

## Beyond Citizenship as We Know It

Race and Ethnicity in Afro-Colombian Struggles for Citizenship Equality

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I could see that she was agitated. She did not want us to be here at her front porch asking her questions about land tenure, black communities, and her aspirations for the future. On hearing I was from Africa, she told me in no uncertain terms that she believed I was there to take her land and the community's land and that I would bring people from Africa to do so. As I excused myself, letting her know that participation in our survey was completely voluntary, she said, "The indigenous people here tell us to go back to Africa, but we have nothing to do with Africa." We left without talking to her, feeling the weight of her words. Go back to Africa! What a powerful and terrible comment for those who have never been there. What an effective means of distancing citizens from their citizenship, their nationality, and their land. What histories of restrictions of citizenship and nationality these words frame. Go back to Africa! The depth of discrimination they call up. In these four short words are held slavery and its legacies, the creation of an African diaspora, and finally the exorcism of African culture in the Americas. Go back to Africa! Emplacement and displacement in time and space.

This was the first time I had heard the words "we are told to go back to Africa," but it was definitely not the last during the fourteen months of ethnographic research I conducted in 1999 in the northern part of the department of Cauca in southwestern Colombia. My research focused on claims to ethnic territories by Afro-Colombians in the Andes under the rubric of the 1991 Colombian Constitution as a means of understanding how states are transforming and reorganizing. The words "go back to Africa" are an important indication of the fragile nature of Afro-Colombian efforts to transform what citizenship means through social movements that demand recognition of their presence, difference, rights, and equality.

New descriptions of the national makeup as multicultural and visible social

mobilization around citizenship issues are noticeable features of Latin American countries since the 1990s. Older political mobilizations of class have been expanded through discussions about culture and belonging and are creating new ways of thinking about citizenship vis-à-vis the state. Fiscal and administrative decentralization of governments, transnational ethnic organizing that includes indigenous and black groups, environmental movements, and international legislation such as the International Labour Organization's (ILO) Convention 169<sup>1</sup> enables new recognition of indigenous and Afro-Latin Americans as citizens with special status and rights. In their new constitutions, a good number of Latin American countries, including Colombia and Nicaragua, have declared themselves multicultural or pluriethnic (Van Cott 2000; Ngweno 2007b).

More recently, Bolivia and Ecuador have declared themselves intercultural (Government of Bolivia 2009; Government of Ecuador 2008). "Intercultural" here means negotiating difference in such a way that bridges are built across knowledges, practices, and peoples of equal standing (Walsh 2002; Schroder 2008). These states are using the reorganization of regions as well as new categories of citizens to create governable populations, to demonstrate and acquire legitimacy and authority, to negotiate societal divisions, and to distribute resources: in short, to continue ruling. Communities that mobilized over, fought for, and voted for these changes in their relationship to the state for the most part have conducted their struggles as citizens who were demanding equality and recognition from the state.

While state recognition as a practice and concept has become a sought-after goal in itself, for many communities there is a huge range as to what can be and is being recognized by the state. At the most fundamental level, indigenous and Afro-Latin American communities demand that the state recognize their existence. This would include a recognition that the lands they occupy are not empty and thus free for others to occupy. Second, they demand that their presence as indigenous people or Afro-Latin Americans be recognized—that is, a recognition of difference that plays against a national ideology of *mestizaje* (race and cultural mixing) and sameness. At another level, they are asking for recognition as citizens in spite of this cultural difference—that is, they want recognition as citizens without fitting the cultural description of the Colombian national. They are also demanding that the state (and society more generally) recognize that in order for them to be equal citizens who are culturally different, a space must be provided where they can maintain that difference free from forced assimilation. This is a conceptual and intellectual space as well as a physical one, and it is a space that is often articulated in terms of territory and autonomy. Territory in this context is more than land: it is a political and social space in which life can flourish rather than just an economic space. Autonomy is likewise more than

self-governance as a community in terms of things such as educational policy and content, development, and taxation; it is also about the jurisdictional governance over a territory. In addition, it is the freedom and ability to define and create meanings of community, rights, and citizenship within this space. Finally, many Afro-Latin American communities are also demanding recognition as marginalized citizens in need of redress for past marginalization. As such, they are demanding that the state and society recognize the existence of racism and the need to do something about the conditions it has put in place.

Across Latin America even those communities demanding autonomy in how they govern their territories (with the possible exception of the Zapatista movement in Mexico) have done so in the capacity of citizens rather than as separatists. Unlike older mobilizations of the past, the aim was not to overthrow the state or to secede from it but rather to change it to include new and different ways relating to the state that transform citizenship as we know it.

Bolivia is perhaps the best-known example of this transformation. The election of indigenous activist Evo Morales as president of Bolivia in 2005 illustrates the new changes in Latin American states. In an article about the January 2009 referendum that allowed Evo Morales to seek reelection, *The Telegraph* quotes Morales as saying, “Brothers and sisters, the colonial state ends here. . . . Here we begin to reach true equality for all Bolivians” (Rubin 2009). Morales’s statement emphasizes two important aspects of the present state: it is no longer colonial, with all the cultural and racial hierarchies that entails, and it is in the process of addressing inequality. Morales’s statement about reaching for true equality is important because indigenous Latin Americans and Afro-Latin Americans might be described as having what Holston calls in Brazil “differentiated citizenship.” By this he means a citizenship whereby formal membership in a nation-state is combined with an unequal distribution of the “rights, meanings, institutions and practices that membership entails to those deemed citizens” (Holston, 2008, 8). In other words, it is a citizenship by which everyone is a citizen but rights, duties, and resources—what Holston calls the substantive aspects of citizenship—are distributed unevenly. According to Holston, this form of citizenship is inherently unequal and perpetuates inequality. Evo Morales’s comment is pointing to the end of this kind of exclusionary citizenship.

Citizenship in this chapter is not only a legal definition conferring a relationship to the state; it is also a practice, a concept of belonging and a context within which other activities are made possible. As Holston points out, these different aspects of citizenship do not necessarily overlap. The formal membership in a nation-state is insufficient to guarantee the same treatments or distribution of the substantive aspects of citizenship. A community’s understanding of belonging and their relation to the state sometimes mirrors the formal membership or

signs of inclusion but is sometimes foreshadowed by the attainment of rights—or the lack thereof. Citizenship (a conceptual relationship) to the state then is more than just the legal definition but is also how that definition is actualized. In many countries the new changes in Latin American states are understood to transform citizenship: *The Telegraph* also quotes Elisa Canqui (a representative of an Indian community from La Paz) as saying, “A new era is starting now in which indigenous people will be the citizens of this country” (quoted in Rubin 2009). Where do Afro-Latin Americans fit in the broader process of citizenship transformation?

Colombia is often cited as an example of the new ways citizenship is being rearticulated in Latin American constitutions regarding Afro-Latin Americans because of the way the 1991 Constitution tied resources (in the form of collective territories) to recognition of Afro-Colombians as an ethnic group based on cultural difference. In 1991, in response to intense public pressure, a new Constitution was created by a national Constituent Assembly that declared Colombia multicultural and pluri-ethnic. Specific recognition of black communities and their rights to collective territories came in the form of Provisional Article 55 (Artículo Transitorio 55, or AT55) in response to demands from Afro-Colombian communities in the Pacific Basin (Asher 2009). With the backing and funding of the World Bank in August 1993, AT55 was made into law in the form of Law 70. The 1991 Constitution and Law 70 stipulate that because of their cultural distinction from the rest of the nation, Afro-Colombian ethnic groups have a right to collective territories. These collective territories are inalienable, immutable, unmortgageable, and unrentable. In other words, these collective territories rest with the community in perpetuity. However, they do not include public use goods such as beaches and mangrove swamps and renewable resources such as oil and coal. While so far the granting of title has taken place only in the Pacific Basin (the focus of Law 70), it is an ongoing process. Law 70 also protects the right to cultural identity free from discrimination and racism, including in the realm of education. Law 70 was followed by a number of decrees over the next five years to implement AT55 and Law 70 regarding the culture, representation, education, and development of Afro-Colombians.

The 1991 Constitution and Law 70 transformed existing institutions and built new institutions to govern Afro-Colombian rights. AT55, Law 70, and subsequent decrees tie recognition of Afro-Colombians as citizens with special status and rights to ethnicity and to territory. This recognition has resulted in the transfer of 4.7 million hectares (almost 10 million acres) to Afro-Colombians, or about 4.13 percent of the national territory. This is the largest transfer of territory to peoples of African descent of any country in the Americas (DANE 2007). These lands were designated Collective Territories of Black

Communities under the 1991 Colombian Constitution and Law 70. The ability of communities to make successful claims to collective territory rests on their ability to be recognized by the state as ethnic groups.

Since 1996, Constitutional Court ruling T-422, an important ruling on the equality of Afro-Colombian citizens, has created the possibility of affirmative action measures for Afro-Colombian populations based on a different type of recognition—that of a marginalized racial group (Ng'weno 2007a). The ruling declares that because of historic marginalization, Afro-Colombians have not been equal citizens and therefore have a right to affirmative action measures. Demands for such measures continued to increase after the World Conference Against Racism, Discrimination, Xenophobia and Related Intolerances held in Durban, South Africa, in 2001 and were incorporated in some national and city development plans in Colombia (Mosquera Rosero-Labbé and León Díaz 2009). Nevertheless, full attainment of these rights and resources and of recognition as citizens marginalized because of their race continues to be a day-to-day struggle for many Afro-Colombian communities (Ng'weno 2007a; Bernard and Audre Rapoport Center for Human Rights and Justice 2007; Mosquera Rosero-Labbé and León Díaz 2009).

Holston argues that in Brazil, poor subaltern populations in urban areas have fought against the unequal distribution of substantive aspects of citizenship through practices that allowed them to gain political rights and to become land-owners. Through such practices the urban poor “made law an asset, created new public spheres of participation, achieved rights to the city, and became modern consumers” (2008, 9). Holston describes these practices as “insurgent citizenship” through which citizens have built their own institutions, demanded rights, and made legal new processes that have created access to resources. In so doing, they have rethought citizenship. He sees the city as essential to making these practices possible. In Colombia, rural communities that claim territory have also gained political rights, created new political constituencies, and used the law as an organizing tool. In the process they have created new spheres of participation and achieved broader rights than their original claims would have granted (Ng'weno 2007b; Asher 2009). Because rural Afro-Colombian social movements have also struggled for recognition as citizens, territory, and autonomous governance of their territories, insurgent citizenship has taken place in rural areas as well. Interestingly the combination of rural and urban insurgent citizenship and the newly created space for demanding equality highlights the tension between race and ethnicity: each is used to justify different ideas of equality.

This chapter examines the struggles of Afro-Colombians for citizenship and the ways they have transformed and created new spaces for equality. I suggest that the practices and claims of Afro-Colombians, and Afro-Latin Americans

more generally, profoundly challenge what it means to be a citizen in Latin American countries. In the process, race and ethnicity have been mobilized in new ways to broaden spaces of inclusion and demand equal citizenship. However, historical understandings and categorizations of Afro-Colombians and of Afro-Latin Americans more generally limit the degree to which citizenship has been and can be transformed. In particular, the historic categorization of Afro-Latin Americans as members of diasporic racial groups and, as a consequence, as groups of people who are not attached to the national territory and who lack a unique culture has placed both rural and urban Afro-Latin American populations in a fragile position in relation to the law.

### Afro-Colombians and Citizenship Equality

According to the 2005 Colombian national census (DANE 2007), the current population of Colombia is 41,468,384 people, of which Afro-Colombians account for an estimated 10.6 percent. Surprisingly, this estimate is well below the Colombian government's 1998 estimate of 26 percent (Departamento Nacional de Planeación 1998). The 1993 Colombian census was the first census to use references to race or ethnicity in seventy-five years. Nevertheless the 1993 census, which estimated the Afro-Colombian population to be 1.5 percent (Bernard and Audre Rapoport Center for Human Rights and Justice 2007), was considered to have severely underestimated the population because of the way the data were collected. The census asked for membership in a "Black Community," a legal category of a kind of ethnic group with a territorial base. The issue in contention was the fact that the census collected ethnic rather than racial data. The Department of Planning used regionally collected local data, information from grassroots organizations, and the 1993 census to arrive at an estimate of 26 percent in 1998.

There has also been a renewed interest in Colombia in disaggregating census data by ethnicity. As with many Latin American countries in the early twentieth century, references to race in the Colombian census were dropped in 1918 in keeping with national ideologies of *mestizaje* (racial and cultural mixing) and the description of the Colombian population as unitary and mestizo. With the 1991 Constitution and the new national definition of Colombia as multicultural, disaggregation of census data became important once more. The push toward disaggregation was also driven by communities that wanted their presence recognized. In addition, from 2000 the disaggregation of census data was simultaneously advocated by the World Bank and the Inter-American Development Bank in technical workshops titled "Todos Contamos" (We All Count) aimed at disaggregating social indicators by race to understand the dynamics of exclusion and inclusion in Latin American societies.

Colombia joined other Latin American countries that were collecting disaggregated census data for the first time in over seventy-five years. Beginning with the 1993 census, Colombia has made an effort to make the data being collected more accurate. Nevertheless, this change has not resulted in any stable idea of the total Afro-Colombian population, and the figures are continuously disputed by activists, policymakers, and communities (Minority Rights Group International 2008). Changes in how statistics were collected did not necessarily produce corresponding changes in how individuals identified themselves or how people understood social categories. Nevertheless, even with the considerable reduction in numbers estimated by the 2005 census, at 4,311,757, the Afro-Colombian population constitutes the third largest African-descendant population in Latin America after Brazil and Cuba. The Afro-Colombian population is dispersed throughout Colombia but resides in larger numbers in the Valle Interandino zone (the Andes and their interlocking valleys) and along the Pacific and Caribbean coasts. They compose the majority in specific regions such as the Pacific Basin (in the departments of Nariño, Cauca, Valle, and Chocó) and in specific municipalities (such as Buenos Aires, where I conducted field research). The largest numbers of Afro-Colombians live in the departments of Valle, Antioquia, and Bolivar and are primarily urban populations. Cali, for instance, has almost one million Afro-Colombian inhabitants, which is about one-third the population of the city. The department of Chocó on the Pacific coast has the highest percentage of blacks among its population (85 percent), followed by Magdalena (72 percent) and Bolivar (66 percent), both on the Caribbean coast (Departamento Nacional de Planeación 1998). Although the Pacific littoral running from Panama to Ecuador is the main region where Afro-Colombians form a majority, in areas such as northern Cauca and southern Valle they constitute regional majorities.

While Colombia has transferred the largest amount of land to black communities of any Latin American country through Law 70, it has been less exemplary in terms of improving disparities in access to substantive rights such as health, education, and employment. The Bernard and Audre Rapoport Center for Human Rights and Justice argues that not only have the promises regarding collective land in Law 70 not been fulfilled but many of the law's "provisions regarding education, economic development (including financial assistance), and local governance have yet to be implemented" (Bernard and Audre Rapoport Center for Human Rights and Justice 2007, 3). In addition the report argues that structural racial discrimination, as evidenced by the poverty and marginalization of Afro-Colombians, has not been addressed in any substantial manner by the Colombian state.

According to the United Nations Development Programme's (UNDP) human poverty index report for Colombia, which looks at a number of social

indicators such as health, education, infant mortality, and access to drinkable water to measure economic and social inequalities, the human poverty index for the Afro-Colombian population is almost two times that of the national mean. This is reflected in regional differences among departments. For instance, the department of Bogotá, which is in the Andes, has a poverty index of 7.9 percent, and the department of Chocó, which is located in the Pacific Basin, has a poverty index of 21.9 percent. In addition, UNDP researchers argue that such disparities are found in all of the variables used to calculate the poverty index (Sarmiento Gómez et al. 2003).

People in Colombia's rural areas are about twice as poor as urban residents. They have a low life expectancy, and half as many of their youth go to university. Most rural workers in Colombia make less than two dollars a day. The UNDP report argues that "huge economic and social inequalities between rural and urban areas characterize Colombian development" (Sarmiento Gómez et al. 2003, 5). This is significant because Afro-Colombian populations are concentrated in the regions with the most poverty.

The UNDP report locates the department of the Chocó at the bottom of the human development index, just after Cauca and Nariño. The report argues that the widespread violence and consequent displacement of local communities within these regions adds to the disparities and exacerbates social inequalities. All three departments are found within the Pacific region and in all three a high percentage of the population lives in rural areas. In Chocó, life expectancy is lower today (66.6 years) than the average national life expectancy for Colombia as a nation was ten years ago (68.1 years). Also in Chocó, social expenditure per capita and government investment is the lowest in the country (in 1998, the government spent seven times as much per capita in Bogotá as it did in Chocó). Social indicators of health, education, sanitation, and housing for municipalities of departments in the Andes and along the Atlantic coast, where Afro-Colombians are concentrated, are lower than the national mean (Departamento Nacional de Planeación 1998; Sarmiento Gómez et al. 2003). In light of this varied and extensive evidence, the UNDP report concludes that "inequality in Colombia is extremely high" (Sarmiento Gómez et al. 2003, 7).

In addition to these social indicators, Escobar argues that "the fact that the Pacific has always been connected with a dominant national Euro-Andean modernity has entailed the persistent suppression (often violent exclusion) of black and indigenous knowledges and cultures" (2008, 12). This has also happened in the Andes, where the largest Afro-Colombian populations live.

The municipality of Buenos Aires in Cauca has predominantly (90 percent) Afro-Colombian inhabitants, most of whom work in agriculture (coffee farming) and in gold mining. The inhabitants of this municipality live in rural areas at the

lowest economic strata of Colombian society. They have basic houses made of adobe, often with dirt floors and metal roofs. These houses generally have electricity (recently available because of a new hydroelectric dam constructed in the municipality) and running water (which they have had for fifty years); however, they lack basic sanitation services. Campesinos own small farms that cultivate coffee or cassava averaging about one hectare, and some are able to hire day laborers during harvest. Miners have artisanal gold mines that are horizontal tunnels in the mountains. Some have compressors to provide oxygen at certain depths, and one or two have lights, but the average mine and mill is not mechanized. Whether they are miners or farmers, most families live at, below, or just above subsistence.

In 1999 two black communities in the Andean region made claims to territory and autonomy and demanded recognition as ethnic groups. Their claims were based in differing circumstances. One claim, to the hill Cerro Teta, was made on the basis of the fact that Afro-Colombian gold miners living in the hinterland of the hill made their living from the land they claimed. The other claim, in Alsacia, was for a parcel of planted forest, where Afro-Colombian coffee farmers had moved after they had been displaced by a hydroelectric dam from their supplementary economic activity of panning for gold. While the organization that made the claim in the first community had historical roots in a mining cooperative, the organization that mobilized in the second community had historical roots in the evangelical Christian church and in organizing against the construction of the hydroelectric dam.

Neither of these communities is typical of black communities that have been recognized and have received collective territories. Rather than coming from the rural riparian zones of the Pacific Basin (as decreed by AT55), these communities are located in the Andes and were formed through different histories. The claims were also not entirely rural. While each community claimed self-governance of rural territory, many of the community members worked in both rural and urban spaces, depending on the availability of work and income. They are similar to successful claims of communities of the Pacific Basin in that their emplacement (permanence of being) in and connection to the territory has been threatened and continues to be threatened. Extralegal armed groups (in particular the paramilitary) and large-scale extractive industries present a constant threat that the communities will be displaced from their land. To date neither of these communities have been recognized by the Colombian government.

## Fragile Suspect Citizens

The words “we are told to go back to Africa” highlight the importance of citizenship as a goal, the centrality of land to that citizenship, and the precariousness of

the category of citizen for Afro-Colombians. Why Africa? Why are any group's claims to difference still seen as anti-national or unpatriotic in this day of multiculturalism? I refer to this as the condition of being "suspect citizens" (Ng'weno 2007b). Suspect citizens are those whose tie to the land (and therefore to the nation) is continually questioned. While any claims to difference may be seen as anti-national or unpatriotic, Afro-Colombians' claims to citizenship rights based on difference are seen as more suspect than those of indigenous Colombians because indigenous people's ties to land are rarely questioned. In fact, an indigenous tie to land acquired through *mestizaje* helps legitimate other Colombians' construction of their identity as nationals. It is thus useful to think of Afro-Colombian citizenship as fragile, not something that can be taken for granted.

The continuation of slavery after the formation of the republic meant that membership as citizens was not always extended to Afro-Latin Americans. For those to whom citizenship was extended (the free) it was suspect or fragile because of Afro-Latin American ties to slavery and to Africa and because of the absence of a recognized bond between Afro-Latin Americans and the national territory. In Colombia this process is heightened because of the way ethnicity is tied to territory in the new legal spaces that have been created from which demands for equality are taking place.

Afro-Latin Americans struggled to be included in the category of citizen in various ways as Latin American republics were formed and developed after colonialism ended. Although Latin American countries formed some of the first nation-states (Anderson 1991) after colonialism ended in the early nineteenth century, slave uprisings, indigenous revolts, the mobilization of free Afro-Latin American and indigenous populations, and the recent Haitian Revolution proved to be a problem for the new post-colonial nation-states trying to legitimate and justify rule by creole leaders. In particular, the new republican governments of the early nineteenth century were faced with the difficulty of deciding how people were tied to land. Government leaders found an answer in the idea of the creole—the individual who was born in the Americas—as the legitimate ruler. This idea, that legitimacy was based on birth in the Americas, faced multiple challenges from marginalized populations who were also born in the Americas but were not included in the creole ideal of legitimate rulers. The challenges included the alternative claim of indigenous peoples that they were the true natives of the land and the claim of Afro-Latin Americans that they too were born in the Americas (Ng'weno 2007b). Ideas of national citizenship were developed in opposition to these competing ideas of belonging.

Afro-Latin Americans struggled for inclusion in terms of both formal incorporation as citizens and distribution of the substantive aspects of citizenship in various ways during the development of republican Latin American states.

Freedom from slavery was a promise made to Afro-Latin Americans in almost all Latin American countries during the struggles for independence (Andrews 2004). Across the Americas, all sides told slaves they would give them their freedom (personal or collective) if they would fight alongside them in the wars of independence. Slavery and freedom were thus not separated conceptually in the struggles for independence but in fact were essential to the wars for independence and their outcomes. Nevertheless, instead of ending slavery immediately at independence, most Latin American countries ended slavery gradually through free birth or free womb laws that declared only those born in the new republics “free” regardless of the status of their mothers, thus delaying the full abolition of slavery by thirty to fifty years (Andrews 2004). An additional delay was due to the fact that “free” was a relative term because the moment of emancipation was tied to adulthood (Andrews 2004). During that period, slaves and citizens continued to have clearly different statuses vis-à-vis the state. This made the status of all Afro-Latin Americans as citizens uncertain. During the first half-century of independence in most Latin American nations, the struggle for equality by Afro-Latin Americans centered on the abolition of slavery (Andrews 2004). Sanders (2004) argues that in Colombia this involved continuous negotiations between elites and the popular classes about the formal and substantive aspects of citizenship. Afro-Colombians organized in support of abolition and those groups that could guarantee abolition and fought in the civil wars for the parties that promised abolition, which finally took place in 1851. Sanders (2004) argues that bargaining was an important part of struggles to determine what citizenship would look like until the state grew more powerful and less dependent on popular support and moved away from such negotiations at the end of the nineteenth century.

During the twentieth century, efforts to legitimize rule by restructuring national identity through ideas of *mestizaje* and the development of national races (e.g., the “Colombian” race) meant that claims to difference were seen as anti-national and unpatriotic. Claims to or expressions of a different culture were read as a failure to be properly national. Today in the multicultural environment of current constitutions, new spaces are available that Afro-Latin American populations can use to challenge these older notions of citizenship, and in theory, it should be more difficult for states to tolerate the notion of culturally suspect citizenship. However, as the comment “go back to Africa” indicates, this change is not coming easily.

Because states had already recognized the cultural difference of indigenous groups and the legitimacy of the ties of indigenous groups to land, the new multicultural legal environment of the 1990s and the unstable categorization of Afro-Colombians at times precipitated new types of conflicts between indigenous

and Afro-Colombian communities, as illustrated by the example that opens this chapter. At other times, such as during the negotiations for the new constitution in 1991, the prior recognition of indigenous difference and indigenous rights to land produced new types of solidarity based on shared political struggles and goals (Asher 2009). Because recognition of cultural difference in Colombia is linked to ethnicity and territory, Afro-Colombians remain fragile citizens even as they try to claim equal citizenship because governments are less willing to recognize their cultural difference.

In the comment “go back to Africa” the past and the present are brought together in a de-territorializing move. To tell Afro-Colombians to go back to Africa denies both the reality that they have lived on Colombian soil for multiple generations and the existence of Afro-Colombian culture. The person who says this is locating both the land and culture of the people to whom it is being said somewhere other than Colombia. Yet both land and culture are necessary elements of the new legal basis of demands that challenge unequal citizenship.

## Demanding Citizenship

In the cloud forest of the Western Cordillera of the Andes in the north of Cauca there is a small two-room community school that was built by the community of Alsacia. This school started with one teacher, whom the community paid until the government was willing to support the school. The community wanted to have a school near where they worked so their children could live with them as they got an education. More important, they wanted to build a school that would teach their children things that were culturally and socially relevant to their lives as Afro-Colombian coffee farmers. Thus, the education was to be relevant to the culture and livelihoods of the local community; the community aimed to have an education where their children could remain within the community instead of an education that would mean that most of their educated members would leave. The first teacher of the school remembers working as a youth as an agricultural laborer planting the trees on the plantation where the school was finally built. She saw the creation of the school as bringing the fruit of her labor full circle and as a symbol of self-sufficiency and autonomy to make decisions and to self govern as a community.

The building of the school was an example of a community’s practice of emplacement in a fragile environment in which displacement repeatedly occurred—as the result of a new hydroelectric dam, a coffee blight, and, finally, at the hands of paramilitaries. The community had come to Alsacia after it was displaced by a hydroelectric dam. Community members wanted to rebuild their community in the area they were familiar with instead of dispersing to other

locations in Colombia. This concern for cultural and ecological coherence is reflected in their goals for the school. They wanted to maintain not only their cultural practices, including a life based on agriculture but also their residence in the area. They wanted to prevent the breakup and dispersion of the community to multiple locations.

The community of Alsacia also claimed the land they lived on as a collective territory in order to further secure their emplacement. The experience of the community of Alsacia can be thought of as one of fragility in relation to territory. The group had to take possession of the space of Alsacia as a community, build their school, and organize from this territorial base in order to start a dialogue with the state about autonomy to self-govern, recognition (as a community, as a black community, and as citizens), and citizenship. They built their school before they knew the state would support it. In this manner, the community retained autonomy to decide educational content, but they had to build the school and pay the teachers themselves. Services the government usually provides to citizens such as schools were first provided by the community for itself and only later supported by the state. These practices of emplacement can be thought of as rural insurgent citizenship by which rights, institutions, and the meaning and practices of citizenship are produced and demanded through the practices of citizens. In a sense the state is one step behind the community in providing the substantive aspects of citizenship.

The community of Alsacia was making the most of the new political opening in the 1991 constitution that allowed for the state to recognize new ideas of citizenship and equality. Before and after the 1991 Constitution, the community of Alsacia demanded to be recognized as citizens in numerous ways, some more readily accepted than others. In 1989 they organized against their displacement because of the hydroelectric dam. Once they had been displaced, they organized against their dispersal as a community by making a claim to land “at home” as campesinos in the context of agrarian reform. They took over land in Alsacia within the region where they had previously lived and organized to legalize their possession. They argued for this right as citizens who have a social right to land under the Colombian Constitution prior to 1991. After 1991 they organized to secure their presence on this land by claiming it as a collective territory for black communities. They argued for this right as citizens who have special status and rights under the rubric of the 1991 Constitution and Law 70.

The community of Alsacia mobilized two parts of the new legal provision of the 1991 Constitution to claim the land as a collective territory. First they organized for ethno-education, education that was relevant to their community, culture, and location, in their school. And second, they claimed the land on which they lived as a collective territory for black communities, asking for recognition

as a black community in Colombia and for the distribution of the rights that accrue with recognition of this new form of citizenship. Through these two activities the community of Alsacia argued for autonomy and territory as a way of obtaining equal citizenship (Ng'weno 2007b). They saw the new Constitution and Law 70 as creating steps they could take toward this equality. However, the new equality was tied to their success in obtaining legal title to collective territories that indicated the recognition of the communities as Afro-Colombian, as autonomous entities, and as citizens.

Recognition as an ethnic group with special rights—and thus equal citizenship as well—is legally tied to a rural land base. This has meant that rural concerns (for instance, territory) have come to dominate the process of recognition and the legal space available for claims to equality as Afro-Colombian ethnic groups. The possession of the territory is thus an important part of demands for equal citizenship. Although they do so in different circumstances than residents of cities, rural Afro-Colombians have engaged in practices that have demanded that their presence as citizens be noticed, as have urban subaltern populations in Brazil (Holston 2008).

## Two Forms of Equality

Today in Colombia the legal space available to claim equality enables two separate notions of equality: equal treatment under the same law and equality obtained through separate laws. Together these two approaches to equality include provisions for education, political representation, and collective territories. From the point of view of law, these are citizenship rights that enable Afro-Colombians to equally enjoy citizenship and participate equally as Colombian citizens. In the first idea of equality, the same law applies to all individuals equally. A new space for this form of equality was opened with the 1991 Constitution's stipulation that all Colombians are guaranteed equality of rights without discrimination (Article 13). This space has been used to fight discrimination, including racial discrimination. For Afro-Colombians, this space was expanded by Constitutional Court Ruling T-422 in 1996, whose idea of affirmative action has been incorporated into some national and city development plans (Mosquera Rosero-Labbé and León Díaz 2009). Once it is completed, the Anti-Discrimination Statute will also complement these rulings and the constitution (Mosquera Rosero-Labbé and León Díaz 2009).

Constitutional Court Ruling T-422, "Positive Differentiation for Black Communities," concerns the rights of urban Afro-Colombian inhabitants of the town of Santa Marta on the Atlantic coast of Colombia to representation on district education boards. The case was brought to the Constitutional Court to decide

the constitutional rights of Afro-Colombians in relation to education. The court ruled that Afro-Colombians had the right to such representation, basing its ruling on Article 13 of the 1991 Constitution, which guarantees equality of rights, liberties, and opportunities for all Colombians without discrimination, instead of basing the ruling on Law 70, which guarantees the rights of ethnic groups. Importantly and significantly, T-422 stressed that because of segregation and marginalization, Afro-Colombians were not in fact equal and that affirmative action measures were needed to make equality real and effective. T-422 in effect recognized that Colombian citizenship is not equal and argued that this inequality is not in step with the new Constitution. In this regard the position of the Colombian Constitutional Court was not very different from that of regional courts of the State of Rio de Janeiro, Brazil, which have instituted affirmative action measures in the form of quotas at institutions of higher education (Htun 2004).

Ruling T-422 is thus based on the ideal of one law that applies equally to all people. It acknowledges that the law has not been equally applied in the past and that this has created marginalization that must be addressed through affirmative action measures. In the case of T-422, the affirmative action was to allow Afro-Colombian representatives on the district education boards. Although this court case was originally brought to the lower courts under the rubric of Law 70, the Constitutional Court decided that as an urban case brought by displaced Afro-Colombians, ethnicity did not apply and that this case did not fall under Law 70. That is to say, the Afro-Colombians who brought the lawsuit were not members of an ethnic group but were instead raced citizens. In addition, the court decided that race could not be the basis for separate legal status, although ethnicity can. Therefore, the Afro-Colombians who brought the case to court had to do so as ordinary citizens under ordinary laws. However, the court also decided that discrimination based on race could necessitate temporary compensation measures to make citizenship equal. The court decided that Afro-Colombian representation on district education boards was a means to ensure that education in the future would not be a site of discrimination.

Ruling T-422 opens a space for demands based on racial marginalization and allows for claims against discrimination. It also illustrates the difficulty of making claims in urban spaces under the rubric of ethnicity. Nevertheless, comments such as “go back to Africa” remind us that mobilizing the space of ethnicity in rural areas is not always simple. For example, in Alsacia, the displacement of Afro-Colombians by the hydroelectric dam and the fact they were located in the Andes proved obstacles to claiming ethnic status. The Bernard and Audre Rapoport Center for Human Rights and Justice (2007) argues that the government’s practice of keeping applications to collective territories in perpetual

pending status, legal restrictions against creating bi-ethnic territories, and the government's refusal to recognize urban communities are additional means of denying Afro-Colombians their rights to collective land. While some Alsacian community members argued that they had been marginalized as Afro-Colombians on the basis of their race, and as rural campesinos, they would not be able to claim the territory they occupied or autonomy over governance of that territory through arguments of marginality because marginality because of race is not tied to a rural land base the way cultural distinction is.

The second notion of equality is one that is guaranteed through separate laws. The 1991 Constitution opened this new space in the Colombian legal system for ethnic groups, including Afro-Colombians. Various groups have used this space to fight for territory and autonomy as ethnic groups. This space was expanded for Afro-Colombians in 1993 by Law 70, which acknowledges the separate status of ethnic groups based on cultural distinction that provides for their autonomy over governance within a territory. The law acknowledges if equal citizenship is to be created, different citizens will require different laws based on their cultural distinctiveness.

Colombia is often held up as a model of land distribution to communities of African descent in the Americas. However, under the 1991 Constitution not all Afro-Colombian communities are automatically recognized as ethnic groups. The provision applies mainly to those living in the rural riparian zones of the Pacific Basin. Consequently, none of the land that has been titled to black communities has been located outside that region. Alsacia is a case in point. That community found that its location in the Andes proved an obstacle to getting the state to recognize their claim. Colombia has restricted the process of titling land to black communities to an area where only 20 percent of Afro-Colombians live.

While the success of titling in the Pacific Basin has influenced the process and possibility of titling outside that region, legal and financial constraints have greatly limited the success of groups claiming collective lands in these areas. This difficulty is compounded by the displacement of Afro-Colombian groups from their traditional lands and by the fragile state of Afro-Colombian citizenship. As an African doing fieldwork in Cauca, I posed a particular kind of threat to those who were struggling to claim territory and autonomy. I reminded them of something better forgotten or hidden (Africa), for I made visible the latent contradiction (what Povinelli [2002] would call the "cunning of recognition") of the new laws that recognized black communities as ethnic groups yet made no clear statements about the substantive aspects of citizenship for such communities, leaving them in a fragile and unstable condition as citizens.

To complicate matters further, in 2000 the small school in Alsacia had to

be abandoned when a large part of the Alsatian community was displaced by paramilitaries who demanded that all people vacate the area within a day under threat of violence. Like so many of the black communities recognized in the Pacific Basin, the community became separated from its territory because of violence. The efforts, practices, dreams, and goals of insurgent citizens were cut short by the violent activities of extralegal armed groups. Many of those who are displaced relocate in cities, where they continue to organize around issues of ethnicity, race, territory, autonomy, and return. Thus, members of populations that have been displaced by violence join those who have been displaced by economics, natural disasters, and poor living conditions and mobile individuals and groups who move back and forth between urban and rural spaces. These populations complicate the easy divide between urban and rural spaces.

### Conclusion: Transforming Citizenship

In the context of the new multicultural, pluri-ethnic, and intercultural structures of Latin American states, recognition of Afro-Latin Americans as citizens has come in many forms that reflect the differences in thinking about equality. Some states have attempted to redress inequality with one law for all citizens, while others have instituted separate laws for groups based on their difference. In the countries that have formulated new constitutions since the 1990s, Afro-Latin American communities have been recognized and in some cases their demands have been met in constitutional and legal forms (e.g., Colombia, Ecuador, Brazil, Nicaragua, Guatemala, Honduras, and Mexico [Oaxaca]) under rubrics influenced by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, in 2001 (e.g., Brazil) and by the ratification of the ILO's Convention 169 (e.g., Colombia, Nicaragua). For instance, in Brazil some states have legislated against discrimination in public spaces, in employment, and in education (Htun 2004). In Nicaragua, Honduras, and Guatemala, Afro-Latin Americans have the same rights to territory and autonomy as indigenous groups (Hooker 2005).

Laws that have attempted to redress inequality in Colombia have approached the issue from two different legal perspectives. They have focused on either race or ethnicity, on civil rights or autonomy, on discrimination or collective territories, and on urban or rural spaces. The two perspectives—focused on race, civil rights, discrimination, and urban space, on the one hand, and on ethnicity, autonomy, collective territories, and rural space on the other—correspond to conceptualizations of the solution to the problem of inequality and difference as a single law or as separate laws. The legal divide between these two perspectives depends on demonstrating cultural distinction that is territorially based.

Ironically, within its legal statutes Colombia has legalized both perspectives, opening diverse spaces for transforming citizenship. However, this two-pronged legal approach has conceptually divided black communities that are recognized as ethnic groups from black communities that are not.

The people in the municipality where I did my research emphasized that they were claiming both autonomy and territory. They also emphasized that the realization of their claims would make them equal citizens as opposed to a nation within a nation. These claims to autonomy were not claims to take over the state or to secede from it, but rather claims to autonomy were framed within the idea of equal citizenship.

The form of claims to autonomy Afro-Colombians have made creates new ideas of citizenship because it transforms older ideas of who could be autonomous (indigenous Colombians and Palenqueros) and how people can be autonomous. In fact these ideas of citizenship are not just new but are rather unique to Latin America because they are made by a rural diasporic population. That is to say, around the world such claims to autonomy and territory are usually made by communities indigenous to the region rather than by populations who arrived from somewhere else, even if in the distant past. Afro-Latin American claims to autonomy are not the same as indigenous claims (that is, they are not based on primordial rights, or the association of people with land) or regional claims to autonomy (because they are based on culture rather than on territorial jurisdiction) or maroon communities (because such claims appeal to the state for autonomous status instead of gaining their status outside state authority). These claims to autonomy force a new understanding of citizenship in the way they challenge and rearrange the categories of belonging and rule.

Colombia is also interesting because it has promoted two different ideas of equality, both of which have been mobilized by Afro-Colombians in efforts to gain a more equal citizenship. Constitutional Court Ruling T-422 and Law 70 operate from different understandings of how to address the problem of unequal citizenship. One deals with equality obtained through one law for all citizens, the other with separate laws for groups of citizens. One deals with race as a legal concept, the other with ethnicity. One deals with an urban population, the other with a rural one.

The engagement of Afro-Colombians with both ways of thinking about equality has the potential to transform citizenship in a far-ranging way. This challenges us to think not just of race or of ethnicity but of both simultaneously. It challenges us to think of both rural and urban at the same time and to think of equality in two ways—obtained by one law for all and obtained through separate laws. This engagement with two different ways of thinking

about equality demands that we both build bridges across different worldviews (through the recognition of ethnic difference) and break down structural hierarchies (through fights against racial discrimination).

Afro-Colombians are uniquely placed to realize the potential inherent in these two ideas of equality through insurgent acts of citizenship because of their historical categorization vis-à-vis land and culture and because of their place in the hierarchical structure of Colombian society. In fact, their positioning demands such creative acts, as they do not fit totally within any one legal concept of equality. Communities like Alsacia push what it means to be a citizen and what it means to be equal by insisting—in spite of the many obstacles—that they *are* equal citizens. They are slowly opening up spaces that could eventually lead to claims for territory and autonomy in urban spaces or in the Andes or fights against discrimination in rural areas or demands for basic services that could qualitatively improve life. The insurgent acts of citizenship being waged by Afro-Colombians could lead to all Afro-Colombians being recognized as citizens regardless of where they live.

## Notes

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1. The ILO's Convention 169 concerns indigenous and tribal peoples in independent countries. The convention defines these as peoples who are distinct from the rest of the nation by virtue of their culture, history, institutions, and social conditions. It makes specific stipulations concerning these people's rights of ownership and possession of land they traditionally occupy. In addition, the convention emphasizes the collective aspects of how such peoples relate to land.

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