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This Land Is Our Land: The Ngöbe Stuggle for Land

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This Land is Our Land

The Ngöbe Stuggle for Land

Fran del Rosario
SIT- Panamá

Fall 2011

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EXECUTIVE SUMMARY

Los Ngobes han estado luchando por su tierra por muchos años. En los 1500s, debido a la conquista española, Los Ngobes fueron forzados a huir a otras aéreas. Hoy, ellos están luchando por su tierra contra inversión y comercialización. Su tierra es muy importante para ellos porque su manera de vivir viene directamente de su tierra. La construcción de calles adentro y alrededor de su tierra se ha afectado mucho. Entre mas abierta su tierra, mas vulnerable son ellos a contacto con el exterior. Es más difícil preservar su cultura y tradición con proyectos de desarrollo amenazando su manera de vivir y desplazando la gente.

Por la ley 10 los Ngobes obtuvieron una comarca y 15 áreas anexas, áreas que tienen los mismos derechos y la misma protección como una comarca. No obstante, la protección que esta ley ofrece es muy débil. También, aunque las fronteras de las áreas anexas debían ser definidas en 1999, hasta hoy, las áreas anexas no han sido definidas. En vez de crear leyes que protegen al indígena, el gobierno ha pasado una serie de leyes que promueven inversión. Junto al aumento de turismo y comercialización, la especulación ha ocurrido en sus tierras.

Este ensayo trata de dar luces a la importancia de preservar la tierra del Ngobe y muestra la conexión de la tierra con su cultura. También, analiza los incentivos que el gobierno crea para traer la inversión. Finalmente, en los resultados, este ensayo trata de analizar los orígenes de los

conflictos de la tierra y evalúa los progresos y opciones que el Ngobe tiene para luchar por su tierra

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INTRODUCTION

With a population of approximately 150,000 the Ngöbe are the largest indigenous group in Panama (Mooji and Simms 9). However, although mighty in number, the Ngöbe have little power over their own lands. Their struggles for land begin as early as the Spanish conquest and still exist today. Through the passage of Law 10, the Ngöbe obtained their own comarca and 15 annex areas, areas not contiguous to the comarca but have the same rights and protection. But to this day, the boundaries of the annex areas have yet to be demarcated and as more time elapses, the more land they lose due to commercialization and speculation.

Land tenure and land rights are especially important to indigenous groups because the fate of indigenous culture and tradition is heavily intertwined with their land. As Panama experiences higher levels of tourism and commercialization it becomes increasingly important to demarcate boundaries and acknowledge the land rights of the indigenous so they are not displaced by development projects. Furthermore, poverty reduction strategies rest on empowering the indigenous to have more control and ownership over their land in the face of growing inequality, vulnerability, and influence.

To date, the Ngöbe wage many battles against those who are eager to exploit their lands via commercialization, development projects, and natural resource exploitation in the forms of hydroelectric dams and mines. This paper is justified by the big role international, specifically American, corporations and expatriates have in investment initiatives in Panama. It is important to see that investments are not only financial in nature but also have a very humanistic component. This paper seeks to address the sources of conflict and difficulties behind land tenure, the importance of legally acknowledging Ngöbe lands, and the progress the Ngöbe have made in this movement.

METHODOLOGY AND JUSTIFICATION

Through the examination of primary documents such as World Bank reports, World Bank petitions, letters to the Inter-American Court of Human Rights, various articles of Panamanian Law, the Ngöbe's Carta Orgánica and various newspaper articles, and interviews with both

Ngöbe individuals and Bocas del Toro natives, the researcher has compiled a list of the sources of conflict behind land tenure and current and past efforts to help the Ngöbe fight for their lands.

As a finance major, the researcher wants to promote ethical business decisions and respect for all people, indigenous tribes included. This report is justified in that many investors come from outside of Panama and are unaware of the impact their investments have on the Ngöbe, or indigenous peoples, in general. This report seeks to shed light on the current struggles of the Ngöbe in the face of growing commercialization. Because of the researcher's desire for *outsiders and potential investors* who are mainly English speaking to understand the Ngöbe perspective, this study has been written in English and most Ngöbe quotes have been translated to English (interviews were conducted in Spanish). The researcher feels that it is important that the Ngöbe voice be heard. All interviews with the Bocas del Toro natives were conducted in English and as such, no translations were necessary. It is the researcher's hope that this study will promote ethical business decisions and perhaps, as a result of this study, the Ngöbe will gain a greater following.

OPERATIONAL DEFINITIONS

- Ngöbe: An individual born of Ngöbe ancestry living anywhere in Panama
- Native: An individual born in the Bocas del Toro area and whose ancestors were born in the region
- Expatriate: An individual who was born outside of Panama but has moved to Panama to live
- Annex areas: Areas physically not contiguous to the comarca that were promised to the Ngöbe with the passage of Law 10 in 1997 whose boundaries have not yet been determined
- Rights of Possession: Known also as "squatter's rights" it grants an occupant the right of occupation and of usufruct, but not necessarily of ownership. It can be formalized with documents. There is no central registry for Rights of Possession property.
- Title: Documented ownership registered with the Panamanian Central Registry. Viewed by many as the safest form of land ownership
- Polygons: Areas demarcated by the World Bank for the annex areas

LITERATURE REVIEW

This section is broken down into three additional sections. The first section, *Background: Land Linked to Culture* aims to demonstrate how the loss of land can contribute to the demise of the Ngöbe culture. The second section, *Law 10: Comarca and Annex Areas* provides background information on the formation of the Ngöbe comarca, annex areas and the shortcomings and weaknesses of Law 10. The third section, *Incentives: Why Panama?* highlights why Panama has attracted so much development and investment and what repercussions this has on indigenous tribes like the Ngöbe.

BACKGROUND: LAND LINKED TO TRADITION

The Ngöbe struggle for land begins as early as the 1500s (Bort and Young, 121). Although little is known about the Ngöbe prior to the arrival of Europeans in the New World, they are said to be the descendants of those who fled the devastating Spanish conquest of the isthmus in 1500s (121). As the Spanish conquered the more accessible and desirable coastal areas of Panama, the Ngöbe took refuge in the rugged mountainous interior of Western Panama (121). Despite Spanish colonization, contact with the outside world was sparse until the 1900s. Because of this isolation and a disinterest in their “mountainous, marginal lands” the Ngöbe were left alone to pursue their traditional ways of life (122). As a result, they have managed to preserve their traditions, language, and distinct cultural identity. However, as the Ngöbe gain more exposure to outsiders and as outside influence penetrates the Ngöbe way of life, the Ngöbe way of life becomes seriously threatened. Many of these threats can be linked to the development and loss of their land. The importance of their land is outlined in the subsequent paragraphs.

The rapidly increasing Ngöbe population has significant implications for the sustainability of their traditional slash and burn agricultural system. Traditionally, the Ngöbe have relied on slash and burn agriculture, hunting, fishing, and the gathering of wild plants (Young 7). However, rapid population growth in the ‘60s and ‘70s has led to a decrease in available land and declining agricultural output making this type of subsistence farming less viable (Moolji and Simms 9). By 1960 the Ngöbe population density was about six people per square kilometer (15 people per square mile) which is believed to be the maximum density sustainable for slash and burn agriculture in tropical areas (Bort and Young 127). By 1990, the

Ngöbe population density reached 17 people per square kilometer, a density considered unsustainable for agriculturalists in the tropics (Wickstrom 50). The spatial problems caused by population growth were exacerbated by the need to feed more and more people. With more people to feed, the Ngöbe shortened the fallow periods, which in turn decreased crop yields (Young 8). By the 1960s only about half of the lands available to the Ngöbe were arable yet, their population still continues to grow (Wickstrom 49).

The rapid population growth of the Ngöbe and the degradation of their land have greatly contributed to the loss of their traditional way of life. One can observe the change from a “nearly self-sufficient economy based on slash and burn agriculture to an increasing involvement in the cash based economy of greater Panama” (Young 7). Many Ngöbe have been forced to work and reside in wage labor economy on banana and coffee plantations in surrounding provinces and in other more distant locations (Bort and Young 127). Others have moved to Costa Rica in search for available land (127). The Ngöbe fight for land is a struggle that goes hand in hand with their fight to preserve their culture. As more move away and assimilate to the culture of the new area, the less remain to pass down traditions.

The development of the Pan American Highway reoriented Ngöbe trade patterns, and more significantly, opened their land to the usurpation of outsiders. In the 1930s the Inter-American Highway, also called the Pan American Highway was completed through the western provinces of Veraguas and Chiriqui (Young 7). Then in the 1970s the Inter American Highway was extended to include Bocas del Toro and for the first time the province of Bocas del Toro was connected to the Chiriquí province and the rest of Panama (Bort and Young 127). Although this road did not go through Ngöbe territory, it allowed the Ngöbe and outsiders a lot of mobility into and out of traditional Ngöbe area thus reorienting trade and travel patterns (128). More importantly, the highway opened western Panama to the market economy of metropolitan Panama, and beyond (Young 7). Here began the usurpation of Ngöbe lands as commercial vegetable and grain farms, cattle ranches, banana plantations and coffee farms expanded and encroached into their territory (7). This also provided more opportunities for temporary wage labor for the Ngöbe causing a shift in their traditional way of life as they became more involved in the wage labor economy (7). Other roads have been extended into the Ngöbe territory as well (Bort and Young 128). Although most are merely dirt tracks, they are significant in that they

allow vehicle access (128). With the construction of each new road, the Ngöbe become more vulnerable to outsider influence.

The commercialization of the traditional Ngöbe territory and the surrounding areas is also breaking down Ngöbe isolation. Because of the increase in residential tourism and resort development in Bocas del Toro, the Ngöbe territory has attracted a lot of attention from developers (Thampy 4). Furthermore, the Ngöbe territory is rich in natural resources attracting attention from both national and international companies and also, the Panamanian government who are eager to explore and possibly exploit these resources in the forms of mines and hydroelectric dams (Young 22). The potential investment that can be extracted from Ngöbe territory via tourism and natural resources has made the Ngöbe territory a highly coveted and a highly contested area. Today, the Ngöbe are at high risk for losing their land and consequentially, their culture. In addition to the internal threats the Ngöbe face in regards to their lands such as rapid population growth, degraded soil quality, decrease in available land, the construction of roads, the external threats of development and commercialization further exacerbate the problem contributing to the demise of their traditional way of life.

LAW 10: NGÖBE COMARCA AND THE ANNEX AREAS

As the Ngöbe lands draw more attention from outsiders, the more important it becomes to demarcate which lands belong to whom. In 1997, after many years of political struggle, the National Assembly of Panama established a Ngöbe comarca with the passage of Law 10 (Moolji and Simms 9). However, the government granted the Ngöbe comarca status for only half of their traditional territory (650,000 hectares) (Wickstrom 50). Furthermore, the law contained a “number of problematic provisions” leaving significant gaps in indigenous rights (Barber). When the comarca was created, the government reserved the right to own and develop the natural resources on these lands. If deemed “in the best economic interest of the country,” the government can legally initiate and control projects in the comarca (Barber). In essence, Law 10 grants the indigenous the right of usufruct, but not of possession (Wickstom 45).

Although protection in the comarca is weak, and has “troubling limitations” it is still an achievement (Young 12) for in recognizing the Ngöbe territory as a comarca, the government officially recognizes the existence of Ngöbe ethnic-cultural institutions and their legal right to the land they occupy (Bort and Young 129). One important aspect of being a comarca is the

recognition that the property is collective and as such, it cannot be titled or sold to any private entity (Carta Orgánica). This stipulation is particularly significant in the 21st century where development and private enterprise is increasing. Law 10 also referred to annexes to this comarca, called annex areas, which included 15 Ngöbe communities not contiguous to the comarca, to be included within the comarca regime (World Bank Report No. 56565-PA xiv). These 15 communities are to have the same legal rights as the comarca. However, the boundaries of the annexed areas have not been demarcated and as such, large concentrations of Ngöbe live in these areas anexas with no legal recognition of what constitutes their lands. The Ngöbe continue to fight for the demarcation of these annex areas. According to the Carta Orgánica, the boundaries of these annexed areas should have been defined two years after the formation of the comarca, in September 1999, but to date, there has not been a resolution (Carta Orgánica, Artículo 3).

In 2001, World Bank approved a \$47.9 million loan to the Panamanian government (Loan No. 7045-PAN) to “promote equitable access to land and improve land tenure security by providing land administration services in the project areas” and to “enhance natural resources conservation through the consolidation of SINAP (National Protected Areas System) and Indigenous Peoples territories” (World Bank IPN Request RQ 09/04). For the Ngöbe, this loan was significant for they would receive assistance in demarcating annexed areas and get legal recognition for their ancestral lands. Although the money was made available in 2001, the Panamanian government did not begin this process until 2008 (World Bank Report No. 56565-PA). Instead they used the intermittent years to grant land concessions to private businesses and big developers (Ngöbe #1). While nonindigenous people enjoy special legal protections of their private property rights and economic development projects, enforcement of policies that protect indigenous societies are “lax or absent” (Wickstrom 45). Protection of indigenous rights are sacrificed, or at best, secondary to the pursuit of socioeconomic prosperity. The government’s primary interest seems to be in protecting investments, not the indigenous people.

INCENTIVES: WHY PANAMA?

Historically, Panama has always experienced a lot of North American and European migration, but with the growth of the tourism industry and the increasing popularity of retirement tourism, the region is experiencing a new influx of American, Canadian, European, and

Australians expatriates looking to find their own piece of paradise (Thampy 4). Over the last couple of years, as conditions in the United States have become more unfavorable to retirees: pension plans are diminishing and housing and general cost of living are on the rise. These unfavorable circumstances have encouraged retirees to go overseas. Many flock to Latin America. But as traditional areas like Mexico and Costa Rica become more expensive, retirees flock to lesser known destinations (Garcia-Navarro) Panama is facing a real estate boom due to American retirees (Garcia-Navarro) and has become “the New Florida” and “increasingly popular among retirement-age types looking to hedge against—or skip out on—the [United States] recession” (Conlin). Americans are not the only ones migrating as one can find a diverse variety of expatriates in Panama, especially in Bocas del Toro.

To further incentivize potential investment, since the 1990s, the Panamanian government has created a series of laws to attract foreign investment in tourism (Thampy 4). According to REMAX’s Central Panama Website, for a minimum investment of \$50,000 (excluding the price of the land), one can benefit from:

- 20-year exemption of any import taxes due on materials, furniture, equipment, and vehicles
- 20-year exemption on real estate taxes for all assets of the enterprise.
- Accelerated depreciation for real estate assets (except the land) of 10% per year.

-Investment Incentive Laws

These benefits, which are a part of Panama’s Law 8, regulates many investments such as “public lodgings, receptive tourism agencies, tourist transport services of passengers, tourist restaurants, discos, nightclubs, specialized tourism centers, recreational parks, theme parks, zoos, convention centers, marine complexes, tourist development zones of national interest, etc” (Investment Incentive Laws). These incentives encourage many big developers to invest in Panama. Since this law was enacted, many big name hotel chains have taken advantage, including the Marriott, the Radisson, Holiday Inn, the Sheraton, and the Intercontinental (Investment Incentive Laws).

With the rise of the tourism industry and its focus on retirement tourism and the numerous incentives Panama offers its investors, Panama is seeing an influx of expatriates eager to invest and retire. This has fueled land speculation as trans-national real estate companies like Remax and Century 21 as well as independent real estate agents scramble to take advantage of this phenomenon eager to make a profit. When comparing the remax property values listed on its

website and values that local residents reported having been offered for their land, Gayatri Thampy, an Ohio State University Undergraduate Student, found that these companies have been “buying or appropriating land from local subsistence farmers and selling them with over 200% markup to incoming expats” (Thampy 4).

In addition, as more development crowds Panama City, investors are exploring other locations into more remote areas of the country. In 2006, construction permits topped \$1 billion thus ushering investors into more remote reaches of the country (Winner). It is no surprise that Bocas del Toro has come gotten much attention for it has so much to offer: beautiful beaches, abundant rainforests, and a laid-back Caribbean island vibe. There are many opportunities to snorkel, surf, sail, hike, explore, and other activities of the like. However, this foreign attention has implications for the native population. Don Winner, an expat from the United States, describes it concisely but perfectly, “For centuries, this Caribbean island has been a beautiful place to be dirt poor. But in recent years, a booming real estate market has brought American entrepreneurs into direct conflict with Afro-Caribbean and indigenous Indians who occupy these once-isolated isles” (Winner). Furthermore, “[i]ndigenous lands and resources represent the ‘final frontier’ available for development, as since other lands have already been exploited, and in most cases, exhausted” (Wickstrom, 46).

RESULTS

The results section is broken down into two sections. The first section, *Sources of Conflict*, highlights why there is so much conflict regarding land tenure. This section explains why, given many shortcomings and corruption inherent in the current land tenure system, it will be difficult for individual members of the Ngöbe tribe to fight for individual lands. It also attempts to explain why individual land ownership is not compatible to the collective tradition of the Ngöbe. Given the difficulties and complexities of individual ownership, the second section, *Efforts in the Movement*, highlights the fight for the annex areas and what has been done and can be done for the Ngöbe in support of their land rights.

SOURCES OF CONFLICT

Land conflicts in Bocas del Toro are party due to the configuration of land tenure laws which are geared more towards the agrarian era rather than the neo-liberal era, which emphasizes

liberalized trade and open markets where land is open to the global market (Thampy 4). In the 1960s, President Omar Torrijos instituted the rights of possession agrarian reform so that farmers could obtain legal rights to the land they farmed (How to Purchase). However, those who obtain rights of possession do not actually have the right to *possess* it and only have the right to *occupy* the land (How to Purchase). However, in the past this was not a problem and individuals had a lackadaisical attitude towards land titles because land was easily available. However, this attitude has completely changed in today's neo-liberal era where private enterprise and open markets dictate the market, rights of possession, usually held by the poor, crumble when a large investor wants an occupant's land. Today, there is less land available, and that land is coveted by many. Legally speaking, since the government owns the land, the government can sell the parcel even if someone is living on it especially and "el dinero tiene tanto poder para desplaza la gente" (Native # 1).

The origins of these land tenure laws are rooted in Spanish colonial rule where subjects could use the land but did not necessarily own it. It is from this concept that the idea of *tierras baldias* or *tierras nacionales* has evolved (Thampy 5). Under the idea of *tierras nacionales*, "all land belongs to the nation of Panama by default unless explicitly bought" (5). However, this idea is highly contested by the Ngöbe who have occupied their lands for decades. Their disbelief at this idea can be seen in the following quote from a land rights activist at a community meeting:

"How can the government own ALL the land. This land was made by God! It was here before the Spanish and before the Government of Panama even existed! And WE were here before any of them arrived!" (5)

The Ngöbe presence has predated both the presence of both the Spanish and the Panamanian Government and to claim that either have rights to the ancestral lands they have long occupied is, to the Ngöbe absurd. Many either do not understand or do not agree with this idea and in a community meeting many individuals cited that over the years they have put so much work into this land. Some would even list all the crops they had planted. From the perspective of a Ngöbe:

"Before, nobody wanted this land. You didn't need documents. This was a garbage disposal area. We are the ones who cut our feet and got dirty working the land." (Winner)

However, although they "cut their feet and got dirty" they still do not have a title and although for the Ngöbe ownership is defined by whose labor is on the land, the government does not legally recognize this form of ownership.

Land conflicts also arise due to the inconsistent laws of the state which have caused multiple owners for the same land. In the early 1900s it was possible to purchase titled land from the state (Thampy 5). Although a subsequent law disallowed the purchase of land title, this subsequent law did not negate or invalidate the previously titled land (5). Thus, a few families in Panama actually still hold old land titles to land in the archipelago (5). Most of these families have abandoned these lands and in the intervening years, other families have settled the land. However, as land in the area has become extremely valuable, descendants of these families have reappeared to reclaim their property. This is a common phenomenon for the Ngöbe. A Ngöbe struggling against Panamanians for his land commented, “Although they have a title, which I would like to add I have never seen, I have lived on this land all my life. They did not care about this land before!” (Land Meeting #1). While the inhabitants have rights of occupation, the descendants have a title.

Land conflicts also arise due to the unstructured land tenure procedure. Multiple claimants for one rights of possession property also arise because there is no central registry for rights of possession property (Summerfield). A central registry only exists for titled property. Furthermore, the application to formalize one’s Rights of Possession is lackadaisical, informal at best. One can formalize his Rights of Possession by applying for a certificate. To apply, one must have three witnesses, preferably neighbors, to sign a document testifying to the applicant’s use and residence of the land, but “[g]iven the rampant illiteracy among older generation of Bocatoreneans, it is not difficult to imagine that at least some of these witnesses had no idea what they were signing” (Thampy 6). Furthermore, the office of the Refoma Agraria does not verify the validity of these testimonies or at the very least, conduct a site visit (6).

Land tenure problems are also a byproduct of a corrupt system. Inhabitants are encouraged to formalize rights of possession properties and get titles for their land. However, this process, “en teoria es muy bueno, pero en actualidad, sería muy peligroso” (Ngöbe #1). In the process of legalizing one’s claim to the land whether it be via rights of possession or a title, it sends off the message that at that moment one does not actually have any legitimate claim:

“I wanted to obtain a title for my land so I went to a lawyer and gave her a copy of my paperwork. However, this lawyer sold my papers to individuals from the United States and using my papers they obtained a title for *my* land. It was upsetting they had so much money. They even hired armed men so that I couldn’t get into my place” (Native #1).

Stories of such unscrupulous dealings are not uncommon in Bocas del Toro. Although formalizing one's paperwork is theoretically a good idea, the process is laden with so many traps wherein the reverse can actually happen and in an effort to claim your land you actually end up losing it.

There is an obvious lack of "administrative organization" (Native #1) when it comes to land tenure. The following anecdote demonstrates the inconsistency of land tenure laws. In an interview, one Ngöbe woman (Ngöbe #3) proudly boasted a piece of paper given to her by the former mayor (who was incarcerated for land fraud) which she had obtained by repeatedly going to the mayor's office four different times. She claimed she was rewarded for her persistence and was given documentation. The document was only a paragraph long and did not actually grant her a right to anything, it merely stated that she lived there. It almost seemed that the ex-mayor just gave her this document to appease her and so that she would stop bothering him. When I asked another person about the futility of this document he replied, "It doesn't prove anything. But if nothing else, at least it proves she has been occupying this land since that document was issued" (Ngöbe #1). However, the document did not even cite an exact location and merely stated it was "by the airport, in the mangroves." The lack of administrative organization is compounded by the lack of education of the Ngöbe people who are easily placated by seemingly formal documents.

Another source of conflict is the different cultural ideas underlying property rights. Although it is often hard for Westerners to understand, the indigenous culture holds collective rights in high esteem—collective rights come before individual rights. For many Westerners a land title is seen a safeguard. However, in the Ngöbe culture, a title is viewed as a threat for many reasons. The following sentiment was expressed by a Ngöbe in an interview,

"A title is not security! It's a threat to our way of living and our culture. In a comarca, one cannot sell land. Ngöbe land is like a house. You cannot just sell your room without consulting your parents. However, a title gives you the right to do just that. With a title, one can sell his land without consulting the community. This brings detriment to our culture. If our land is titled, we will slowly lose it for sure!" (Ngöbe # 1)

It is also for this reason that the Ngöbe ultimately rejected the World Bank loan that enabled *a project called Programa Nacional de Administración de Tierras* (PRONAT) to demarcate the territories of the indigenous peoples living in the province of Bocas del Toro. The Ngöbe felt

PRONAT violated their indigenous land rights because its “*main objective is to title land and not to demarcate territories*” (World Bank Report No. 49004-PA, 5). With a title, each individual will obtain the right to sell his land and piece by piece the Ngöbe land will disappear. Land titling is viewed as a direct threat to the Ngöbe collective identity.

The fear of land titling is exacerbated by the Ngöbe’s lack of education. Because most Ngöbe are not very well educated, other Ngöbe feel as if they are not informed about the value of their lands and the inherent repercussions of selling it. Some people feel as if it “is the only way they know to make money because it’s not as they went to school” (Native #2). In addition, compensation may not be at a fair market value price for it is possible that “they don’t know what they’re doing, they’ve never seen that much money before” (Native #2). Although “that much money” may not be, in fact, much money at all. Many also do not see the long term repercussions of their actions. Some individuals fail to see that “When you sell your land, you sell your future and that of your children” (Native #2).

There is a lot of corruption inherent in the system, serious gaps in structural and administrative organization of the land tenure procedure, a lot of competition for these lands, and these issues are exacerbated the Ngöbe’s lack of education and access to resources (ie. money and technology). Thus it is extremely difficult for the Ngöbe to obtain legal rights to their land. A well educated, English speaking native who has fought for his land commented that in his opinion, it is “completely hopeless” for a Ngöbe to have any chance of success remotely similar to his. However, a Ngöbe commented, “We have numbers. That is our strength.” This strength becomes completely diluted the more isolated Ngöbe are from each other. It is for this reason, they should wage a collective fight for their lands.

EFFORTS IN THE MOVEMENT

The Ngöbe should continue to fight to obtain legal recognition for the annexed areas. A demarcation plan was attempted by the World Bank financed project, PRONAT, but was ultimately rejected by the Ngöbe because they felt that PRONAT had violated their human and land occupation rights. In demarcating the boundaries PRONAT was not very conscientious of the Ngöbe way of life and excluded the “trabajaderos, which are areas that the communities use ‘for materials, medicines, craft items, workshops and other production activities’” (World Bank Report No. 56565-PA, xi). Given the importance of their land, the Ngöbe were unhappy with the

proposed boundaries, called polygons, as it only included their houses not their *trabajaderos*. As one Ngöbe commented, “Nuestro capital es la tierra como la plata en el banco” (Ngöbe #1).

PRONAT began demarcating polygons in 2007 and the loan came to a close in 2010 (World Bank Report No. 56565-PA, xiv). Although PRONAT was not successful in that it did not demarcate the boundaries of these annex areas, it is worth mentioning that not all annex areas rejected the proposed boundaries. This attempt to demarcate polygons was an improvement over past attempts. In 1998-1999, there was an effort undertaken to demarcate boundaries and at that time all 15 communities rejected the offer for the same reason that it excluded their *trabajaderos* (xxii). However, when demarcated by PRONAT, there were 7 communities that were satisfied with the demarcation of the land and wanted to be a part of the *comarca* (xxiii). Although ultimately rejected, the successes that PRONAT has had are often overlooked but are meaningful in that they represent progress. Also, according to the World Bank Inspection Panel, among other shortcomings “[m]anagement also agrees that the Project *“has not fully demonstrated the principle”* of informed participation and consultation with respect to the delimitation of these Annex Areas” (8). Formal recognition of shortcomings and possible improvements of the demarcation gives hope that in the future there will be a more effective demarcation project. At the very least, perhaps the future project can use the polygons already established by PRONAT for the 7 communities that were satisfied with the demarcations. In addition, the Inspection Panel’s report can guide future demarcation efforts.

The urgency of demarcation warrants emphasis. As more time elapses, more land can be lost. The delay in recognizing the annex areas has already had grave consequences for the Ngöbe. According to the World Bank, since the creation of the *comarca* in 1997 the annex areas, “were subjected gradually but steadily to pressures from speculators and investors that, arguably, caused erosion in the perception of the viability of the being annexed to the *comarca* as the appropriate land tenure system as well as actual loss of land through sale, expropriation, or concession.” (World Bank Report No. 56565-PA, 69)

For this reason, demarcating the boundaries of the annex areas is an urgent matter. Ngöbe dissent is also due to Law No. 72, passed on December 3, 2008, which established collective land property in indigenous territories and specifically prohibited the creation of new “*áreas anexas*.” (World Bank Report No. 56565-PA, 4). However, as of today the law still stands. Ngöbe should push for recognition of the original 15 annexed areas before fighting for new ones.

Due to the complexity of land tenure for the Ngöbe, the Ngöbe's land has continued to be exploited. For example, in the case of the hydroelectric dam, Changuinola-75, a petition against the dam was placed with the Inter-American Commission of Human Rights. The petitioners claim that Chan-75 would flood four communities and cause the Ngöbe resettlements. They also claim that the affected areas are annexed areas. Some families have chosen to give up their lands for "inadequate monetary compensation" (Inter-American Commission on Human Rights Report No. 75/09). It is hard enough to fight off government when the Ngöbe have legal recognition of their lands, it is even harder to do so without. Demarcation would give the Ngöbe a stronger case against developers. The longer the Ngöbe wait, the more land is lost.

Everyone has the right to decide what happens on their own lands under the international human rights law to the right of self-determination (Hill, Lillywhite, and Simon). Furthermore, grounded in international policy, the concept of Free, Prior, and Informed Consent (FPIC) is a specific right of indigenous people recognized by the United Nations Declaration on the Rights of Indigenous People (UNDRIP) which "recognizes indigenous peoples' inherent and prior rights to their lands and resources and respects their legitimate authority to require that third parties enter into an equal and respectful relationship with them, based on the principle of informed consent" (United Nations Department of Economic and Social Affairs). As it pertains to the Ngöbe, FCIP is usually referenced regarding the construction of hydroelectric dams and the construction of mines in Cerro Colorado; both of which affect Ngöbe within the comarca. However, FCIP can also be applied to indigenous land outside the comarca. Although the contested annexed areas have no legal recognition, they are still protected under FCIP. Furthermore, "In theory, Panama committed to recognizing FPIC by becoming a signatory to the 2007 United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP)" (5). FCIP has been referenced in regards to the Ngöbe in the past when The Inter-American Commission on Human Rights (IACHR) when it called for the suspension of all activities connected to the Chan-75 Dam claiming that "the government ignored its obligation under international law to consult with the communities and seek their free, prior, and informed consent before moving ahead with the construction project" (Ahni). Unfortunately, UNDRIP is a non-binding agreement and as such carries no legal weight and as such, construction on the dam still continues. However, at the very least, FCIP is grounded in international rhetoric, when violated, the

perpetrators and the victims often get publicity and the latter usually garner international support for their cause.

The options available to the Ngöbe at this time look dismal. However, Although globalization has opened Ngöbe territory to outsiders and speculation, it has also fostered the increased inter-connectedness of our world. Because of technology, the Ngöbe can make their plight known to others around the world. Although the Ngöbe plight may seem isolated and alone, it is not. Initiatives to help the Ngöbe have been well underway. For example, ASHOKA, an organization which funds social entrepreneurs to address societal needs launched a competition where it would award money to a social entrepreneur that aimed to increase access to property rights. An entry was placed in which a non-profit, Cultural Survival “will provide requested trainings for the Ngöbe to develop their own land rights advocacy and learn about titling land” (Laurelchild-Hertig). Although this entry ultimately did not win and did not receive funding, it is significant in that it means that people are fighting for the Ngöbe. Furthermore, the Ngöbe struggle is publicized using various media outlets. A documentary called *Paraiso For Sale*, which debuted this year, “explores issues of modern day colonialism, residential tourism, global gentrification and reverse migration” (Prado). It highlights the land conflicts in Bocas del Toro and among others, highlights a Ngöbe leader fighting for his land. Its trailer opens with the question, “What price would you pay for paradise? And who would you be willing to take it from?” (Prado). Various non-profits and individuals have highlighted and fought in support of the plight of the Ngöbe, and with the technology available today it is easier to broadcast issues and win allies.

As a last resort, the Ngöbe can resort to more aggressive measures. In the land meeting, some Ngöbe have alluded to the use of force in subtle statements such as, “I am not saying we will resort to violence but we are becoming frustrated.” However, in my experience, not all Ngöbe are ready for such drastic measures. Although frustrated, many Ngöbe seem to give deference to the law or feel helplessness when confronted by it. During my interviews, many Ngöbe seemed discouraged, not impassioned, saying things such as “No puede pelear con la autoridad. Estoy esperando, nada mas” (Ngöbe #5). Many were waiting for a government official to act saying that until now, they had not received a response (Ngöbe # 4). However, this defeated attitude could be in part because although the Ngöbe were having similar struggles, they were fighting alone, for their individual, not collective, land rights. Each waged his own

individual battle with authorities. The Ngöbe's power lies in their numbers which they showcased many times throughout history. One of the most astonishing displays of Ngöbe mobilization and power was when "several hundred Ngöbe marched from western Panama to Panama City to present their demand for a comarca" (Young11). The comarca was granted a year later. This year alone, on February 2011, about 5,000 Ngöbe-Bugle held a day of National Protest against changes to the Mining Resources Code thus interrupting traffic leading to Costa Rica. In an interview with a Ngöbe leader, he mentioned the possibility of blocking the The Inter-American Highway, a main transit highway that runs through three provinces with high Ngöbe concentrations (Veraguas, Chiriqui, Bocas del Toro). A blockade will have dire consequences on the country, specifically the mobility of economic goods. Ngöbe leaders are well aware of the effect blocking this highway could have and seem unafraid to organize a blockade.

DISCUSSION

One shortcoming is the constant reference to the Ngöbe as a collective. Not all Ngöbe live within the boundaries of the comarca and within the annex areas. Even if the annex areas are demarcated satisfactorily, there will still be Ngöbe who fall on the outside. Although certain findings such as FCIP can be applied to all Ngöbe, this study is mostly geared towards Ngöbe who live in concentrated areas who can collectively fight for their rights. Not all Ngöbe are against land titles. In one of my interviews, a native commented that some Ngöbe are moving out of the comarca in search of wage labor because there is little development inside of the comarca (Native #2). Several of the Ngöbe interviewed claimed that they moved to the area they now reside because the schools were better (Ngöbe # 5, Ngöbe #6). In order to preserve Ngöbe culture and tradition, it is not enough merely to demarcate territories, it is also necessary to find incentives for the people to live within these demarcations and continue to practice their traditions. How to improve living conditions within the comarca and annex area is a topic that warrants further study.

Although some think that granting Ngöbe land will impede development projects, and in some cases it will, as mentioned in the previous paragraph, not all Ngöbe are against all development projects. A Ngöbe from Bahia Honda, where the a big development, the Red Frog Beach Resort was built in the middle of their community, claims that they were initially excited

about the prospect of working for Red Frog but after hiring Ngöbe for the first few months, they began looking for outside labor. He attributed this to the lack of skilled labor amongst the Ngöbe (Ngöbe # 2). Granting Ngöbe the rights to their land is not necessarily about stopping development, but granting them the right to self-determination and allowing them FPIC making them active participants in their own future.

CONCLUSION

There are many difficulties involved in claiming land ownership and for the Ngöbe, these difficulties are exacerbated by many other factors: their lack of education and resources, the richness of the natural resources in their land, and their prime coastal locations. These factors make it difficult for Ngöbe individuals to fight for ownership. If measured by goal attainment, one could say the Ngöbe have failed to fight for their lands. The annex areas that were assured to them by Law 10 have still not been demarcated over 10 years later. However, when measured by improvements, many improvements in the movement to get legal recognition for their lands have been made. Although PRONAT ultimately failed, there were little successes that were overlooked and at the very least, the World Bank Inspection Panel's report can be used as a reference in the demarcation of the annex areas in the future. Also, the Ngöbe have successfully mobilized marches and are garnering more support for their cause through increased visibility via internet and other means. Furthermore, international organizations and international law are beginning to recognize the indigenous struggle and are incorporating them into their laws.

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