

# 主論文の要約

(Abstract of Dissertation)

論文題目 : The Territorial Dispute in Colombia and the Different Perspectives over *Resguardos*

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論文内容の要約 :

The land is considered as a potential source of conflicts between groups. Mainly this is because the parties that struggle over it for two main reasons, the physical control and legitimacy of its possession. The physical control refers to the property rights held over a certain area by an individual or group of people, and the legitimacy of possession means that those property rights are officially recognized and protected by the government under the enacted laws. The prevention of conflicts in the nations depends on the effectiveness of a territorial order and how well the physical control and the legitimacy over lands are determined and accomplished.

In Colombia, conflicts over lands have been present for about 400 years still to this date. One of the most relevance is ongoing between indigenous people and the Colombian governments over the so-called *resguardos*, indigenous reservation areas in English. A reason for the generation of conflicts over those lands is because the legitimate possession of *resguardos* always depended those who were in the governments, and because of this the legitimacy of land possession by indigenous people remained only on paper.

In chapter I, the dissertation presents the background of the study, the literature review, the research questions and the main argument, the methodology and the importance of the study. In this chapter it is explained that this research will examine the way how governments have comprehended the possession of *resguardos* in history and how much the legitimacy of land possession by indigenous people has been maintained. It is also emphasized in this sections that the study will also analyze whether the laws designed for *resguardos* work effectively and whether conflicts over the areas are indeed solved through the examination of the levels of violence and of Forced Internal Displacement (FID).

In chapter II, the thesis examined the concept of legitimacy, which is seen from two perspectives by the scholars. For some academics, legitimacy is understood as either the recognition of a government by the society and on the contrary for others is conceived as the responsibility governments must have protecting the citizens of a determined country. In this chapter it is examined how the legitimate possession of lands in countries like Guatemala, the United States (US), Indonesia, the Philippines, and the Central African Republic (CAR) is fragile and not accomplished even though laws have granted the physical control. In these five cases, as well as in Colombia, conflicts over lands between indigenous people and governments tend to occur because the legitimacy of possession of lands is powerless and has depended always in those who were at the head of the state. This means that governments acknowledge the existence of laws, but in the end, laws are not respected by them. In a parallel way, indigenous people of those five countries

have been involved in conflicts over lands and even though they are protected by laws, governments conceive the lands as an instrument for boosting the economic growth of the country.

Chapter III examines the different discourses previously elaborated by academics regarding the conflicts over lands in Colombia between indigenous people and governments; at the same time, it analyzes how these authors have approximated in their studies to the concept of *resguardos* depending on their supporting positions. They have varied opinions not only because of their attitudes whether to support governments or indigenous people but also because of the periods of their focus. The chapter checks two major contradictory positions among authors. The first indicates that governments through history have neither protected the fundamental rights over *resguardos* despite the existence of laws; and, the second says that the rights of indigenous people as well as their *resguardos* are protected under laws. This chapter also checks the different conclusions of the scholars, which have not been consensual over this topic.

Chapter IV presents the historical background of the territorial dispute over lands in Colombia starting from the colonial period up to now, putting emphasis on the creation of *resguardos* and the process in which indigenous peoples and governments entered in conflict. This chapter analyzes the position of indigenous peoples and governments towards *resguardos* through history and in that course, it also examines the laws and regulations created for those lands. This section goes back in time to find the definition of the concept of *resguardos* according to the enacted laws, which apparently have fluctuated frequently through history between the interests of indigenous peoples and governments. Consecutively this chapter says that the conflicts have been generated due to 1) the presence of divergences in the perspectives of indigenous peoples and governments over the land, 2) the constant cycle of mutual accusations through history that these two parties have had over who does the lands belong to, and 3) the lack of clarity regarding how many of these lands exist in total.

Chapter V examines *resguardos*' efficacy in the protection of indigenous communities against external threats by analyzing the facts, specifically the existing relation between *resguardos*' official registries and the levels of FID in Colombia. In this same line, the chapter studies the reason why despite the existence of laws the legitimacy of *resguardos* is not respected and why there are contradictions in the same ratified laws that go against mutually as for the main purposes of those lands. Finally, this section observes whether *resguardos* have served to protect indigenous communities by considering two municipality cases for this analysis. The chapter also points out that governments have ratified laws to make valid their actions in *resguardos* ignoring not only the indigenous people's rights (of prior consultation), their physical control, but also their legitimate possession over these areas.

Chapter VI presents the second part of the empirical analysis and checks how the presence of other external factors like armed combats, *coca* leaf production, and mining activities have not only worsened the conflict between indigenous people and governments over *resguardos* but also threatened the internal order of the state. Compiling data, interviews, and testimonies, this section studies why despite the existence of laws and regulations FID continues to exist and is so far considered as the main evidence of ongoing territorial disputes in Colombia. Therefore, the chapter demonstrates that the combination of several interrelated factors regarding the disputes over lands and *resguardos* creates not only disorder but above all a boundless vicious circle in Colombia in which the IDPs are the most significant evidence.

Chapter VII presents the conclusions of the study. In a brief way, it is concluded that in the countries mentioned in chapter II, as same as in Colombia, despite the physical control is granted by laws, the legitimate possession of lands stays only on paper because governments, at the moment, do not consider the indigenous people's affair as a priority in their agendas. This became possible because governments tend to privilege economic growth more than the protection of indigenous people. Governments' actions, evident in the exploitation of natural resources and the construction of mega infrastructure projects in the land, enter in conflict not only with indigenous beliefs' but also with the rights over their living areas. The point of this problem is then evident in the unwillingness of governments in responding to indigenous people with effective result abiding the laws.

It was empirically examined that in terms of resguardos laws have been enacted but never accomplished and the legitimacy held by indigenous people over these areas has not been considered. There are economic -and material- interests of governments and other third parties like guerrillas and paramilitary groups that go beyond a normative discussion which surpasses the accomplishment of laws in terms of resguardos and of the protection to indigenous people. The presence of natural resources with high value in the markets like gold, emeralds, copper, among others and the usage of lands as geographical zones of influence incentivizes the manifestation of conflicts between indigenous, governments, and third parties whose conceptions over the territory do not coincide.

Also, in the countries in where there are lands destined for the use of ethnic minorities there is an existent tendency from governments in privileging economic growth more than the protection of its indigenous people and citizens.