identities may be mapped.[28] Yet today, cartography and law are hegemonic for the representation of indigenous claims. The cartographic and legal 'representation' of indigenous clients is always already conditioned by unequal relations of social power: property, citizenship, territoriality, legal norms, the nation-state system, and so forth.[29] We too are bound within this aporia.[30] As geographers committed to working with indigenous peoples – and as 'professional geographers,' sworn before the law – we are well aware that we cannot avoid maps nor the law. We insist that neither the law nor maps should be seen as mere tools to be used instrumentally. Cartography and law are social relations shot through with power; we cannot choose not to be involved with them. When indigenous communities and their allies produce maps and lawsuits, they do so under conditions not of their choosing. These struggles unfold within an already-mapped world where one cannot elect to live outside of sovereignty, territory, or the law.[31]

The cases

Let us consider the two cases. The first case involves the Mayangna community of Awas Tingni in eastern Nicaragua. This region has special significance for indigenous rights advocates as the site of one of the first autonomous polities established in the Americas to guarantee indigenous and black participation in multicultural government.[32] Established in 1987, the autonomous regions were partly defined by indigenous Miskito insurgents' insistence that all of eastern Nicaragua consisted of 'Indian land.'[33] Their claim to sovereignty challenged Nicaragua's so-called 're-incorporation' of the British-protectorate of the Miskito Reserve in 1894. Following the electoral defeat of the Sandinistas in 1990, many of the leaders of the Miskito insurgency were elected to political offices in the government of the North Atlantic Autonomous Regional (RAAN). Once in office, these insurgent-politicians made protecting village land rights fundamental to their effort to make good on the promises of their anti-colonial struggle – territorializing their project upon the terrain of community traditions. Nonetheless, post-war presidential administrations repeatedly undermined the territorial and political basis for the autonomous region, claiming the region still consisted of 'national lands' owned by the state. This left community land rights (to say nothing of broader political-economic change) deeply uncertain. By the mid-1990s, the

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autonomous region in northeastern Nicaragua was awash in contentious political struggles that often broke into volatile conflicts over land.[34]

In the Mayangna village of Awas Tingni, these political factors conjoined to produce a historic land claim. Along with some 90 other indigenous Miskito and Mayangna villages in the region, Awas Tingni was destroyed in the early 1980s by the *Contra* war. Residents of Awas Tingni were forced to live in refugee camps in Honduras (some participating in the Miskito-led insurgency[35]), returning to the pre-war village site after the electoral defeat of the Sandinistas in 1990. Miskito insurgents' claims of rights to 'Indian land' by dint of their participation in the war raised the difficult question of how different levels of participation in that struggle shaped rights to land for other equally indigenous groups like Awas Tingni. Yet state officials insisted that the area surrounding the village belonged to the state. Caught between these territorial projects, the Mayangna residents of Awas Tingni feared that they would be forced to the bottom of the region's social hierarchy, marginalized as an ethnic minority.[36]

To secure a position within the territorialization of post-war power relations, Awas Tingni residents produced a sketch map of an area that they claimed in 1992. That same year, residents used this map to negotiate a logging contract with a Nicaraguan company, MADENSA, headed by former Sandinista officials. Though the contract covered only a portion of the area mapped by the community, it offered limited recognition of Awas Tingni's claim. The terms of this contract were revised in 1993 with help from the World Wildlife Federation (WWF), turning it into a model community forestry project that included sustainable timber practices with recognition of indigenous land rights. Officials from the Nicaraguan Ministry of Natural Resources (MARENA) approved the WWF project, promising to title and demarcate Awas Tingni's land claim. Aware of the uncertainty of that promise, lawyers working on the WWF project contracted with anthropologist Theodore Macdonald to ethnographically document the basis for the community's claim and produce a new map of the claim. Before that process could be completed, however, MARENA officials granted a 63,000-hectare logging concession to a Korean-financed company, SOLCARSA, on lands claimed by the village and located adjacent to the MADENSA concession.

The maps became the basis for developing the community's challenge to the SOLCARSA concession.[37] With the help of lawyers from the WWF project, residents of Awas Tingni took their claim to court. Lawyers used the maps developed by Macdonald to illustrate community's claim that the Nicaraguan state had violated its rights to property established by their customary use and occupancy of the area affected by the logging concession. Nicaraguan laws offered an unusually strong legal basis for protecting indigenous land rights.[38] Nonetheless, the Nicaraguan Supreme Court dismissed Awas Tingni's claim on a legal technicality. The community's lawyers used this inaction by Nicaraguan courts to bring their case before the Inter-American Commission of Human Rights (IACHR). The Commission released its report in 1998, finding in support of Awas Tingni and directing the Nicaraguan state to negotiate a resolution with the community. Nicaraguan officials continued to refuse to suspend the SOLCARSA concession and recognize Awas Tingni's land rights. The Commission proceeded to bring Awas Tingni's case before the IACHR, initiating the first-ever proceedings before the Court on indigenous land rights.[39]

The map of the community's claim continued to play an important role in shaping understandings of the legal basis for Awas Tingni's claim. The Commission's complaint to the Court asserted that Macdonald's maps and report:

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> establish that the Awas Tingni Community is an indigenous community of the Mayangna (Sumo) ethnic group with historical continuity, which has occupied and used certain lands in accordance with a traditional land tenure scheme of long duration. Under this land tenure scheme, the Community owns the entire Awas Tingni territory collectively or communally, while individuals and families of the Community enjoy the subsidiary rights of use and occupation.[40]

Ruling in 2001, the Court affirmed Awas Tingni's right to property. The Court determined that the Nicaraguan state had violated Awas Tingni's property rights by granting the SOLCARSA logging concession, violating national laws and international human rights standards. The Court further held that property had a meaning autonomous from state definitions, determining that 'customary practice' establishes rights of 'possession of the land [that] should suffice for indigenous communities lacking real title to property to obtain official recognition of that property, and for consequent registration.'[41] As a remedy, the Court directed the Nicaraguan state to use the maps to proceed with titling and demarcating Awas Tingni's collective right to property. Finally, the Court recommended that the Nicaraguan state develop legislation establishing procedures for guaranteeing property rights for black and indigenous communities.

This unprecedented legal victory in the IACHR, however, contrasts sharply with problems that have complicated the ruling's implementation. The emphasis in the IACHR's decision and subsequent legislation on cultural difference as the basis for property rights has raised difficult questions about how to recognize those differences materially for purposes of land titling and demarcation. These complications have not only delayed the titling of Awas Tingni's claim, but also exacerbated persistent inequalities and land conflicts. In spite of receiving title from the Nicaraguan government in December 2008, the community's rights to land and resources remain as vulnerable as they ever have been.

The second case involves Maya communities of southern Belize. Mopan and Q'eqchi' Maya-speaking peoples of southern Belize have faced systematic forms of discrimination from the time of Spanish, then later British, colonization of their lands. For decades, the Maya communities of the south – the country's poorest region, on the political margins of Belize – have campaigned to secure legal title to the lands upon which they live and produce a livelihood.[42] These campaigns have taken a number of forms but, as of this writing, have not fundamentally changed the land situation as it stood in September 1981, when Belize received its formal political independence from England. The state continues to be the largest landowner in the south; most Maya farmers do not have secure title to land; and about half of the communities are nominally within 'Indian Reservations' created by colonial rule that offer no substantive security. Since 1981, land tenure for Maya communities has become only more uncertain, as the Ministry of Natural Resources has granted a number of large forest logging concessions, sold rights to oil exploration, and fragmented the national land estate to lease parcels of land to private owners.

The long-standing demand for the recognition of their collective land rights made great strides between 1995 and 1998, when the late Julian Cho led a newly reinvigorated Maya movement that aimed at winning indigenous land rights to these lands. Under Cho's leadership, the two principle Maya organizations in Belize at that time – the Toledo Maya Cultural Council (TMCC) and the Toledo Alcaldes Association (TAA) – collaborated on two major initiatives (with encouragement and guidance from lawyers, through the Indian Law Resource Center, or ILRC).[43] First, the TMCC and TAA announced that they would map all of the lands that the Maya have historically used in southern Belize. This 'Maya mapping project' led to the subsequent publication of the

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Maya Atlas, itself a major event in the recent history of the indigenous mapping movement (and beyond the scope of this paper to discuss).[44] Second, the TMCC and TAA announced their plans to file a lawsuit against the Government in the Supreme Court of Belize. The case, filed in 1997, argued that the state had infringed upon the constitutionally-protected property rights of the Toledo Mayas when it had granted logging concessions to foreign timber companies in forest lands customarily used and occupied by the Maya. The lawsuit aimed at compelling the state to recognize the rights of the Toledo Mayas to their customary lands.

The state responded with a palpable silence. The Supreme Court of Belize effectively ignored the case put forward by the Maya, and the Government, in its role as defendant, limited its response to suggesting that the Maya were not indigenous to Belize at all, but merely recent immigrants of Guatemala. As with Awas Tingni, the Maya therefore took their case to the IACHR. In 2004 the IACHR issued a report favoring recognition of Maya land rights (and referencing the Awas Tingni case in their conclusion). The Commission recognized that the Maya maintain long-standing historical and cultural ties to the land in southern Belize, and thereby qualify as indigenous people with rights to the land under the norms of international indigenous rights law. Moreover, the Commission found that the state's actions harmed the Maya people's human rights:

> The State violated the right to *property* ... to the detriment of the Maya people, by failing to take effective measures to recognize their communal property right to the lands that they have traditionally occupied and used, without detriment to other indigenous communities, and to delimit, demarcate and title or otherwise established the legal mechanisms necessary to clarify and protect the *territory* on which their right exists. ... The State further violated the right to *property* ... of the Maya people, by granting logging and oil concessions to third parties to utilize the property and resources that could fall within the lands which must be delimited, demarcated and titled or otherwise clarified and protected, in the absence of effective consultations with and the informed consent of the Maya people.[45]

To repair these harms, the Commission argued that the Government of Belize must:

> Adopt in its domestic law, and through fully informed consultations with the Maya people, the legislative, administrative, and any other measures necessary to delimit, demarcate and title or otherwise clarify and protect the *territory* in which the Maya people have a communal *property* right, in accordance with their customary land use practices, and without detriment to other indigenous communities.[46]

We have italicized the words 'territory' and 'property' here to underscore a tension that can be found at the heart of these cases around both the *nature of the injustice* as well as the anticipated *form of its resolution*. We return to this below.

Notwithstanding the Commission's findings, very little substantive progress was made toward the materialization of these findings over the subsequent three years. Therefore, two Maya communities from southern Belize – the villages of Santa Cruz and Conejo – filed a new pair of lawsuits against the Government in Belize in the Supreme Court in 2007.[47] These lawsuits asked the Supreme Court to consider the Commission report, along with new maps of the two communities.[48] This pair of cases raises several issues, two of which are paramount to our discussion: first, the Court examined 'whether there exists, in Southern Belize, Maya customary land tenure.'[49] Second, the Court considered 'whether the members of the villages of Conejo and Santa Cruz have interests in land based on Maya customary land tenure and, if so, the nature of such interests.'[50]

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On 18 October 2007, the Supreme Court ruled in favor of the Maya communities. The Court concluded that customary land tenure indeed exists and that the communities have 'such interests' in the form of usufructory, community-based rights to property. Writing for the Court, Chief Justice A.O. Conteh summarizes:

> [E]xtensive documentary evidence, expert reports and Maya oral tradition, establish that the Maya communities presently in Southern Belize exist in areas that had formed part of the ancestral and historic territory of the Maya people since time immemorial, and certainly since prior to Spanish and later British assertions of sovereignty. ... I therefore conclude that the villagers of Conejo and Santa Cruz, as part of the indigenous Maya people of Toledo District, have interests in land based on Maya customary land tenure that still survive and are extant. ... [T]he claimants' rights and interests in lands based on Maya customary land tenure are not outwith the protection afforded by the Belize Constitution, but rather, *constitute 'property' within the meaning and protection afforded to property generally*, especial here of the real type, touching and concerning land – 'communitarian property', perhaps, but property nonetheless, protected by the Constitution's prescriptions regarding this institution in its protective catalogue of fundamental human rights.[51]

On this basis, Justice Conteh concluded with a declaration that 'Santa Cruz and Conejo and their members hold, respectively, collective and individual rights in the lands and resources that they have used and occupied according to Maya customary practices.' The Government was therefore responsible to 'determine, demarcate and provide official documentation of Santa Cruz's and Conejo's title and rights' to land.[52] Unlike the Commission's finding, in the Supreme Court's ruling the term 'territory' is reserved to characterize the space under the jurisdiction of the Government of Belize. As befits the legal theory of the case, the indigenous rights to land are found to be protected under the constitutional protections for property.

As precedents, the Belize and Awas Tingni cases are mutually reinforcing, advancing the notion that indigenous customary practices constitute a form of property protected under international law.[53] In both of the cases, indigenous rights lawyer S. James Anaya represented the indigenous claimants, working in collaboration with the Indian Law Resource Center, a Washington DC-based NGO. We have been involved in making maps used in both of the cases, especially in Belize and Awas Tingni. In each, we have made maps that have been used to illustrate community rights to property. Thus, before we turn our attention to these maps, a word is due on the multiple intersecting (and sometimes contradictory) positions that we have taken in this work. Joel Wainwright has been involved with the Maya movement in southern Belize since 1995. He collaborated in making the *Maya Atlas* and wrote an expert report on the cultural-historical land use of Santa Cruz presented to the Supreme Court for the 2007 case.[54] Joe Bryan has participated in a range of mapping projects with indigenous peoples in the Americas, including the villages of Conejo and Santa Cruz in the recent case in Belize.[55] He has also served as cartographer for several projects with indigenous peoples involving mapping and litigation. We have both worked under the direction of the late Bernard Nietschmann; collaborated in these indigenous communities as activists; debated these issues with their lawyers; and participate in the ongoing discussions on indigenous cartography.

Our reflections therefore stem from years of collaborative work with indigenous peoples. Our critique is grounded in these experiences as geographers, by our shared commitments as activists to political change, and our theoretical efforts to understand what we have seen. These three roles – geographers, activists, theorists – are often in tension. Our attraction to postcolonial theory is partly explained by its insistence on engaging with such tensions. We hope this paper reflects such open-ended engagement.[56]

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TABLE 1 Aporias of the cartographic-legal strategy

	Theme	Aporia or paradox
1	Differential empowerment	Struggle for justice may involve people unevenly and distribute benefits unjustly
2(a)	Lines on the land: boundary conflicts and rescaling	Struggle for unity may produce new spatial and political divisions
2(b)	Lines on the land: treating land as property	Struggle for collective lands may lead to privatization
3	State power and the territorial trap	Struggles for indigenous self-determination may increase state power

Discussion

Our discussion is organized around three interrelated challenges to the cartographic-legal strategy: the uneven effects of the strategy for different social groups; the implications of drawing boundary lines between communities; and the practical consequences of moral and legal victories of indigenous struggles (see Table 1).

1. Differential empowerment

We begin with the accessibility of the maps made for these cases. As with any political process, we should expect different aspects of the cartographic-legal strategy to be relatively open or closed to different actors. Not everyone can be equally involved in the work of map-making, building lawsuits, negotiating with state officials, and so forth. In spite of the use of 'participatory methods' to produce the maps described here, however, we have been repeatedly struck by the inability of many who participated in the process itself to read the maps in the ways that judges, lawyers, and geographers do. To the extent that villagers are able to read the maps (putting aside the question of access), peoples' authority to participate in making and reading the maps is often strikingly uneven. This is best illustrated by women's limited involvement in mapping projects. In our experience, women are often relegated to a secondary status if they are included at all. This differential inclusion of women is justified by the gender-specificity of knowledge of customary land uses: women are often not seen as bearers of the sort of geographical knowledge that should be mapped to define the community's territory. The bearers of such knowledge are elderly men, since they are seen as most knowledgeable of customary land-uses. The cartographic portrayal of customary use is thus typically gendered, with an emphasis given to those spaces where men farm, hunt, fish, cut timber, and so forth. Thus is territorialization gendered.

Such differential empowerment is symptomatic of inequities we have found throughout the cartographic-legal strategy.[57] This unevenness is tied to power relations that extend both within and beyond indigenous communities. Consider the involvement of 'expert advisors' in the cartographic-legal strategy.[58] Lawyers, geographers, and other experts invariably engage selectively with local leaders, which then often leads to a differential empowerment within 'the community.' Community members who translate for and negotiate between 'the community' and 'the experts' will undoubtedly come to understand what is happening better than anyone else. And for all that

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indigenous mapping is said to be driven by indigenous knowledge, the effectiveness of the maps in the courtroom is partly a function of their commensurability with 'expert' texts and verifications. In order to be effective, courts expect experts to help them see the essential connections between culture and land that make a claim recognizable. This expert corps – ourselves included – is generally not indigenous, let alone from the communities bringing the case. We formally work *on behalf of* the indigenous communities who are the claimants, though in practice we often work *for* the lawyers who produce the case. Everything from the criteria for mapping to the funds that pay for the work is driven by the legal process and its calculations of court-room success. It is hard to imagine how this could be otherwise, since in order to qualify as legitimate in the courts the maps and the case must adhere to the disciplinary norms of cartography and western law. The cartography-legal strategy is thus crowded with non-indigenous 'experts'.

Differential empowerment in cartographic and legal processes may well change the communities represented by the map or legal case.[59] Consider how exclusions have permeated the cartographic-legal strategy in southern Belize. At the time the strategy emerged, its force derived from a broad social movement, directed by a small group of leaders.[60] By result of careful investments in the aforementioned popular organizations (the TMCC and TAA), well-managed elections, and intensive work in popular education and organizing, these leaders enjoyed enormous popular support for their strategies, even though most of the people in the communities neither understood, nor indeed often even knew of, their technical elaboration and complex political dimensions. For reasons that go beyond the scope of this paper, most of these leaders involved with the preparation of the lawsuit had either died or left these positions by the time the IACHR issued its report on 12 October 2004.[61] Although the earlier group of leaders has been replaced, the leaders at the time of the IACHR ruling did not enjoy the same substantive and widespread following. Indeed, the mass movement had so deflated between 1996 and 2003 that at the time the decision was announced, there were no popular celebrations – and little awareness that the case had been decided in favor of the Maya.

Based on discussions with leaders and our own participation in the land rights movement, we would suggest that the relative decline of broad-based involvement in the movement (such that a major event like the decision of the Commission or the Supreme Court would make only minor ripples within the communities) is partly an effect of the cartographic-legal strategy. This strategy achieved this counterintuitive effect for two reasons. As we noted earlier, this dual strategy was such that most Maya people were informally excluded from key leadership positions – especially women and non-English speakers. Although both the mapping and the legal strategies grew from popular mobilization, they did not require mass participation; they did not (and probably could not) sustain mass involvement. They were sufficiently technical and removed from the daily lives of the Maya that most people were unaware of the lawsuit's dynamics, as well as the negotiations with the Government that initiated after the lawsuit was filed.

We could hypothesize that this was circumstantial, or simply an effect of the aforementioned death and decline of certain local leaders. And perhaps it was. Yet a second reason for the relative decline of broad-based involvement is specific to this dual strategy: that is, once the maps were produced, the shape and orientation of the movement narrowed to focus on the lawsuit. The lawsuit was more than a major technical achievement that required an unprecedented sum of funds, new transnational alliances, and so forth. It also reframed the basic demands and organic leadership that had emerged in the Maya communities until the late 1990s. These changes mapped

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the contours of an ever-changing hegemony, compelling the Maya to find ways of contesting, negotiating, and reworking their relationship to the state through the law. Where Maya leaders had seen mass mobilization as the principle basis for their authority in the mid-1990s, by 2000, legal victory in the courts and subsequent negotiations with the Government were treated as the royal road to land rights. As a practical consequence of this shift, movement leaders spent less time in the communities as their energy was consumed by the lawsuit and engagements with the state. The movement became increasingly 'professionalized,' with top positions in its member organizations filled with high-school graduates, most of whom came to work in offices in Punta Gorda, the regional capital. This geographical shift from the rural communities to Punta Gorda only further weakened the links between these communities and the spokespersons of the Maya movement.[62]

2. Lines on the land

> This is precisely the function of law in the state and in society; through 'law' the state renders the ruling group 'homogenous', and tends to create a social conformism which is useful to the ruling group's line of development. (A. Gramsci[63])

Maps contribute in many ways to the production of community, in particular through drawing lines delineating relationships between people and places.[64] The framing of the community by drawing border lines (however fuzzy or indefinite) invariably defines the community, spatially and ontologically, though negation. 'Community' is thus defined as much by what is on the map as by what is *not* on the map, what lies outside of the lines or the paper's edges. It is perhaps not surprising that boundaries are one of the most contentious aspects of the cartographic-legal strategy.[65]

In each of these cases, when indigenous communities mapped their communities and went to court, border conflicts with neighboring communities intensified. In the immediate wake of the Supreme Court decision in Belize, for instance, new conflicts erupted between neighboring communities. These conflicts both fed on and contributed to confusion within the communities about the implications of the Court's decision for the many Maya villages that were *not* involved in the lawsuit. As a consequence of these new conflicts, Maya leaders have had to devote considerable energy to address these border disputes. More ominously, the conflicts pointed to a potential decline in trans-community collaboration. Because the two lawsuits brought before the Court represented the aspirations of two non-adjacent villages, the decision contributed to a hardening of spatial distinctions between individual communities and a growing popular sentiment that the boundaries of land claims were to be demarcated and subsequently managed at the village scale. Given that 'the Maya community' has long been defined by trans-village social life at the regional scale, this rescaling of the land struggle (coupled with the newfound emphasis on *village* boundary demarcation) had immediate effects on political mobilizing.

These comments on scale bring us to another effect of the cartographic-legal strategy, namely, its reorientation of calls for justice around *property rights*, protected by a *territorial state*. In so doing, the cartographic-legal strategy flattens and disciplines dissent in two fundamental respects. First, the courts must be able to recognize indigenous groups *within its terms*, i.e., as

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subjects before the law. When indigenous peoples file claims before the Supreme Court of Belize or Nicaragua, they may not do so as anti-colonialists who refuse the very legal foundations and territory of the state. Even when they appeal to international bodies to resolve their claims, they do so as beleaguered national citizens who appeal to the law (state) for justice. Second, when indigenous communities employ the cartographic-legal strategy, they attempt to lever one fraction of the state (the courts) to compel the state to live up to its duty as guarantor of property rights. Success reinscribes territorial state power as guarantor of property. The legal victories won through the Inter-American system have only resulted in directives toward the violating states to reform their conduct, either through negotiations (Belize) or legislation and titling (Nicaragua). As Gramsci notes, the law stimulates conformity in social relations without necessarily resolving inequalities. This conformism is born out spatially by the cartographic side of the strategy: to be effective in court, the maps that show indigenous land must position those claims within the state's territory. The possibilities that mapping indigenous lands might reveal the fiction of state claims to sovereignty over a given territory is blunted by the explicit goal of formulating claims that can be recognized *by* the state.

In the Awas Tingni case, the community initially mapped the boundaries of their claim in order to facilitate titling and demarcation by the state. These boundaries also held an additional significance for defining the community's identity. As described above, Awas Tingni's effort was informed by their need to secure a position for themselves – economically, politically, and historically – within the territorialization of post-war power relations. By mapping their claim as a bounded space, they intertwined their experiences of ethnic exclusion with the possibilities for state recognition.

The Court's ruling, however, did not affirm the boundaries of Awas Tingni's claim, per se. It only directed the Nicaraguan state to move forward with titling and demarcation, reinforcing the (unchallenged) role of the state as the ultimate guarantor of the community's rights. This has allowed state officials to dispute the validity of Awas Tingni's claim after the Court's ruling. During the IACHR hearings, the state's lawyers disputed Awas Tingni's claim to have occupied the area mapped since 'ancestral times.'[66] The state's lawyers pointed to the fact that, by the community's own admission, the present-day village was founded in the 1940s following an epidemic of measles. Awas Tingni, the state's lawyers argued, was not a traditional indigenous village. Rather it was the product of the:

> triple phenomenon of the fractionalization of ancestral communities, geographic migration of the emerging subgroups, and subsequent claim to property (in lands that do not qualify as 'ancestral' lands and that can be claimed by other ethnic groups that do in fact qualify as such) suggests a complex and delicate scenario.[67]

This 'complex and delicate scenario' refers to three Miskito villages located north of the Wawa River, outside the boundary of the claim, that the state alleges received titles from the Nicaraguan Agrarian Institute in 1974. The three villages (collectively known as 'Tasba Raya', a Miskito phrase meaning 'new land') were established in the early 1970s by an agrarian re-settlement project developed by the French embassy and the Capuchin order of the Catholic Church. Though it is unclear whether titles were ever in fact issued, state surveyors did produce a detailed map of the settlements, depicting the grid pattern used to allocate family parcels around the villages founded by the project. The leadership of the largest of the villages, Francia Sirpi (Miskito for 'Little

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France'), closely guard a copy of this map. It shows that family plots stop abruptly at the banks of the Wawa River, reinforcing Awas Tingni's use of the river as a boundary.

The state's lawyers did not use the Nicaraguan Agrarian Institute map of Tasba Raya in the court proceedings. Instead, their assertion appeared to ambiguously reference maps of the Tasba Raya villages' lands produced by a 1997 land tenure study funded by the World Bank. The study was charged with documenting the extent of 'national lands' in eastern Nicaragua. Carried out by the Caribbean and Central American Research Council (CCARC), the study used participatory methods like those used in the Awas Tingni case to survey land tenure practices in 128 indigenous and black villages, acknowledging the contentiousness of the state's claim.[68] Village participants challenged the focus on individual villages as the unit of analysis, arguing instead that land tenure is customarily organized collectively, among multiple villages. Accordingly, they reworked the study's scale of analysis, producing a series of 29 maps, many of which represented 'multi-communal blocks.' These blocks covered most of eastern Nicaragua, overlapping extensively with each other. As a result, the study concluded that there were no 'national lands' in the region. Nonetheless, the overlaps depicted by the study have proven contentious, particularly in the area surrounding the Awas Tingni claim where many villages were destroyed during the *Contra* war. The three Tasba Raya villages (Santa Clara, La Esperanza, and Francia Sirpi) participated in the project, each mapping their areas of customary use that overlap significantly with Awas Tingni's claim. Following the IACHR's ruling, state officials have made the resolution of these overlaps a pre-condition for titling Awas Tingni's land. This has allowed state officials to compel Awas Tingni to treat property as a mutually-exclusive ownership. State officials have used the law to justify their position, citing a clause in land rights legislation passed in 2002 that assigns to communities the responsibility for resolving boundary conflicts prior to petitioning for title.[69] In effect, the state's delay in titling suspends Awas Tingni's ability to live up to the map's portrayal of their claim as a bounded space, feeding anxiety about *who* will end up owning which land – and *when*.

This sobering post-victory landscape is further complicated by a violent concatenation of claims, resurgent notions of ethnic privilege, and outright looting of natural resources. Negotiations over the boundary dispute between Awas Tingni and Tasba Raya have been increasingly cast in terms of *ethnic difference*. In contrast with Awas Tingni's hopes for state recognition, Tasba Raya residents have used their alliances with Miskito politicians in the government of the autonomous region to leverage their claim. This has had the result of turning the historically specific processes through which communities have occupied and defended their land rights against each other, using ethnic differences to undermine any shared sense of indigenous identity and ensure that collective land rights are commensurable with existing property norms.

The question of boundaries is also complicated by the degree to which it spatially coincides with the state's logging concession to SOLCARSA that instigated Awas Tingni's legal claim. Nicaraguan state officials used the inability of the communities to resolve the boundary dispute to assert that the overlap is a product of competition between communities to gain valuable resources – a fact they claimed undermines the courtroom arguments about customary use and occupancy. In one meeting with community representatives, a state official went so far as to propose that the entire area of overlap should be titled exclusively to the state in order to guarantee the 'integrity of traditional uses.' However, officials from the regional autonomous

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government adjudicated the dispute by fiat, passing a resolution that arbitrarily established a boundary line that reflected a compromise between the overlapping claims. While this action 'solved' the problem, it also resulted in splitting Awas Tingni's claim into two separate areas, separated by the Tesba Raya claims.

In sum: in both Belize and Nicaragua, the state has used the process of demarcation and titling to rework existing, racialized regimes of land ownership. The legal rulings have not changed the region's inherited social and economy hierarchies. Nor have they changed the profound inequalities that structure the ongoing resource conflicts.[70] Indeed, the state has used community claims to property rights and cultural difference to encourage conformance to the state's interpretation of property rights and indigeneity.[71] This could be taken as further evidence of a pattern Charlie Hale has found throughout Central America: that the very recognition of culturally-defined rights often deepens the hegemony of economic neoliberalism.[72]

3. The matter of moral victories

The previous two sections underscore the importance of asking a pair of difficult questions: What exactly were these maps intended to do? What is the political problem that they were expected to change, and how?

To begin to answer these questions, we begin by citing a lengthy footnote written by political theorist Kymlicka in his review of S.J. Anaya's 1996 *Indigenous peoples in international law* (as mentioned earlier, Anaya represented both the Maya communities in Belize and Awas Tingni in Nicaragua). In his review, Kymlicka affirms a number of exciting elements of Anaya's arguments for international indigenous rights law. In closing, Kymlicka refers to a 1990 decision by the United Nations Human Rights Committee in the case of *Omniyak, Chief of the Lubicon Lake Band v. Canada*:[73]

> But as Anaya himself notes, the UN judgment did not specify any remedy for this rights violation and very little has in fact improved for the Lubicon. (Insofar as the Lubicon have gained anything in recent years, it is arguably due, not to international law, but to an international boycott of the lumber company exploiting their lands.) Moreover, ... the UN affirmed that it is up to the Canadian government to decide how to deal with the problem, with no threat of penalties or sanctions. In this sense, one can read *Omniyak* as giving the Lubicon Cree a moral victory, but as giving the Canadian government the real power. This seems to me true of most of the other cases Anaya cites. He provides very few examples where international law has provided concrete benefit to indigenous peoples. ... Indigenous peoples may get moral victories from international law, but the real power remains vested in the hand of sovereign states, who can (and do) ignore international norms with impunity.[74]

We note in passing that we would bracket Kymlicka's distinction between 'moral victories' and 'real power.'[75] Certainly, victories like those won by Awas Tingni, Santa Cruz, and Conejo are legal and moral victories that are enmeshed within power relations. It would be impossible to draw any firm lines between their legal, moral, and political dimensions, which do not stand apart from a real structure of power.

This said, we cite Kymlicka's note on Anaya because he identifies an essential limitation – indeed, an aporia – at the heart of the legal victories in Belize, Nicaragua, and in *Omniyak*. In each case, a struggle for indigenous recognition and autonomy deepened the state's involvement in the life of the community, a trend justified in terms of the state's ability to better *govern* indigenous

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peoples. The maps contribute to this trend by literally helping the courts to *see* indigenous people and places, identifying spaces for titling, and demarcation. These spaces do not oppose indigenous peoples' experiences so much as they align these experiences with the expectations of state institutions (including the courts).[76] By recognizing the map – but not the full scope of the political demands that underwrite it – the Nicaraguan and Belizean states have treated court-ordered titling and demarcation as an opportunity to reinscribe their power in indigenous communities.

In Belize the main point of the cartographic-legal strategy was to put pressure on the state so that it would be forced to recognize Maya rights to land. As of this writing, this has yet to occur. In the wake of the Supreme Court decision, state actors attempted to define the land of one of the Maya communities in the lawsuit, Santa Cruz, causing a vigorous response by the Maya's lawyers and some leaders. Remarkably, however, there has been no widespread, popular activity in the wake of the decision, nor in response to the state's failure to carry out the Court's mandate. This gap – between the magnitude of the legal decision, the state's failure to respond according to the law, and the absence of a spirited response in the communities – reflects the political history of the case. The initial case was not brought by all 'the Maya people', but rather by two particular organizations (the TMCC and TAA). Shortly after Prime Minister Said Musa (who happens to be a lawyer himself) was elected in 1998, he opened negotiations and asked the leaders of the movement to suspend the lawsuit. As the case languished, the state solicited a group of leaders to meet and negotiate by inviting the leaders of a handful of NGOs to the table; this group became dubbed 'the Maya Leaders Alliance' (or MLA). To facilitate negotiation, the state played a key role in reconfiguring the structure and nature of the leadership of the Maya movement. As it happened, the negotiations with the state soon fell apart (it soon became clear that the state was unwilling to negotiate on the substantive issues) and yet the MLA remains, today, with only minor modifications, the *de facto* political umbrella of the Maya movement. The manner of its conception has not helped it gain the organic authority in the communities enjoyed by the TMCC and TAA. In this way, the cartographic-legal strategy compelled the indigenous leadership to restructure and reform its political representation in ways that have benefited the state's position.

These structural changes connect with more subtle shifts in the political orientation of the movement. The back-and-forth of the lawsuit and negotiations resulted in a further narrowing of the movement, and a handful of MLA leaders came to hold an effective monopoly over information about these efforts. This shift raises difficult questions about the outcomes of the cartographic work. The subsequent findings of the Commission, as we have seen, called for the Maya to receive from the state their 'property' and also their 'territory,' eliding the differences between those concepts. Yet the Supreme Court's decision frames Maya land rights entirely in terms of property. Our concern is that this shift will facilitate the privatization of nominally community-owned lands – lands that remain, in practice, common lands that are collectively managed.

The results of the legal victory of the Awas Tingni case have also proven to be contradictory on the ground. As noted above, the community has struggled to live up to the standards of indigeneity and customary use that were the legal basis for their claim. For instance, in spite of the centrality of logging to the claim as well as the regional economy, state officials often assert that logging is not a 'customary use'; some have accused residents of Awas Tingni of violating

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forestry laws. At the same time, other communities in northeastern Nicaragua have responded to growing uncertainty over land rights by 'preemptively' logging to assert possession (particularly in areas where claims overlap). Such practices not only undermine notions of shared customary use and undermine inter-community solidarity, they also articulate relatively marginal timber-cutters with a burgeoning black market in tropical timber run on graft, predatory lending, and patronage, all backed by incessant violence.[77]

In December 2008, seven years after the Court ruled in the Awas Tingni case, the Nicaraguan state awarded a title to Awas Tingni. This has not put to rest the mixed feelings that many indigenous peoples in Nicaragua have about the Awas Tingni case. Residents of Awas Tingni in particular recognize that they have won, for what it is worth, international notoriety (or at least the attention of people like us). In spite of receiving a title, other Miskito communities continue to challenge Awas Tingni's right to land. Among residents of Awas Tingni, there is widespread sentiment that their rights to land today are less secure than ever. One man traced the problem back to the Court itself, describing how sad he felt returning from the Court hearings in Costa Rica empty-handed (*'con las manos vacías'*). When the Court issued its judgment, he explained, it failed to specify the number of hectares that Awas Tingni owned and with it the lines on the map. He posed a question that we have often heard asked by our indigenous colleagues (typically when the lawyers are not around): what good are the courts? What could we do *now* to achieve justice, to get our land? Faced by such questions, we have heard the lawyers explain that the legal activism is only one pragmatic step toward a genuine solution. Practically speaking, the court decisions are intended to force the state into dialogue about rights to land. Yet the Nicaraguan case clarifies the precariousness, or the limitations, of this reply. Let us explain.

The map that residents of Awas Tingni used to represent their claim in court suggests that justice would be theirs once the boundaries depicted were demarcated and title issued. That belief was confirmed for many community members during a 2002 study funded by the Nicaraguan state to 'validate' their claim. This was the fourth time that experts had come to map their claim.[78] This new study applied a rigorous set of cultural ecology methods, using natural features (such as watersheds) to frame the community's claim. As a result, it added close to 30,000 more hectares to the area previously mapped for the purpose of going to the IACHR.[79] To many residents of Awas Tingni, this new map strengthened their conviction that they had a right to the area depicted. Yet in spite of the state's support for the project, officials dismissed the study on the grounds that titling such a large area to a community would contradict their obligation to treat fairly not only the neighboring Miskito villages, but of all Nicaraguans. Invoking the equality of all citizens before the law, officials have effectively reinforced racialized inequalities in practice.

Just as in southern Belize, today the residents of Awas Tingni have not received title for their lands. There is renewed optimism that a resolution may be at hand following a vote by the regional government council to split the area of overlap into equal parts between Awas Tingni and Tasba Raya. Neither party participated in the vote directly; it remains to be seen if this latest line drawn on a map will succeed where others have not. Yet one thing is clear: after the *Awas Tingni* decision the indigenous communities must face the fundamentally *national* character of implementation. In Belize and Nicaragua, each step forward involving international indigenous rights law has only intensified the task of negotiating with, or politically transforming, the nation-state.[80]

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Conclusion

[D]econstruction calls for an increase in responsibility. (J. Derrida, 'Force of law')

In their review of the legal implications of the Awas Tingni case, the lawyers for the community write that 'the people of Awas Tingni did not set out to forge an international legal precedent with implications for indigenous peoples throughout the world, yet that is exactly what they have done.'[81] In many respects, their statement is no exaggeration. The people of Awas Tingni and the Maya of Belize have changed the legal terrain for future claims to land. Some may conclude that it is only a matter of time until the right conjuncture of maps and lawsuits allows for a just and genuine recognition of indigenous geographies.

Perhaps. But there will have been other consequences. The cartographic-legal strategy carries no guarantees, except perhaps one: that the contentious politics around indigenous lands become properly litigious, oriented around cultural and property rights. Said differently, the cartographic-legal strategy forces a shift in political emphasis toward multiculturalism with an accent on property rights. The reforms that follow (creating new property rights regimes, valorizing of cultural difference, devolving political authority, and so forth) resound with Hale's more general comments on the effects of neoliberal multiculturalism:

> [T]hese initiatives also come with clearly defined limits, attempts to distinguish those rights that are acceptable from those that are not. Even more important, the concessions and prohibitions of neoliberal multiculturalism structure the spaces that cultural rights activists occupy: defining the language of contention, stating which rights are legitimate, and what forms of political action are appropriate for achieving them; and even, weighing in on basic questions of what it means to be indigenous.[82]

Our aim has been to clarify how such limits may be reinforced through the legal-cartographic strategy.[83]

In the face of such limitations, there will be a temptation to stick with existing strategies – making maps that articulate the kind of hegemonic neoliberal multiculturalism Hale describes. This temptation shares something with the realist approach that James Anaya has staked out against what he sees as 'post-modernism's' inability to move beyond a vague 'call for reform.'[84] We find neither the high-minded principle of international human rights law nor liberalism's cultural relativism to be sufficient to the task of decolonization.[85] The cartographic-legal strategy is neither useless nor futile. Rather, as we have argued, the power of indigenous mapping for legal cases must be weighed against the political struggles they derive from and are intended to advance. In the two cases described here, the cartographic-legal strategy transformed the possibilities for recognition without changing the persistent inequalities that the claims were partly intended to address. Nor has it contributed to any radically new conceptions of the region or space. At the same time, the cartographic-legal strategy has enabled new political opportunities for some community members, albeit unevenly.[86] By recognizing and valorizing certain indigenous community's relations with land as *property*, as these rulings do, these relationships are constrained. Such recognition reinforces state power and deepens capitalist social relations.[87] So to reiterate Derrida: it is just that maps may be used to illustrate the exclusions through which state territories have been constituted. Nonetheless, it is not enough to hope that those injustices can be simply overcome by including indigenous peoples on the map.

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Our argument attempts to open critical space for reflection on what indigenous law and cartography can and cannot do. We cannot propose a solution; it is part of our argument that the problems under analysis cannot be solved by a map or law. Neither mapping nor law *are* justice. We contend that the contemporary condition is such that for us – as geographers who advocate for indigenous rights – that it is impossible to simply say 'no' to indigenous cartography or to law. And yet we vigorously reaffirm a responsibility to interrogate cartography or law as techniques of power. We recognize that a failure to render indigenous livelihoods commensurable with state institutions and property relations may provide justification for their continued exclusion from power.[88] Indigenous peoples' relationships to the state remain fraught as they seek greater recognition of their rights as citizens while gaining an acute sense of just how firmly entrenched their exclusion is within the institutions that they may hope will guarantee their rights. For us, this aporia compels an increase in responsibility, in commitment, in radical questioning. What must change for other forms of *geographical justice* to become possible? How could the socio-spatial relations of subaltern groups and indigenous peoples be mapped in ways that open paths toward more profound forms of geographical justice?

It is not enough to pose these questions. The intransigency of the situations does not suggest that we should cease making maps. Rather, we are calling for greater critical reflection on the limitations, contradictions, and effects of the cartographic-legal strategy. The goal in this reflection is not necessarily better maps or stronger lawsuits, but the identification of new possibilities for political struggle and more radical forms of geographical justice. Our criticism should serve as a basis for rethinking approaches to the cartographic-legal strategy, taking heed of our emphasis here on map-making as a political – more than technical – process. This critique must necessarily reach beyond a concern with the map itself, to ask questions about under what conditions map-making becomes not only possible but politically imperative. We remain committed to interrogating the limits that come with this kind of commensurability given the forms of hegemony that it helps reproduce, much as we remain committed to activism in the situations we have described. Such an approach does not offer any immediate solution to the problems at hand, so much as it warns against mistaking tactics for political strategy. It also points to the need for genuine and perhaps fundamental social transformation. This feeds back into our own commitments to indigenous social movements.

Like the law, maps are not instruments for settling indigenous claims. They are textual practices that weave together power and social relations. The effective indigenous 'counter-map', then, is one that unsettles the very categories that constitute the intelligibility of modern power relations. Producing and reading such maps requires creating space for greater attention to indigenous peoples' efforts to transform their social and spatial relations in ways that may transcend the concepts 'territory' and 'property'. What such maps will look like remains to be seen. Ours is therefore a call for a critique of the practice of cartography – a critique that never ceases to ask why maps are being produced, what problems they are made to address, and toward which experience of justice.

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Notes

1 These practices have been referred to as 'counter-mapping,' 'ethnocartography,' 'community-based mapping,' and 'participatory mapping,' evocative of the applications of mapping to a variety of political projects. The field of 'critical GIS' is related, yet distinct.

2 For a discussion of cultural ecology's place in the genealogy of indigenous cartography, see J. Wainwright, *Decolonizing development: colonial power and the Maya* (New York, Blackwell, 2008). On the importance of customary practices for international indigenous rights law, see especially S.J. Anaya and R.A. Williams, Jr., 'The protection of indigenous peoples' rights over lands and natural resources under the Inter-American System', *Harvard human rights journal* 14 (2001), pp. 33–86; PG. McHugh, *Aboriginal societies and the common law: a history of sovereignty, status, and self-determination* (New York, Oxford, 2004); and P. Keal, *European conquest and the rights of indigenous peoples: the moral backwardness of international society* (New York, Cambridge University Press, 2003).

3 E.g. E.I., Daes, 'Indigenous peoples and their relationship to land: final working paper prepared by the Special Rapporteur', Geneva, Switzerland: United Nations Economic and Social Commission on Human Rights, Sub-commission on the Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/2001/21), 11 June 2001.

4 B.Q. Nietschmann, 'Defending the Miskito reefs with maps and GPS: mapping with sail, scuba, and satellite', *Cultural survival quarterly* 18(4) (1995), pp. 34–7, p. 35.

5 For discussions of the legal significance of these cases, see: S.J. Anaya, 'Maya aboriginal land and resource rights and the conflict over logging in southern Belize', *Yale human rights & development law journal* 1(17) (1998), pp. 17–51; S.J. Anaya, and C. Grossman, 'The case of Awas Tingni v. Nicaragua: a new step in the international law of indigenous peoples', *Arizona journal of international and comparative law* 19(1) (2002), pp. 1–16.

6 C.R. Hale, 'Neoliberal multiculturalism: the remaking of cultural rights and racial dominance in Central America', *Political and legal anthropology review* 28(1) (2005), pp. 10–28. See also C.R. Hale, 'Does multiculturalism menace? Governance, cultural rights and the politics of identity in Guatemala', *Journal of Latin American studies* 34 (2002), p. 505. See also A. Roy, 'Paradigms of propertied citizenship: transnational techniques of analysis', *Urban affairs* 38 (2003), pp. 463–91.

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7 Article 17 of the United Nations Universal Declaration of Human Rights states: '(1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.' Similar language is found in Article 21 of the American Convention on Human Rights.

8 On the colonial present, see D. Gregory, *The colonial present: Afghanistan, Palestine, Iraq* (London, Blackwell, 2004). On contradictions in neoliberal formulations of rights, see: C.R. Hale, 'Does multiculturalism menace?'; C.R. Hale, 'Neoliberal multiculturalism'; E. Povinelli, *The cunning of recognition: indigenous alterities and the making of Australian multiculturalism* (Durham, NC, Duke University Press, 2002); M. Watts, 'Development and governmentality', *Singapore journal of tropical geography* 24(1) (2003), pp. 6–34.

9 See B.Q. Nietschmann (1995); H. Brody, *Maps and dreams: Indians and the British Columbia frontier* (Prospect Heights, IL, Waveland Press, 1981 [1998]; P.H. Herlihy and G. Knapp, 'Maps of, by, and for the peoples of Latin America', *Human organization* 62(4) (2003), pp. 303–14; M. Chapin, Z. Lamb and B. Threlkeld, 'Mapping indigenous lands', *Annual review of anthropology* 34 (2005), pp. 619–38; J. Johnson, R. Pualani Louis, A.H. Pramono, 'Facing the future: encouraging critical cartographic literacies in indigenous communities', *ACME: an international e-journal for critical geographies* 4(1) (2006), pp. 80–98; and L. Harris and H. Hazen, 'Power of maps: (counter)-mapping for conservation', *Acme international e-journal of critical geographies* 4(1) (2006), pp. 99–130.

10 Compare J.B. Alcorn, *Borders, rules, and governance: mapping to catalyze changes in policy and management* (London, International Institute for Environment and Development, 2000).

11 See R. Craib, *Cartographic Mexico: a history of state fixations and fugitive landscapes* (Durham, NC and London, Duke University Press, 2004); M.H. Edney, *Mapping an empire: the geographical construction of British India, 1765–1843* (Chicago, University of Chicago Press, 1997); J.B. Harley, *The new nature of maps: essays in the history of cartography* (Baltimore, MD, Johns Hopkins University Press, 2001; and D. Wood, 'The fine line between mapping and mapmaking', *Cartographica* 30(4) (1993), pp. 50–60.

12 J. Derrida, 'Force of law: the "mystical foundation of authority"', in *Acts of religion* (New York, Routledge, 2002 [1990]), p. 235.

13 On maps and situated knowledge, see D. Haraway, *Simians, cyborgs, and women: the reinvention of nature* (New York, Routledge, 1991), pp. 193–6.

14 This statement is something of a truism for cartographers, who are constantly aware that the effectiveness of the map at communicating a particular perspective or pattern turns on eliminating all but the most important information needed to convey a 'true' understanding. See J. Pickles, *A history of spaces: cartographic reason, mapping and the geo-coded world* (London and New York, Routledge, 2004).

15 J. Pickles (2004), p. 94. See also H. Lefebvre, *The production of space* (Oxford, Blackwell, 1991).

16 J. Wainwright, *Decolonizing development*, ch. 6.

17 See the conclusion of G.C. Spivak, 'Can the subaltern speak?', in C. Nelson and L. Grossberg, eds, *Marxism and the interpretation of culture* (Urbana, IL, University of Illinois, 1988), pp. 271–313.

18 D.L. Hodgson and R.A. Schroeder, 'Dilemmas of counter-mapping community resources in Tanzania', *Development and change* 33 (2002), pp. 79–100; N.L. Peluso, 'Whose woods are these? Counter-mapping forest territories in Kalimantan, Indonesia', *Antipode* 27 (1995), pp. 383–406; R. Rundstrom, 'The role of ethics, mapping, and the meaning of place in relations between Indians and Whites in the United States', *Cartographica* 30(1) (1993), pp. 21–8; see also J. Bryan, 'Map or be mapped: land, race, and rights in eastern Nicaragua' (Doctoral Dissertation, Department of Geography, University of California-Berkeley, 2007), chapters 4 and 5.

19 United Nations Declaration on the Rights of Indigenous Peoples, Article 26 (adopted 26 June 2006). Previous drafts of the declaration contained similar language. See also Article 13 of the International Labor Organization's Convention 169 concerning the Rights of Indigenous and Tribal Peoples in Independent Countries.

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[20] E.g. B. Rivera, 'An Indian without land is not an Indian!', in K. Ohland and R. Schneider, eds, *National revolution and identity: the conflict between Sandinistas and Miskito Indians on Nicaragua's Atlantic Coast* (Copenhagen, IWGIA, International Work Group on Indigenous Affairs, 1983), pp. 64–7.

[21] On national resistance to colonialism, see E.W. Said, *Culture and imperialism* (New York, Vintage, 1993), ch. 3; B. Anderson, *Imagined communities* (London, Verso, 1983), pp. 170–8; Thongchai Winichakul, *Siam mapped: a history of the geo-body of a nation* (Honolulu, Hawaii, University of Hawaii Press, 1994).

[22] J.B. Harley, 'Rereading the maps of the Columbian encounter', *Annals of the Association of American Geographers* 82(3) (1992), pp. 522–42; D. Turnbull, 'Mapping encounters and (en)countering maps: a critical examination of cartographic resistance', *Knowledge and society* 11 (1998), pp. 15–44.

[23] E. Povinelli, *The cunning of recognition*, pp. 7–12, 17; see also F. Corntassle, 'Towards Sustainable Self-Determination: Rethinking the Contemporary Indigenous Rights Discourse.' *Alternatives: Global, Local, Political* 33(1) (2008), pp. 105–132.

[24] See P. Keal, *European conquest and the rights of indigenous peoples: the moral backwardness of international society* (Cambridge, Cambridge University Press, 2003). In a provisional way, we would argue that this shift has emerged in response to the various crises of governability brought on by violence and economic reform directed against the liberal state. On development, see J. Wainwright, *Decolonizing development*, V. Sidwani, *Capital Interrupted* (Minneapolis: University of Minnesota Press, 2008).

[25] J. Derrida, 'Force of law', p. 244.

[26] *Ibid.* Our italics. See also A. Secor, 'An unrecognizable condition has arrived', in D. Gregory and A. Pred, eds, *Violent geographies: fear, terror, and political violence* (New York, Routledge, 2006), pp. 37–53.

[27] J. Derrida, 'Force of law', pp. 230–98; W.C. Dimock, *Residues of justice: literature, law, philosophy* (Berkeley, CA, University of California, 1996); U. Singh Mehta, *Liberalism and empire: a study in nineteenth century British liberal thought* (Chicago, University of Chicago, 1999); and T. Asad, *Formations of the secular: Christianity, Islam, modernity* (Stanford, Stanford University Press, 2003).

[28] J. Johnson, R. Pualani Louis and A.H. Pramono, 'Indigenous communities mapping initiative, 2005', in *Mapping our places: voices from the Indigenous Communities Mapping Initiative* (Berkeley, CA, Indigenous Communities Mapping Initiative, 2006).

[29] Cf. T. Asad, 'Conscripts of western civilization', in C. Gailey, ed., *Dialectical anthropology: essays in honor of Stanley Diamond* (Gainesville, University Press of Florida, 1992), pp. 333–51; D. Scott, *Conscripts of modernity: the tragedy of colonial enlightenment* (Durham, North Carolina, Duke University Press, 2004); G. Spivak, 'Righting wrongs', *South Atlantic quarterly* 103(2/3), pp. 523–81; A. Quijano, 'Coloniality of power, Eurocentrism and Latin America', *Nepantla: views from the south* 1(3) (2000), pp. 533–80.

[30] On 'aporia', see especially J. Derrida, 'Force of law' and *Aporias*, trans. T. Dutoit (Palo Alto, CA, Stanford University Press, 1994).

[31] Even 'uncontacted' peoples fall under the sway of law and cartography, for others map them and advocate on their behalf.

[32] The two autonomous regions in Nicaragua are the South and North Atlantic Autonomous Region, respectively known by their acronyms in Spanish as the RAAS and the RAAN.

[33] Miskito and Mayangna (also known as the Sumu) are two distinct indigenous peoples living in the area of eastern Nicaragua historically known as 'The Miskito Shore.' A great deal has been written about the Miskito, see, for example, C. Hale, *Resistance and contradiction: Miskitu Indians and the Nicaraguan state, 1894–1987* (Palo Alto, CA, Stanford University Press, 1994), M. Helms, *Asang: adaptations to culture contact in Miskito community* (Gainesville, FL, University of Florida Press, 1971); and, B.Q. Nietschmann, *Between land and water: the subsistence ecology of the Miskito Indians, eastern Nicaragua* (New York, Seminar Press, 1973). For discussions of the interplay between maps and identity in this region, see J. Bryan, 'Map or be mapped'; and K. Offen, 'Creating Mosquitia; mapping Amerindian spatial practices in eastern Central America, 1629–1779', *Journal of historical geography* 33 (2007), pp. 254–82.

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[34] E.T. Gordon, G.C. Gurdián and C. Hale, 'Rights, resources, and the social memory of struggle: reflections on a study of indigenous and black community land rights on Nicaragua's Atlantic Coast', *Human organization* 62(4) (2003), pp. 369–81; K. Offen, 'Narrating place and identity, or mapping Miskitu land claims in northeastern Nicaragua', *Human organization* 62(4) (2003), pp. 382–92. On resettling ex-combatants more generally, see D. Abu-Lughod, 'Failed buyout: land rights for Contra veterans in post-war Nicaragua', *Latin American perspectives* 27(3) (2000), pp. 32–62; A. Armony, 'The former Contras', in T.W. Walker, ed., *Nicaragua without illusions* (Wilmington, DE, Scholarly Resources, 1997), pp. 203–18.

[35] Americas Watch, *The Sumus in Nicaragua and Honduras: an endangered people* (New York and Washington, DC, Americas Watch, 1987). 'Sumu' here refers to Mayangna in Nicaragua and Tawahka in Honduras.

[36] C.R. Hale, 'Inter-ethnic relations and class structure in Nicaragua's Atlantic Coast', in CIDCA, ed., *Ethnic groups and the nation-state: the case of the Atlantic Coast in Nicaragua* (Stockholm, Development Study Unit, 1987), pp. 33–57; see also G. von Houald, *Mayangna: apuntes sobre la historia de los indígenas Sumu en Centroamérica* (Managua, Fundación Vida, 2003).

[37] S.J. Anaya, 'The Awas Tingni petition to the Inter-American commission on human rights: indigenous lands, loggers, and government neglect in Nicaragua', *St. Thomas law review* 9(2) (1996), pp. 157–207. The petition was filed in 1995.

[38] Through the 1990s, state officials increasingly undermined the Autonomy Law, refusing to financially and administratively support the development of the regional governments. The SOLCARSA concession epitomized this disregard, violating constitutional provisions protecting indigenous land rights and trampling Miskito insurgents' claims that there were no 'national lands' in eastern Nicaragua – only 'Indian land'.

[39] Both the Inter-American *Commission* on Human Rights and the Inter-American *Court* of Human Rights are organized under the auspices of the Organization of American States (OAS). A claimant must first file a petition with the Commission. In most cases, the Commission will issue a report intended to establish the basis for settlement of the dispute between the claimant and the state, as was the case with Maya complaint in Belize. In certain cases where the state party proves unwilling to negotiate, the Commission will bring the case before the Inter-American Court on behalf of the claimant. Complaints may be filed against any state that is a member of the OAS. The Court's jurisdiction, however, must be voluntarily agreed to by individual states. Most states in the Americas have accepted the Court's jurisdiction, with the notable exception of many of the Caribbean countries, Mexico, the United States and Canada.

[40] Inter-American Commission of Human Rights, *Complaint against the Republic of Nicaragua in the case of the Mayangna(Sumo) indigenous community of Awas Tingni*, 4 June 1998; paragraph 103 (p. 50). Reprinted in the *Arizona journal of international and comparative law* 19(1) (2002), pp. 21–100.

[41] Inter-American Court of Human Rights, *Final judgment in the case of the Mayangna (Sumo) Awas Tingni community v. Nicaragua*, 31 August 2001; paragraphs 144–51 (pp. 429–31). Reprinted in the *Arizona journal of international and comparative law* 19(1) (2002), pp. 395–456.

[42] In the Maya communities of southern Belize, livelihoods are produced through customary land use practices based principally on production of maize and beans for home consumption and rice and cacao as cash crops. Land is generally viewed as a common resource. Farmers who live in a community have usufructory rights to fell forest and plant where they wish, provided that the land is not already farmed by others. Maya hunters from nearby communities have the right to enter village land to hunt, so long as they do not damage crops. On Maya livelihoods and the case against the Government, see L. Grandia, 'Milpa matters: Maya Communities of Toledo v. Government of Belize,' *Waging War, Making Peace: Reparations and Human Rights*, eds. B. Rose Johnston and S. Slyomovics (Walnut Greek, CA: Left Coast Press, 2009), pp. 153–182.

[43] Wainwright collaborated with the TMCC and ILRC in the mid-1990s; Bryan worked for ILRC from 1997 to 1999, and has worked intermittently as an advisor to Awas Tingni's legal team.

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[44] See J. Wainwright, *Decolonizing development*, ch. 6.

[45] Inter-American Commission on Human Rights. 2004. 'REPORT No. 40/04. Case12.053: Maya Indigenous Communities of the Toledo District, Belize', pp. 58–9, our italics.

[46] *Ibid.*, our italics.

[47] These two communities brought their cases as individual claims but, in an important slippage, they were often said to represent the Maya communities more generally. The two communities were selected for involvement in the cartographic-legal strategy through consultation between Maya leaders and their lawyers, and not through a broad-based or popular campaign.

[48] We were involved in making these maps. Wainwright collaborated with some of the Maya leaders in strategizing around the case, and wrote one of the expert reports for the case. Bryan collaborated in making two of the maps used in the lawsuit.

[49] Chief Justice A. Conteh, 'Judgment in the Supreme Court of Belize: consolidated claims no. 171 and 172 of 2007, *A. Cal, et al. v. Belize*' (2007), http://www.law.arizona.edu/Depts/iplp/advocacy/maya_belize/documents/ClaimsNos171and172of2007.pdf. Accessed November 2007.

[50] *Ibid.*

[51] *Ibid*, our italics. The Judge cited the Awas Tingni case (as well as other recent important rulings in favor of indigenous rights, such as *Mabo* and *Delagmuukw*) in his ruling.

[52] *Ibid.*

[53] S.J. Anaya, and R.A. Williams, 'The protection of indigenous peoples rights over lands and natural resources under the inter-American human rights system', *Harvard human rights journal* 14 (2001), pp. 33–86.

[54] Wainwright is also an active member of an indigenous rights NGO, the Julian Cho Society, which collaborated with the village of Santa Cruz to prepare for the recent case before the Supreme Court.

[55] In addition to his role in the Belize case, Bryan also served as a consultant to Awas Tingni's legal team and has prepared maps involving a third case brought before the IACHR by Mary and Carrie Dann involving western Shoshone land rights in the US. All three cases advanced arguments for protecting indigenous rights to lands customarily used and occupied. Additionally, Bryan served as Associate Director to the Indigenous Communities Mapping Initiative during 2001–04. During the course of writing this article, Joe Bryan produced a series of ten maps for a land claim brought by FINZMOS, Miskito indigenous federation in eastern Honduras. The project was developed by the Caribbean and Central American Research Council (CCARC), the same organization that conducted the 1997 land tenure study in Nicaragua described in this article. The methods used for the FINZMOS project emphasized the project's effort to politicize traditional forms of land tenure for the purposes of securing legal recognition from the state, at each stage giving priority to the political process of map-making. In particular, this involved ensuring that the boundaries of the claim area were established in consensus with neighboring Miskito and Tawahka federations. The maps have subsequently been filed with the Honduran government and were awaiting legal review as of January 2008.

[56] One of these tensions concerns the necessity and impossibility of translating the lessons of political work into the form of a theoretical critique (published in an academic-institutional form, such as this journal). As all activists know, there are lessons born from political struggles that cannot be adequately articulated in this form.

[57] See also D. Turnbull, 'Maps, narratives, and trails: performativity, hodology, and distributed knowledges in complex adaptive systems – an approach to emergent mapping', *Geographical research* 45(2) (2007), pp. 140–9.

[58] On expertise and geoenvironmental knowledge, see P. Robbins, 'Beyond ground truth: GIS and the environmental knowledge of herders, professional foresters, and other traditional communities', *Human ecology* 31(2) (2003), pp. 233–53.

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59 For those who participate directly in map-making, cartography may provide a tangible way to engage with the arguments used to formulate land claims. The resulting maps are often read in ways that fuse the history and identity of the community with contested perceptions of rights to land. See J. Bryan, 'Map or be mapped', chapters 4 and 5.

60 The late Julian Cho and some of his fellow leaders were organic intellectuals in Gramsci's sense: intellectual members of a subaltern group who articulated positions of that group outside of formal and traditional intellectual institutions (A. Gramsci, *Selections from the prison notebooks* [New York: International, 1971], pp. 10–25). The experiences of the Maya movement in Belize in the 1990s bear out Gramsci's insight that 'Every organic development of the peasant masses … is linked to and depends on movements among the intellectuals' (p. 15).

61 Inter-American Commission on Human Rights, 2004. 'Report No. 40/04; CASE 12.053; Merits; Maya indigenous communities of the Toledo District, Belize.' Posted 12 October 2004, http://www.cidh.org/annualrep/2004eng/belize.12053eng.htm. Accessed 11 March 2007. The problems underlying this case are not resolved.

62 These observations should not be read as indictments of the indigenous leaders in Belize and Nicaragua, many of whom are our friends and allies. Nor should they be read as a commentary on the 'authenticity' of the identities on which the claims are based. They are only intended to clarify some consequences of the cartographic-legal strategy. Cartography and law alone do not cause these inequalities, that the practices that sustain these inequalities are partly derived from conceptions of space, power, and indigeneity that circulate far beyond these communities in Belize and Nicaragua. The cartographic-legal strategy reworks existing social relations and does not create them *de novo*.

63 A. Gramsci, *Selections from the prison notebooks*, p. 195.

64 J. Pickles, *A history of spaces*. See also R. Williams, 'Community', in *Keywords: a vocabulary of culture and society* (New York, Oxford University Press, 1983), pp. 75–6; M. Watts, 'Antinomies of community: some thoughts on geography, resources and empire', *Transactions of the British Institute of Geographers* 29 (2004), pp. 195–216.

65 E.T. Gordon *et al.*, 'Rights, resources, and the social memory of struggle'; see also, N. Sterrit *et al.*, *Tribal boundaries in the Nass watershed* (Vancouver, University of British Columbia Press, 1998).

66 Reply of the Republic of Nicaragua to the Complaint Presented before the Inter-American Court of Human Rights, submitted 21 October 1998 (unofficial translation). Reprinted in full in the *Arizona journal of international and comparative law* 19(2) 2002), pp. 101–27.

67 *Ibid.*, p. 112.

68 E.T. Gordon *et al.*, 'Rights, resources, and the social memory of struggle'; K. Offen, 'Narrating place'. The project was also seen as an effort to territorialize post-war power relations through conducting an inventory of state property.

69 Article 40(d), Law 445, National Assembly of the Republic of Nicaragua (*Gaceta No. 16/23/01/2003*). The law establishes a 'community property rights regime for indigenous and ethnic [black] communities in the Atlantic Coast autonomous regions and the Bocay, Coco, and Maíz river basins.' The law was developed through a consultative process funded by the World Bank following the 1997 land tenure study. Indigenous rights advocates participated considerably in the drafting of the law.

70 S. Speed and J.F. Collier, 'Limiting indigenous autonomy in Chiapas, Mexico: the state government's use of human rights', *Human rights quarterly* 22 (2000), pp. 877–905; T. Asad, 'Redeeming the "human" through human rights', in *Formations of the secular: Christianity, Islam, Modernity* (Palo Alto, Stanford University Press, 2003), pp. 127–58.

71 For a discussion of the role that institutionalized racism plays in limiting implementation of reports and rulings in the Inter-American system, see A. Dulitzky, 'A region in denial: racial discrimination and racism in Latin America', conference paper presented at the University of Texas at Austin, 28–29 April 2005,

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http://www.utexas.edu/law/academics/centers/humanrights/adjudicating/papers/Deniallastversion.pdf. Accessed 12 January 2008.

72 C.R. Hale, 'Neoliberal multiculturalism'.

73 UN Doc. A/45/40, Annex 9(A) (1990).

74 W. Kymlicka, 'Theorizing indigenous rights', *University of Toronto law journal* 49 (1999), p. 293.

75 For Kymlicka, the fundamental problem with Anaya's argument is the lack of a coherent theory of indigenous rights that would allow it to differentiate between claims made by, for instance, the Miskito in Nicaragua and the Basques in Spain and France. The problem, in other words, is the lack of fully theorized multiculturalism capable of settling questions of cultural difference. In keeping with Kymlicka's liberalism, cultural identity is presupposed; what is up for debate is how to *fairly* recognize indigenous peoples through state-sanctioned forms of redistributive justice. He is, in other words, ambivalent about the colonial processes that give those identities their political significance and are maintained through them. We differ from his approach in (at least) this one regard, insofar as we are concerned with how indigenous identity is produced and sustained through practices and concepts that remain colonial.

76 N. Rose, *Powers of freedom: reframing political thought* (Cambridge, Cambridge University Press, 1999), p. 32.

77 J. Bryan, 'Map or be mapped', chapters 5 and 6.

78 Theodore Macdonald prepared the first set of maps in 1995, revising them again in 1999 in preparation for the Inter-American Court hearings in the case. Following the Court's ruling, the Caribbean and Central American Research Council produced maps for a demarcation proposal circulated in 2002. All three studies were paid for in large part by Awas Tingni's legal team. The Nicaraguan state contracted a fourth mapping project in 2002 using funds from the World Bank. The contract was awarded to anthropologist Anthony Stocks. During the 1990s, Stocks mapped six Mayangna and Miskito territories in the BOSAWAS Biosphere Reserve in Nicaragua with funding from USAID and The Nature Conservancy; see A. Stocks, 'Too much for too few: problems of indigenous rights in Latin America', *Annual review of anthropology* 34 (2005), pp. 85–104.

79 A. Stocks, 'Too much for too few'.

80 During the course of preparing this article for publication, the community of Awas Tingni and most of the forest they claimed was destroyed by Hurricane Felix, a category 5 storm. The windthrow generated by the storm poses new challenges to demarcation, complicating efforts to physically cut lines in the forest (*carriles*) and establish benchmarks (*mojones*).

81 S.J. Anaya and C. Grossman, 'The case of Awas Tingni v. Nicaragua: a new step in the international law of indigenous peoples', *Arizona journal of international and comparative law* 19 (2002), pp. 1–15.

82 C.R. Hale, 'Does multiculturalism menace? Governance, cultural rights and the politics of identity in Guatemala', *Journal of Latin American studies* 34 (2002), pp. 485–524.

83 We are of course disproportionately insulated from their negative effects relative to the people whose lives and words have helped us see this predicament.

84 S.J. Anaya, 'Divergent discourses about international law, indigenous peoples, and rights over lands and natural resources: towards a realist trend', *Colorado journal of international environmental law and policy* 16(2) (2005), pp. 237–58. In this article, Anaya refers to debates regarding drafts of the Declaration on Rights of Indigenous Peoples at the United Nations and characterizes the legal postmodernist critiques of the document as being solely concerned with the 'indigenous' text (and not the version produced by the UN sub-commission). Compare with P. Keal (2003), pp. 132–6.

85 The colonization of the Americas has always involved the extension and deepening of law, property, and territory as social relations, a process noted by de Tocqueville: 'the Americans of the United States have [expropriated native lands and marginalized indigenous peoples] with singular felicity; tranquilly, legally [...] and without violating a single great principle of morality in the eyes of the world. It is impossible to

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destroy men with more respect for the laws of humanity' (A. de Tocqueville, *Democracy in America* Vol. I, Book I, Chapter XVIII, Part III [1835]), http://www.classicallibrary.org/tocqueville/democracy1/38.htm. Accessed 15 June 2007.

86 With those possibilities, new dangers are inevitably created; see: N. Rose (1999), p. 32.

87 M. Watts, 'Development and governmentality', *Singapore journal of tropical ecology* 24(1) (2003), p. 29.

88 N. Blomley, 'Law, property, and the geography of violence: the frontier, the survey, and the grid', *Annals of the association of American geographers* 93(1) (2003), pp. 121–41; N. Munn, 'Excluded spaces: the figure in the Australian aboriginal landscape', *Critical inquiry* 22(3) (1996), pp. 446–65.

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