

ENVIRONMENTAL SECURITY FOR WOMEN IN THE CONTEXT OF EXTRACTIVE INDUSTRIES

Political violence and economic violence against women are two environmental risks associated with the implementation of extractive projects, and two threats against environmental security for women.

ENVIRONMENTAL SECURITY FOR WOMEN IN THE CONTEXT OF EXTRACTIVE INDUSTRIES

Political and Economic violence are two social threats to the environmental security of women and are related to the implementation of extractive projects

Research was carried out by National Network of Women within the project
“Democratic Dialog for Environmental Security (PDDSA)”

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Contents

Introduction - Page 4 -

1. Conceptual framework - Page 6 -

Environmental Security, Economic Violence, Political Violence, Environmental Governance, Extractive Industries

2. Economic violence against women as a socio-environmental risk associated to extractive industries - Page 10 -

2.1. The difficulty of ensuring access to land for women

2.2. Women and the definition and decision processes about the use of land or soil

2.3. Women and the decision-making processes over natural resources different from the land
Specific Analysis regarding access to water

3. Political violence against women as a socio-environmental risk associated to the extractive industry - Page 23 -

Specific situation of the decision-making processes in Colombia around a mining project

Reflections - Page 26 -

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Introduction

Citizens in Colombia perceive environmental degradation from the implementation of extractive industries as one of the main threats to human security² as a consequence, there is environmental insecurity. Therefore, the socio-environmental risks posed by the implementation of extractive industries put forward a still little-known face of human security, such as the environmental security.³

In this context, much attention is paid not only to socio-environmental risks and to impacts on the projects and livelihoods of local populations where these industries are being developed, which are mainly in rural areas, but also to the connections that these industries have with armed conflict dynamics and other social conflicts.

Nevertheless, although much has been developed on the impacts that extractive industries generate on local communities, little has been said about the impacts specifically generated for women, and thus the dimensions of environmental security for women is an aspect that is not well known. This is partly because the connections between a) gender, conflict and peace, and the connections between b) armed conflict and natural resources, have been widely investigated and documented, but also because the fact that what has been investigated about the relationships between these two approaches is incipient. Therefore, it is still difficult to understand in which way the socio-environmental risks of extractive industries are not gender-neutral and what is the relationship between gender, security and the environment.

This document focuses on the impacts of extractive industries on women and identifies political violence and economic violence against women as two socio-environmental risks linked to the way extractive industries are currently implemented. For that reason, they are two essential components to take into account regarding environmental security for women.

This document is the result of research whose purposes are to: 1) offer elements of analysis about the socio-environmental risks for women associated with the implementation of extractive industries; and 2) estimate the existing connections between gender, security, the environment and peace, and establish possibilities for action under the extractive projects implementation framework in Colombia. This document has been prepared within the framework of the strategy of the National Network of Women to strengthen the gender approach of the Democratic Dialogues Project for Environmental Security (PDDSA for its acronym in Spanish).

The PDDSA's purpose is to contribute to the improvement of human security levels of the populations of Guatemala, Colombia and El Salvador by strengthening the relationships between political society (mainly political parties) and civil society, including the private sector, in the design process and implementation of public policies at local, regional and national levels to enhance their capacities and legitimacy in the management and prevention of socio-environmental conflicts.

² UN has defined human security as the right of people to live in freedom and with dignity, free from poverty and despair ...to have equal opportunities to enjoy all their rights and fully develop their human potential. Human security addresses the wide range of conditions where survival, livelihood and dignity of people, particularly the most vulnerable are seriously threatened. An indispensable factor for human security is the promotion of political, social, economic, environmental military and cultural systems that together will provide the basic elements to reach peace, development and human progress to people. (Human Security in the United Nations. 2012).

³ Since the 90's the UN has identified a list of threats for human security, amongst which are economic security, food security, health security, environmental security, personal security, community security and political security. (UN Human Development Report 1994).

In alignment with the provisions of Resolution 1325 of the United Nations on security and peace, the program is focused on strengthening women's participation as political leaders and decision makers with regards to environmental threats through different activities that will strengthen women. It also seeks the construction of individual and collective leaderships of women, which are currently affiliated to organizations of political parties and civil society organizations, and proposes the implementation of mechanisms to ensure the inclusive membership and increased participation of women in these organizations, which objective is the political incidence.

In the framework of this program, the National Women's Network organized an event called "Women, Political Participation and Peace Processes. Experiences of Colombia, El Salvador and Guatemala", which took place in the city of Bogotá in September of 2014.⁴ There were two particular conclusions of the event: 1) the recognition that the knowledge of socio-environmental risks for women is still incipient; and 2) that it is necessary to deepen the analysis of the role of women in the context of socio-environmental conflicts and their particularities.

For this research, unstructured interviews were conducted with nine persons of diverse perspectives related to the subjects of this research, among which were state officers, members of environmental organizations, women of social organizations and researchers. Another eight persons were contacted and related literature reviewed. The result of this research is summarized in the four sections of this document.

The first section presents, in a general way, the conceptual framework on which the research was structured. The second section develops aspects of economic violence against women by highlighting how the difficulties of access, use and control over natural resources, including land, constitute this type of violence. The third section develops an analysis of political violence against women, and outlines how the development of extractive industries exacerbates this kind of violence. Finally, section four includes key reflections about the aspects contained in the previous sections.

⁴ The conference proceedings of the women, Political Participation and Peace Processes Event. Experiences of Colombia, El Salvador and Guatemala are available at: <http://www.rednacionaldemujeres.org/index.php/publicaciones/dialogo-democratico-para-la-seguridad-ambiental>.

1. Conceptual Framework

Environmental Security

Environmental security is the concept that integrates security and peace aspects with environmental dynamics.

The United Nations has recognized that in regard to matters of environmental stresses, although they are rarely the only cause of armed conflict, they can be the spark that triggers violence if not handled properly. It also notes that in the last 60 years at least 40 percent of internal conflicts have had some relation with the exploitation of natural resources and that when it comes to disputes related to natural resources, the risk of relapse into conflict doubles. This could be because the natural resources are considered “high value” as timber, diamonds, gold, minerals or oil, for being scarce such as fertile land and water. For that reason, since 2002 it has declared November 6 as the international day for Preventing the Exploitation of the Environment in War and Armed Conflict.

In 2013 as part of the celebration of this day, the critical importance of the roles that natural resources play in the support of livelihoods and in the resilience of all members of society, especially women, as well as the implications of environmental management for conflict prevention and peace, was recognized.

Various analysis on the subject allow the identification of several dimensions in which the environment is connected to conflict and security⁵:

1. Conflicts can emerge from situations of scarcity of resources and sometimes can be exacerbated due to the social and economic repercussions generated by environmental degradation.
2. Tensions and violence can also occur in a context of abundant resources. Conflicts in these scenarios refer to the disputes for access to and control over lucrative resources. This is the perspective that will be taken into account in this research.
3. When the benefits of extractive projects are distributed unequally, the result is conflict.
4. Within the framework of military missions, there is an environmental impact generated by armed conflicts for activities such as the production of weapons, the maintenance of military forces and for the war itself. Environmental security in this scenario is weakened by military action itself and therefore, the environment is a victim of military actions. This is perhaps the reference that is commonly made to the environmental security concept.⁶ In fact, on May 30, 2014 the General Assembly of the United Nations prepared the first preliminary report about environmental protection related to armed conflicts, which was prepared based on this specific perspective of environment and security⁷.

⁵ Institute for Environmental Security. The Hague. <http://www.envirosecurity.org/>

⁶ The messages of the Secretary of the UN in the international day for preventing the exploitation of the environment in war and armed conflicts of 2010 have been addressed in this sense since year 2002 and very recently in relation to other aspects and connections between environment and security.

⁷ UNITED NATIONS GENERAL ASSEMBLY. Preliminary report on the protection of the environment in relation to armed conflicts. International Law Commission. Geneva. 2014. Available at: <http://www.un.org/es/comun/docs/?symbol=A/CN.4/674&lang=E>

5. It has also been mentioned that opportunities of “environmental peace” can arise from a common interest between different countries or communities about the need to share resources and strategic ecosystems, or by the recognition of shared vulnerabilities of common ecosystems.

6. How armed groups are involved in the illegal exploitation of natural resources to finance their military activities was also recognized, as well as how looting and predation constitute a form of struggle⁸ that affects environmental security.

To highlight the connection between natural resources and security, in 2013 the United Nations Development

Programme, in conjunction with the United Nations Environment Programme, released a joint report regarding the role of natural resources in various countries in conflict and included an interesting analysis on how natural resources have been integrated with disarmament, demobilization and reintegration (DDR) programs.

In this chart from the aforementioned report, it can be observed that Colombia Democratic Republic of Congo and Liberia are the three countries with the largest number of natural resources involved with their internal conflicts and with DDR programs. In the case of Colombia, the resources reported are oil, gold, cocoa, timber, emeralds, palm oil and fertile land.

Country	Duration of Conflict	DDR programme dates	Natural resources implicated conflict
Afghanistan	1978 - present	2002 - 2006 2011 - present	Opium (Taliban) Lapis lazuli, emeralds, opium (Northern Alliance)
Angola	1995 - 2002	1992 - 1994 1994 - 1998 2002 - 2008	Oil, diamonds
Burundi	1993 - 2005	2004 - 2006	Land
Cambodia	1978 - 1997	1991 - 1993 1999 - 2005	Timber, gems
Colombia	1984 - present	2002 - present	Oil, gold, coca, timber, emeralds, palm oil, land
Democratic Republic of Congo	1996 - present	1999 - present	Copper, coltan, diamonds, gold, cobalt, timber, tin
Cote d'Ivoire	2002 - 2007 2010 - 2011	2005 - 2010 2012 - present	Diamonds, cocoa, cotton
Indonesia - Aceh	1975 - 2006	2006 - 2019	Timber, natural gas, marijuana, wildlife
Liberia	1989 - 2003	1996 - 1997 2003 - 2006	Timber, diamonds, iron, palm oil, cocoa, coffee, rubber, gold
Nepal	1996 - 2007	2007 - present	Land
Papua New Guinea Bougainville	1989 - 1998	2001 - present	Copper, gold
Philippines	1969 - 2012	1986 - present	Land, sugar, cane, timber, gold, copper
Republic of Congo	1997 - 2008	2000 - 2005 2008 - present	Oil
Rwanda	1994	1995 - present (Including repatriation of combatants from DRC)	Land
Sierra Leone	1991 - 2000	1996 - 2004	Diamonds, cocoa, coffee
Sudan	1983 - 2005	2006 - present	Oil

⁸ UNITED NATIONS ENVIRONMENT PROGRAMME and THE UNITED NATIONS DEVELOPMENT PROGRAMME. “The Role of Natural Resources in Disarmament, Demobilization and reintegration. Addressing Risks and Seizing Opportunities”. December 2013. Available on line: http://postconflict.unep.ch/publications/UNEP_UNDP_NRM_DDR.pdf

Economical Violence

Economic violence occurs when someone has the control of cash and other resources, and abuses their power to spend it by satisfying their needs and limiting others in decision making, subjugating them to beg for money and be forced to depend economically on others.

Most studies related to gender-based violence have been mainly focused on researching its physical, sexual and psychological manifestations. However, there is a growing interest in studying other forms of violence, such as economic violence, since this type of violence results in the deepening of poverty and seriously compromises opportunities for women.⁹ In this sense, the Commissioner of the United Nations for Human Rights and UN Women have recognized that currently women experience this type of violence through limitations of access to productive resources, amongst which the main ones are natural and agrarian resources.

The report **“Realizing women’s rights to land and other productive resources”**¹⁰ which is about the access to land and productive resources for women, the Commissioner of the United Nations for Human Rights and UN Women have established that limitations to funds, credits, participation in decision making and discriminatory regulations regarding assets, property rights and the use of communal lands also constitute economic violence.

For these entities, access to productive resources, particularly land, cannot be divorced from the macroeconomic policies or global economic system contexts since inclusive growth requires equal access to resources and opportunities in all sectors of society. They have also expressed that, in recent years, there has been a growing recognition of the importance of access for women to the use and control of productive

resources, including land. This is because there is a positive correlation between ensuring the rights of women, both rural and urban, to land and other productive resources, and the improvement of family welfare with effective enjoyment of human rights.

In this sense, they have established that the elimination of economic violence allows women to have increased power and autonomy in their families, communities, and better integration in the economy and politics. There have been positive connections with a decrease in domestic violence, and it has been demonstrated that ownership, better access possibilities and the use of productive resources are reflected in lower levels of physical and psychological violence for women.

Political Violence

Political violence is manifested through constraints and limitations women face in political participation and in different public decision making processes. This can take place by obstructing their participation in electoral processes or during the exercise of public functions. For example, when there are actions, behaviors and/or physical, sexual and psychological aggressions against candidates or elected women, or towards their families, in order to force them to do something against their will or to interrupt, suspend or sabotage the exercise of their office.

Political violence is closely linked to economic violence. The UN Commissioner for Human Rights and UN Women¹¹ has already recognized that the main actions that impede access to land and other productive resources are limiting access to information, participation, association and education, because they are fundamental aspects in the process of economic empowerment.

⁹ FAWOLE, Olunmilayo I. “Economic Violence To Women and Girls: Is It Receiving the Necessary Attention?” *Trauma, Violence and Abuse Magazine*. Julio 2008. Vol 9, 3: pp 167-177 Available on line http://www.researchgate.net/publication/5354240_Economic_violence_to_women_and_girls_is_it_receiving_the_necessary_attention

¹⁰ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) and UN Women. “Realizing women’s rights to land and other productive resources”. New York and Geneva, 2013.

¹¹ Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women. “Realizing women’s rights to land and other productive resources”. New York and Geneva, 2013.

Environmental Governance

The PDDSA has opted for a notion of governance that goes beyond what is understood by governance to be only a set of rules and institutional trajectories. From this perspective, environmental governance *“must be understood in its full meaning as technical-political interaction between stakeholders who wish to find, amid their differences, shared solutions to problems related with their environment and their shared resources.”*¹² From this point of view, *“the construction of agreements do not eliminate those differences – nor the possible tensions associated to them. It rather converts them in means to act jointly and obtain a common benefit, for example, the transformation of risks in development opportunities and search for eliminating discriminations. The purpose of environmental governance is to join wills, to foresee environmental risks, prevent them, control them and if necessary develop restoration and compensation processes.”*

Extractive Industries

Normally when extractive industries are mentioned, reference is mainly made to mining, gas and hydrocarbons. Nevertheless, there are other activities that are also considered extractive activities. For example, agro-industry, which allows the production of bio-fuels and large scale agrarian products; alternative energies such as hydroelectric energy, geothermal energy, nuclear energy, marine energy and wind energy; fisheries; forestry; access to genetic resources; hunting and irrigation systems. In the framework of this research the whole set of extractive industries are taken into consideration.

¹² VELASQUEZ FABIO E. Documento Conceptual Programa Diálogo Democrático para la Seguridad Ambiental. Bogotá, septiembre de 2014. Available at: http://media.wix.com/ugd/ef61f6_a4b4da5fc395495691e8201ec21a95df.pdf

2. Economic Violence against Women as a Socio-Environmental Risk associated with Extractive Industries

Differences between men and women in the access and control of resources are key indicators of the imbalance of power between them.¹³ Gender inequality, environmental deterioration and deepening poverty are mutually reinforcing and conversely, improvements in any of the three can leverage improvements in the other two.¹⁴ Therefore, environmental sustainability and livelihoods in rural areas depend on the security of land tenure and of other resources, and security of tenure is only possible when women have the same options as men.

To demonstrate how the development of extractive industries exacerbate economic violence against women, an analysis is presented divided into three sections, each referring to the difficulties for women in accessing, using and controlling productive natural resources.

The first section refers to the difficulties faced by women in three key processes of access to land, especially those that have a direct connection with the dynamics of the implementation of extractive projects. These three processes are the land restitution process, the processes of human resettlement and the agrarian processes.

The second section refers to the difficulties faced by women in the processes that determine land use planning and land use.

The third section discusses the difficulties faced by women in access, use and control of natural resources different from land and soil.

2.1. The difficulty of ensuring access to land for women

Land has always been an economic, political and social power source that ensures control over resources and people. Therefore in rural contexts the social status acquired by the ownership of land determines inclusion or exclusion in decision-making processes.¹⁵

Many studies have shown that women who have land to cultivate and to live a peaceful lifestyle increase their decision power at home. They also have more self-esteem and hope in the future, which at the same time helps them to protect themselves from domestic violence, abuse and discrimination.¹⁶

According to the Atlas of Distribution of Rural Property in Colombia¹⁷, in the rural areas of Colombia the inequitable distribution of land is so alarming that less than 1% of the population owns more than half of the best land.¹⁸ Although the Atlas realized this inequity, it does not account for the differences in ownership between men and women.

¹³ Women, communities and mining: the gender impacts of mining and the role of gender impact assessment- OXFAM Australia

¹⁴ Governing land for women and men A technical guide to support the achievement of responsible gender-equitable governance of land tenure

¹⁵ COSTA Beatriz. Her Mile – Women's rights and Access to land. The last stretch of road to eradicate hunger. ActionAid. February 2010. Available at: http://www.landcoalition.org/sites/default/files/documents/resources/HerMile_AAItaly.pdf

¹⁶ Ibidem

¹⁷ Instituto Geográfico Agustín Codazzi (IGAC). Atlas de la distribución de la propiedad rural en Colombia / El Instituto. -- Bogotá: Imprenta Nacional de Colombia, 2012

¹⁸ USAID Country Profile Property Rights and Resource Governance. Sept 2010. Available at: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Colombia_Profile.pdf

Security in land tenure is closely linked to other natural resources, such as water or forestry resources. Access to land for women is a core aspect for the economic empowerment of women, since land is the main source of income.

This is also because it has been recognized that the intervention in processes of land ownership can significantly help in correcting the inequitable distribution of land, increase agrarian productivity and environmental sustainability, and reduce rural violence.¹⁹

Recently, the analysis related to access mechanisms to land has become very important, especially for the development of countries. It has been recognized, for example, that guarantees in the rights of women to lands and resources were the missing link in discussions about the food crisis. Additionally, international cooperation invested very little in this aspect in the framework of their policies to fight hunger and malnutrition to achieve objectives of the millennium.²⁰

As a consequence of the lack of attention to this problem, the rights of women to land have rarely been considered in debates about development and have rarely been the core of campaigns or initiatives in movements of civil or peasant society.²¹

With new discussion around sustainable development objectives beyond 2015 concerning the environmental crisis, climate change, increase of land grabbing, boom of bio fuels and mining, decrease of fertile land, and loss of culture, amongst other things, the need to work in this missing link arises as a key development element.

While it has not been possible to find maps that give accounts of the extent of the different extractive projects in Colombia, some have been produced regarding the presence of mining and hydrocarbons. These maps reflect the current status and potential for land occupation in the country, and the way in which

the presence of these projects have an evident impact on land tenure and its use.

For example, in Chart 1 the evolution of the potential for mining expansion between years 2010 and 2014 can be seen. In Chart 2, the territorial dimension of the mining concessions can be seen, as well as the location and size of the mining projects that have been declared as national interest by the Government. Finally, in Chart 3 the dimension of mining territorial expansion on indigenous territories can be seen.

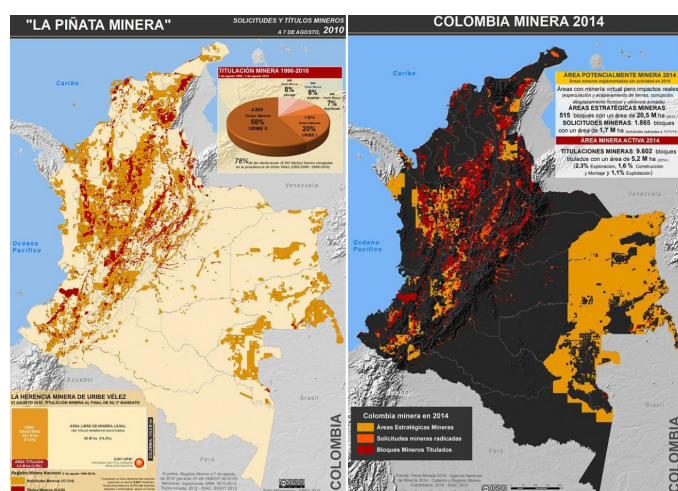


Chart 1. Source Geoactivismo.org

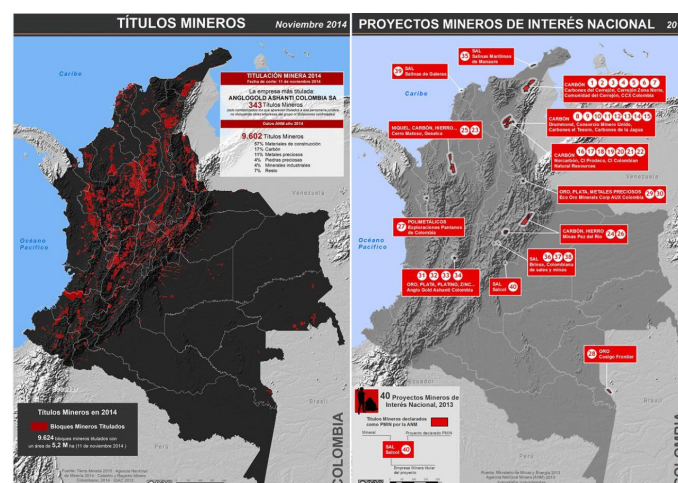


Chart 2. Source Geoactivismo.org

¹⁹ Ibidem

²⁰ COSTA Beatriz. Her Mile – Women´s rights and Access to land. The last stretch of road to eradicate hunger. ActionAid. February 2010. Available at: http://www.landcoalition.org/sites/default/files/documents/resources/HerMile_AAItaly.pdf

²¹ COSTA Beatriz. Her Mile – Women´s rights and Access to land. The last stretch of road to eradicate hunger. ActionAid. February 2010. Available at: http://www.landcoalition.org/sites/default/files/documents/resources/HerMile_AAItaly.pdf

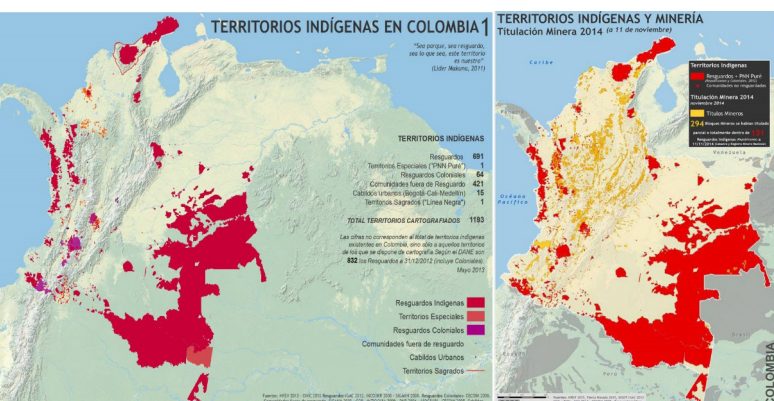


Chart 3. Source Geoactivismo.org

While discrimination against women in land ownership is historical, it is true that the current extractive industries development exacerbates such discrimination, so it is critical to account for it.

This exacerbation occurs in several ways, as discussed below: first, because of connections between the development of these industries with the dynamics of armed conflict; second, as a result of involuntary human resettlements coming as compensatory measures within the framework of such projects; and third, via agrarian processes being carried out aimed at clearing the property and in some cases to facilitate access to land to companies.

2.1.1 Difficulty in access to land because of connections between the development of extractive industries and the dynamics of armed conflict

It has been recognized that displacements in Colombia come particularly from regions with significant natural resources or great agrarian potential. It also has been recognized that since the early 1980's to 2000, armed groups acquired approximately 4.5 million hectares of land, representing about 60% of the most fertile land in the country, and that about 4 million hectares were abandoned due to forced displacement.²²

The existing overlap between lands with extractive potential and land dispossessed has also been documented, and although there is not yet a very extensive literature that addresses this issue, there are some documents that associate the presence of transnational companies in charge of extractive industries with the forced displacement.²³

One of the most important reports on this matter, produced by the Contraloría General de la República, describes the connections between extractive industries and armed conflict,²⁴ highlighting that:

"...mining brings the strengthening of State military presence in order to protect the mining-energetic complexes... Thus, in a paradoxical way, the presence of mining complexes produces also two structural consequences:

"...on one side, the State does not intervene directly on the economic activity and, on the other side, the response to the social demands of peasants, indigenous and African descendants is very precarious or nonexistent. (CINEP, 2012: 9)"... This eases the presence of armed and unarmed stakeholders who exert illegitimate power and social control on the territory and exacerbates the warlike conflict expressions. It should be noted that this is not an exclusive

²² USAID Country Profile Property Rights and Resource Governance. Sept 2010. Available in: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Colombia_Profile.pdf

²³ See about: 1) Angelika Rettberg and Juan Felipe Ortiz-Riomalo. 2014. "Conflicto dorado: Canales y mecanismos de la relación entre minería de oro, conflicto armado y criminalidad en Colombia", final report of the project Del grano al anillo (From de grain to the ring): Analysis of the gold value chain and its relationship with the lawlessness and the armed conflict in Colombia funded by the Centro de Estudios sobre Seguridad y Drogas (CESED) of Universidad de los Andes; 2) CONTRALORIA GENERAL DE LA REPUBLICA. "Minería en Colombia Fundamentos para superar el modelo extractivista". May, 2013; 3) UNIVERSIDAD NACIONAL, CENSAT AGUA VIVA, PLATAFORMA COLOMBIANA DE DERECHOS HUMANOS, DEMOCRACIA Y DESARROLLO - PCDHDD "Minería, Territorio y Conflicto en Colombia" December 14th., 2012.

²⁴ VARGAS Valencia, Fernando. Minería, Conflicto armado y despojo de tierras: Impactos, desafíos y posibles soluciones jurídicas. (Mining, armed conflict and land dispossession, impacts, challenges and possible legal solutions) Chapter IN: Contraloría General de la República. "Minería en Colombia Fundamentos para superar el modelo extractivista", May, 2013.

situation of the mining industry, but also of all those intensive, accelerated and profound interventions on the territories aimed to extract and dispute the riches of the earth, especially those coming from non-renewable natural resources.²⁵

This report also highlights that:

“The Corte Constitucional (Constitutional Court) points out the existence of underlying factors in armed conflict or warlike expressions. These underlying factors are expressions of social, economic, cultural and political nature, closely linked to armed conflict in terms of causality or functionality. This leads to many key implications: a) that the historical and broad nature of armed conflict in Colombia, as a systematic and massive order of human rights violations and its affects on the territories, becomes a structural problem that enables satisfaction of illegitimate socio-economic interests against the fundamental rights of the communities; b) that armed conflict can be caused by factors other than purely military strategic interests, precisely because the interests of the armed stakeholders go beyond that and involve social and economic control of the territories; and c) that the economic agents with causality or functionality relationships with the conflict are co-generators of risk infringement of such rights and are co-responsible in its compensation.²⁶”

For the Constitutional Court, the development of licit and illicit economic activities in the territories is one of the underlying factors.²⁷ Within these activities, mining is included as an economic macro project.

Finally, the Contraloría highlighted that:

“In this regard, it is of particular concern...the development of legal activities of natural resources exploitation, done

in an irregular way by economic stakeholders of the private sector or by illegal armed groups (such as the indiscriminate exploitation of timber, planting and exploitation of agro industrial monoculture, illegal mining exploitation and other related activities).

In this regard it is to highlight ... (the presence of) strategies of violence from armed stakeholders interested in the direct implementation of agrarian mega-projects and natural resources exploitation, or interested in supporting companies and economic stakeholders developing these projects, making associations with them to profit from the benefits of such activities. As it has been denounced, apparently some economic stakeholders have joined the irregular armed stakeholders to generate within the communities, violence that eliminates or displaces (the communities)... clearing the way to implement productive projects. It essentially comes from the extensive business interest in the natural resources in their territories. In some parts of the country it is clear that armed conflict stakeholders have been allied to economic interests, a linkage which is one of the main causes of forced displacement.” (...)

“An emblematic and particular concern is the geographic convergence detected by the Consultoría para los Derechos Humanos y el Desplazamiento (Consultancy on Human Rights and Displacement) - CODHES (2011). Such convergences are between municipalities with inner population displacements, including massive displacements, with Areas of Consolidation and Integral Action Coordination –CCAI (for its acronym in Spanish) – and municipalities with relevant interest for national and international investment in mining activities.

It refers to 21 municipalities that up to 2010 amounted to a third part of the territory in process of consolidation, where

²⁵ CONTRALORIA GENERAL DE LA REPUBLICA. “Minería en Colombia Fundamentos para superar el modelo extractivista”. May, 2013 pp 58.

²⁶ VARGAS Valencia, Fernando. Minería, Conflicto armado y despojo de tierras: Impactos, desafíos y posibles soluciones jurídicas. Chapter In: Contraloría General de la República. “Minería en Colombia Fundamentos para superar el modelo extractivista”. May 2013 pp 61 by multinationals and by illegal armed groups; fighting and bombardments in their territories; abuse by armed stakeholders”

²⁷ In Writ 004, 2009, The Court documented cases where mining and macro-criminal acting showed functionality relationships. For instance, in the afore mentioned Writ it is stated: 1) “in 2006 it was recorded the murder of 16 women leaders causing resisting against different mega-projects intended to be built in La Guajira... it must be reported that there is the perception within the Wayúu Communities, that, there is a link between the mining megaprojects in this area promoted by the Government and the paramilitary violence especially in Bahia Portete.... (with the) purpose... to seize de territories by means of terror and extermination.”; 2) “Alto San Jorge and Alto Uré indigenous communities... located in the reserve Quebrada Cañaveral (2815 hectares, 122 families) and in the non-reserve area of Alto Uré... (where)... there are territorial disputes caused by the mining and energy mega-projects, landowners pressures for land surrounding and inside the reserve and the drug trafficking expansion, all of which have resulted in a change on the dynamics of the land that generate displacement”; 3) “The Risaralda’s Embera-Chamí denounce, that, “in the midst of the armed conflict: the presence of illegal armed groups in their territory; combats in their territories and bombarding; and abuse by the armed stakeholders.

according to Codbes (2011) multiple political and social violence forms and serious violations of human rights persist in parallel, and where there are: “coal, gold, silver, platinum, nickel-iron, precious metals mines, building materials, limestone, clay, rock phosphate and others being exploited, either with important domestic or foreign investment or using customary artisan methods.”

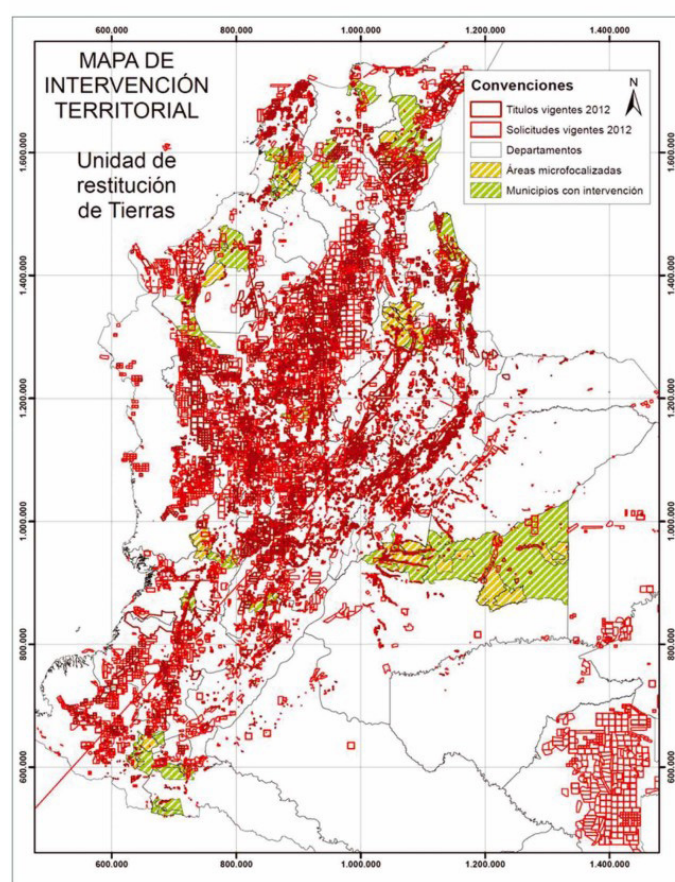


Chart 4. Source Contraloría de la República. 2013

The Contraloría shows the overlap between micro-targeted lands for the land restitution process and mining concessions (Chart 6). It concludes that, in July 2012 almost all targeted municipalities for land restitution match with existing mining titles in force and that “from the total micro-targeted area for land restitution (1,776,495 ha), 4.53% have been granted with mining titles (80,468 ha) and 7.34% (130,431 ha) shows mining applications.”

Although in the land restitution process there is priority for women, there still exists many difficulties for women to prove their ownership of the land²⁸. There are also problems with judges including the State commitments that improve the conditions of rural women, as stated in Act 731 of 2002, in their judgments. A study made by CINEP²⁹ established in 2013 that in the first 25 judgments of land restitution, judges determined poor measures for rural women and only one of them established specific measures for women in relation with the fulfillment of Act 731. It is therefore a major concern for women in the process of restitution, which is post-restitution, because there are no mechanisms or guarantees for the economic empowerment of women³⁰, nor for the State to monitor and force compliance of the judgments.

Also concerning difficulties for women to access land restitution in areas of mining interest, the Ruta Pacífica de las Mujeres (Pacific Path of Women), has produced a very recent study on the restitution processes in Antioquia, Santander and Cauca departments. This report is mindful that “the process of land restitution becomes more complex in cases with overlapped mining titles in the requested restitution area, and this, added to the fact that concessionary companies, as third interveners in the jurisdictional

²⁸ See about: 1) COLL Agudelo Alejandra. “Acceso de las mujeres a la tierra: realidades de la restitución y el desarrollo rural para las mujeres en Santander, Antioquia y Cauca. Ruta Pacífica de las Mujeres y la Corporación de Mujeres Ecofeminista –Comunitar. Bogotá, Colombia. March, 2015; 2) MERTEENS DONNY. “Colombia’s law on victims and restitution: a challenge for gender – sensitive transitional justice. United Nations Entity for Gender Equality and the Empowerment of Women in collaboration with United Nations Office of the High Commissioner for Human Rights. Geneva, Switzerland. June, 2012; and 3) GARCIA GODOS Jemina and HENRIK Wiig, “The Colombian Land Restitution Programme. Process, results and challenges, with special emphasis on women”. Norwegian Ministry of Foreign Affairs – Section for Peace and Reconciliation. October, 2014.

²⁹ See about: BARON DANA. “Impactos de la minería en los derechos de las mujeres rurales”. In: Revista CIEN DIAS No 80. CINEP. 2013

³⁰ Statement made by Donny Merteens in an interview made in the framework of this consultancy.

stage of land restitution, is a question that does not have yet a specific legal development. This generates a legal debate with implications for the law expectative from both sides: those seeking to be reinstated and the companies expecting to continue having exploitation rights on the territory. In all areas covered by this study, mining has a wide incidence so this clearly affects women aspiring to be awarded with vacant land or currently claiming an area through restitution. Within the above context, there is a clear imbalance between the capacity and ability of women to exercise a technical defense against the possibilities, especially economic, that the lawyers of companies have.³¹

2.1.2 Difficulty in land access as a consequence of involuntary human resettlements

The land restitution process in areas of interest for extractive projects is not the only process that affects women's rights and possibilities for access to land ownership. Whenever there is the presence of extractive projects, which do not necessarily intersect with micro-focalized areas, there is a possibility that companies requesting the land may undertake an involuntary human resettlement to be able to acquire the land, and implement the resettlement as a compensation measure for the impact caused.

The "Instituto de Estudios para el Desarrollo y la Paz" (INDEPAZ) has carried out several studies on the topic and has stated that³²:

"Involuntary human resettlements are 'legal' arrangements made by companies and the government with owners of the land to be able to move them from the land in a 'negotiated' way (...).

Most of the hydroelectric, mining and some urban, industrial and transportation projects are viable only if the people are displaced from the land required for the project. What is complex regarding involuntary displacement is the loss of income sources to be replaced, such as fertile land, forests, pastures, stores and other production resources. Furthermore, alternate, equally productive means are to be provided so that people can rebuild their lives and economic

productivity. With involuntary displacement some non-material properties or cultural gains may be lost by the communities due to the impact generated when changing territories; such an impact is evidenced in what sociologists call the breakdown of the social network. (...)

(...) The Colombian Government does not have specific regulations or case law to formulate and execute resettlement plans. Resettling is carried out by the companies based on the development of their corporate social responsibility policies and the policies of multi-lateral organizations such as the Inter-American Development Bank (IDB) and the World Bank (WB).

2.1.3 Difficulty in access to land as a consequence of agrarian processes; expropriation by public interest undertaken with the purpose of clarifying ownership and in some cases facilitating access to land by extractive companies

Expropriation has always been and continues to be a determining factor of land ownership. It is recognized that illegal expropriation has been a very common practice throughout the conflict. The government is responsible for 1% of the displacement by means of the figure of expropriation. Around 1999 a legislative act included an express constitutional prohibition of carrying out extra-judicial expropriations of private property, and subsequently it was established that expropriation should be made by judicial means and be accompanied by economic compensation.

INDEPAZ has stated in its report that, "in practice, expropriation is understood as an extreme instrument, for use in the case that no agreement is reached with owners of the land subject to exploitation. Expropriation in its first instance is subject to an administrative process before the Ministry of Mines and Energy, and subsequently a process through ordinary civil justice and should include, by law, the corresponding indemnification."

³¹ COLL Agudelo Alejandra. "Women's Access to the land: realities of restitution and rural development for women in Santander, Antioquia and Cauca. Ruta Pacífica de las Mujeres y la Corporación de Mujeres Ecofeminista –Comunitar. Bogotá, Colombia. March, 2015.

³² Information taken from: INSTITUTO DE ESTUDIOS PARA EL DESARROLLO Y LA PAZ INDEPAZ. "Megaminería y Reasentamientos Forzados".

³³ USAID country profile property rights and resource governance.

Nevertheless, Act 160 regarding the National System of Agrarian Reform and Rural Development has been recently regulated by Decree; therefore these are processes exclusively structured by the Government.³⁴ This new regulation dictates the special agrarian administrative procedures: to clarify ownership;³⁵ to establish boundaries or limits of the land owned by the nation;³⁶ for extinction of the right of domain³⁷ and the recovery of vacant lands awarded;³⁸ for use and management of community riversides and savannahs;³⁹ and for agrarian processes with environmental focus and of national interest.⁴⁰ It also establishes that all of the agrarian proceedings are the sole responsibility of INCODER, an administrative entity of the agrarian sector.

Within the context of this research, the regulation was reviewed, and it was found that express provisions related to women and their rights were not included.

It was also found that there is a bilateral proceeding between the Agencia Nacional de Minería (ANM) and any applicant company⁴¹ for a project to be declared of national interest. The legal framework of this process does not have gender provisions and/or considerations. The consequences of land ownership by virtue of declaring a given project of public interest are evident,

because the declaration is the first determinant of the acquisition and destination of the land. From reviewing the resolutions of ANM one by one via an official website, it was found that there are at least 7 hydroelectric projects declared of national interest. This means the plots needed for these projects were declared of public usefulness and social interest in order to speed up the acquisition procedures.⁴² It was also found that there are at least 16 proceedings for the expropriation of the land⁴³ due to the declaration of public usefulness.

In the context of this research it was not possible to receive information about the status of these proceedings. In the case of such important proceedings on land rights, it is important to follow up and argue the need to include key matters therein that have not been included, for example provisions and/or considerations about gender.

2.2. Women and defining the use of land or soil and its decision processes

The planning and land use processes in practice are made with independent considerations from land ownership rights, but determine their use and the use of existing resources. Therefore, the planning and land use processes must include some environmental guidelines.

³⁴ Decree 1465 of 2013

³⁵ The clarification procedure of the property should clarify the situation of the land from the point of view of their property, in order to identify those that belong to the Government and facilitate the clearance of private property titles.

³⁶ The procedure to establish boundaries or limits of the land owned by the nation should be undertaken in order to set the boundaries of the land owned by the nation, and the land of private persons.

³⁷ The agrarian procedure for extinction of the right of domain, should be done on plots where the economic possession does not take place in three (3) years, unless there is force majeure or acts of God, or when the owners violate the provisions regarding conservation, improvement and rational use of the natural renewable resources and those for the preservation and restoration of the environment.

³⁸ The agrarian procedure for recovery of vacant lands unduly occupied is to be made to recover and keep, among others, the front of the riversides and community savannahs, land owned by the Nation as long as the right is not better accredited by third parties.

³⁹ The riversides and community savannahs existing in the country are a territorial reserve of the Nation, which land and uses correspond to the characteristics and definitions mentioned in the current regulations. Once the areas that comprise the riversides and community savannahs are delimited, INCODER with the previous study of the tenancy of the land and nature and type of soils, as well as the socio-economic situation of their users, will proceed to prepare the corresponding rules for their use and management.

⁴⁰ Undertake and complete those agrarian processes that because of their environmental characteristics are important to the nation.

⁴¹ Agencia Nacional de Minería. Resolution 0341 of 2013. Whereby the criteria and procedure to declare mining projects of national interest and a delegation is made.

⁴² 1. Hydroelectric project Rio Sirgua 2. Common usefulness nature for the pre-feasibility studies of a project, geo-thermal field of El Ruoz 3 volcanic chain. San Andrés Hydroelectric Project.

4. Cañaverál 5 Hydroelectric project. San Miguel 6 electric utility. PCH Zuca 7 Small hydroelectric central. El Popal hydroelectric project.

⁴³ 1. Carmen de Carupa 2. Cucalta Boyacá 3. Fusagasugá Cundinamarca 4. Repelon Atlántico. 5. Becerril Cesar 6. Becerril Cesar 7. Agustín Codazzi Cesar 8. Sesquilé Cundinamarca 9. Sesquilé Cundinamarca

A very important discussion, in addition to the security of the land ownership, has to do with the planning and land use processes. These are processes that determine the potential use of the land or soil in a given site, according to their environmental vocation and the possibility of developing several economic activities that do not imply severe damages to the ecosystems and their ecosystem services.⁴⁴

Lands have several usage vocations: agrarian, livestock, fishing, housing, industrial, mining, transportation, tourism, and conservation, among others. The Instituto Agustín Codazzi (IGAC) has stated that land use conflicts are the result of the discrepancy between the use man gives to the natural environment and the one it should have according to the environmental offer, or when the lands are either under or overused. The IGAC has prepared maps with information about the vocation of the soil in Colombia, as well as maps of the conflicts from its use.⁴⁵

During the celebration of the International year of the Soil, which took place throughout 2015, IGAC stated that “due to an improper use of its soil, 28% of Colombia would suffer the ravages of the climatic phenomena even more,” because 35% of the national territory of Colombia is affected by erosion, specially water erosion, with more than 4,300,000 hectares (ha) with severe and very severe erosion, and 12,916,000 ha with moderate erosion. On the other hand, 4,828,875 ha, corresponding to 4.3% of the territory, evidence desertification processes; the departments of Guajira, Santander, Boyacá, Norte de Santander, Cauca, Nariño and Huila present seriously affected zones where sustainability is low.⁴⁶

Among the diverse uses, there are some where women's presence has been reported as considerable and important. For example, women provide a very meaningful contribution to agriculture. The FAO has highlighted this fact, recognizing that worldwide women represent 43% of the agrarian labor force.

The World Bank highlights that official statistics regularly underestimate the work of women and their contribution to national wellbeing. It also points out that the data collection problems regarding labor and the contribution of rural women in agriculture and other sectors are partly due to: i) the non-visibility of women's work, many times because it is non-compensated labor; and (ii) the seasonal work typical of peasant women.⁴⁷ Thus, a very important step in the process is to define land or soil use, referring to the visibility and identification of women's contributions in the productive sector and in general, soil management.

In Colombia, the processes to decide on the use of land are generally indifferent to the rights of land ownership. Thus, the overall determination of the land use vocation is made by completely different means from one whereby the specific and definite rights of use are granted. In fact, it could be said that at present the ownership rights are completely subject to the categories of land use. Therefore, there is a deep connection between the planning and land use processes with the previously described administrative and judicial process that affect ownership of the land.

In other words, while the determination of land use is made by means of tools such as land use plans, the right to use the land is acquired, for example, in the case of extractive industries through concessions made by the Government in a bilateral agreement with the companies. Within the framework of land use plans there are many spaces for deliberation and participation, especially at local level, since the POT (Territorial Use Plan) are approved by the Municipal Councils, which are multipartisan where all views and interests may be taken into account. In the concessions processes this does not happen. Frequently concessions are granted even when the use of soil is determined for other purposes. In fact, the finding of potential mining-energetic resources that result because of the concession agreements are those that guide and define the planning processes that allow

⁴⁴ Ecosystem services are part of a concept that conceives the territory as a socio ecologic system, where not only the individual social or ecologic components are interesting, but it enhances the great importance that interactions have among them.

⁴⁵ For more information visit: <https://www.siac.gov.co/contenido/contenido.aspx?catID=832&conID=1301>

⁴⁶ Agustín Codazzi has recently updated this information in a report that can be directly requested to the entity.

⁴⁷ Her Mile – Women's rights and Access to land. The last stretch of road to eradicate hunger. ActionAid 2010.

changing the uses of the land. In the end, the use of the soil that should be the result of a public deliberation process ends up being a technical process greatly determined by special interest around the extractive projects where local Councils, for example, do not have the possibility to have influence.

Recently this discussion has broadened because restrictions have been imposed through decrees at the local power level in land use decisions. This power has been left in the hands of the Ministry of Mines and Energy and its entities; therefore, there is at present a conflict around this topic. Thus, it is possible to state that at present, mining planning has generated guidelines for the assignment and use of land in Colombia, reducing the possibilities of economic alternatives and interfering in the ownership rights of women and other people, especially in rural areas.

As a result, it could be said that promoting the participation of women in real planning and land use scenarios, mainly at the local level, is a guarantee not only that they would enjoy rights over the land, but also that there is a democratic measure for the use of and economic alternatives for the resources existing in the same territory.

As long as the particular needs of women are not considered in the proceedings defining the use of soil in municipalities and specific territories they inhabit, inequality between genders cannot be overcome.

3.3. Women and decision-making processes over other natural resources

Colombia is one of the few mega-diverse countries in the world. This means Colombia is an important site as a supplier of food, medicine plants and water, among other ecosystem services because food, fibers, ornamental plants and raw materials from biologic origin comprise half of the world economy. Therefore biodiversity itself

is a major source of economic opportunities. Women have been highly associated with productive activities related to raw materials. The recognition of different uses women make of biodiversity is a necessary step in the definition of the projects and initiatives that claim sustainable use of biodiversity resources.

In this way, for example with fishery resources, it has been found that in this sector in particular women have a very high contribution to the labor force.⁴⁸ Nevertheless, women's contributions and labor are invisible in this sector; it is common to talk about fishermen and very strange to talk about fisherwomen. Consequently, the regulatory frameworks regarding this resource do not involve the particular needs of women. The same can be said for the non-existing regulatory frameworks regarding hunting in Colombia. However, commercial hunting is generally understood as prohibited with some exceptions.

Concerning flora, the only existing regulatory framework is the use of forest or timber resources. However this framework only includes a small provision related to non-timber forest resources (NTFR), such as construction materials, medicines, food, fuel, fibers and textiles, oils and waxes, ornamental plants, dyes and coloring materials, cosmetics, seasoning and spices, resins, etc. The regulatory frameworks do not concern the particular needs of women. The need for regulation on this matter is key, not only from the point of view of the specific needs of rural women, which as mentioned above depend greatly on this type of resource for their livelihoods, but also because food, fibers, ornamental plants and raw materials from biologic origin comprise half of the world economy and their regulation is key in terms of development and economic alternatives.

It is also very important to mention how crucial it is to have access to energy as a fundamental resource for women to develop their productive activities and their lives. Energy issues are not neutral in gender matters, therefore they fail in conceptualization to include women

⁴⁸ In this regard, for example: AGUILAR Lorena and CASTAÑEDA Itzá, "About Fishermen and Fisherwomen. Oceans and Tides: a Gender Perspective in Marine – Coastal Zones". World Conservation Union. 2001

as key stakeholders in the design, use, distribution and maintenance of technologies and energy services.⁴⁹ This is important because women and men perform different roles within the energy system. For example, in many rural zones women have the heaviest burden being the ones that supply and use biomass power to cook, dedicating their time to this purpose.

In addition, there are reports that establish trends where women make more sustainable consumption decisions than men. For example, the Organization for Cooperation and Development (OCDE) and other organizations recognize that an increase in women's income generates more sustainable consumption in the energy sector, for example, in the purchase of sun lighting systems where women represent almost half of the buyers in developing countries.⁵⁰

On the other hand, according to the Colombian regulatory framework acquiring the right of use and exploitation of resources aside from land must be made by means of permits, licenses and concessions. For example: the right to mine minerals is obtained through a concession granted by the Agencia Nacional de Minería (National Mining Agency), provided that knowledge to do so is evidenced by means of a mining title. The right to produce hydrocarbons is obtained through a concession granted by the Agencia Nacional de Hidrocarburos (National Hydrocarbons Agency), if knowledge to produce is evidenced. The right to use an electromagnetic spectrum is obtained by means of a concession granted by Agencia Nacional del Espectro Electromagnético (National Electromagnetic Spectrum Agency), if skills are evidenced. On the other hand, the right to use water is given through water concessions and the use of timber is made by means of a logging permit. Access to fishery, biologic, hydro biologic and genetic resources is obtained through permits. When an extractive project, declared of national interest, requires access to any of these resources, the only

competency is exclusive of the Agencia Nacional de Licencias Ambientales (National Environmental Licenses Agency) ANLA.

The recognition of the different uses made by women regarding biodiversity is a necessary step in the definition of projects and initiatives that imply sustainable use of biodiversity resources. It is highlighted once again that women's uses and needs that become invisible with respect to natural resources directly affect their possibilities to participate and decide on how to manage them.

It is worth mentioning that in Colombia, the possibility of citizen participation is considered only for environmental license proceedings; this does not happen for any concession or permit awarding process. As a mechanism to overcome this difficulty, some reports reveal aspects that should be considered as incentives to promote gender equality in biodiversity-related affairs. The following are among them⁵¹:

- ◆ Obtaining disaggregate data by gender about the needs and expectations of using natural resources.
- ◆ Having an understanding of the gender relationships and their consequences, including the understanding of the labor-gender division and the different responsibilities of women and men, including their productive and reproductive roles.
- ◆ Knowing who has access and control over the resources, goods and benefits of the project.
- ◆ Identifying the ways in which women may be subordinated to men – for example, if women have less access to resources such as land income and political influence – and through which mechanisms this inequality is sustained and reinforced.
- ◆ Insisting on the fact that the impact assessment should include analyses on the loss of land for women.
- ◆ Creating credit mechanisms destined for the development of productive sustainable activities for women.

⁴⁹ In this regard see: ROJAS, Ana Victoria and SILES Jackeline "Guía sobre género y energía para capacitadoras (es) y gestoras (es) de políticas públicas y proyectos". ENERGIA, OLADE and UICN. 2014

⁵⁰ GUÍA SOBRE GÉNERO Y ENERGÍA PARA CAPACITADORES (AS) Y GESTORES (AS) DE POLÍTICAS PÚBLICAS Y PROYECTOS

⁵¹ Rodríguez Villalobos, Guiselle, "Diversity makes the difference. Actions to guarantee gender equity in the application of The Convention on Biological Diversity / by Guiselle Rodríguez Villalobos, Francisco Azofeifa Cascante, Montserrat Blanco Lobo. - San José, C.R. : Editorial Absoluto, 2004.

- ◆ Developing the creation of land tenure policies that facilitate and recognize the right that women have to own land or joint land tenancy.

- ◆ Creating subventions for women that develop positive practices related to the use and preservation of sustainable biodiversity (such as subsistence agriculture, solidarity and backyard economies).

- ◆ Creating subventions for women or women groups that participate in the restoration of threatened or damaged habitats, water creek protection, etc.

- ◆ Facilitate access of women to protected areas in order to use the resources that are essential to the quality of life of their families, in a compatible way with the preservation objectives of these areas.

- ◆ Provide women or combined groups comprised by equal participation of men and women, the seedbeds to develop restoration projects of local forests.

- ◆ Promote the development of technology transfer processes that involve women.

- ◆ Tax exemptions or deductions for women's teams that participate in the preservation of certain types of habitats or mixed groups that participate in the promotion of more equitable relations between men and women with the resources of biologic diversity.

- ◆ Facilitate the technical assistance for women to participate in extension programs, forestry and fishing.

Specific Analysis regarding access to water

Although in Colombia there are some laws that contain general provisions on water, there is not a national law that regulates it. A national law would articulate all aspects related to its management and involve differentiated concepts for rural and urban areas and would provide tools for water governance.

Nevertheless, there is a National Policy for Integral Management of the Water Resource (Política Nacional

de Gestión Integral del Recurso Hídrico) (PNGIRH) issued in 2010 that is the general framework of action and guidelines on the matter. This policy is based on the idea that the different uses of water resources are exclusive and not inter-dependent because it is a vision that does not respond to efficient and integrated water management. In the development of PNGIRH many regulations were prepared, especially decrees and resolutions by the Government, and thus there are many regulations in Colombia that separately rule diverse aspects related to water resources.

There are three main aspects of water management currently regulated under the PNGIRH: i) water quality for human consumption; ii) processes and mechanisms to have access to water; and iii) water planning. Because it is the central topic of this research, a brief analysis will be made regarding the way the existing processes and mechanisms to have access to water are regulated.

The regulation related to processes and mechanisms of access to water.

A permit or authorization is required to be given by environmental authorities. That is, the Autonomous Regional Corporations – (CAR for its acronym in Spanish) - or the National Agency of Environmental Licenses – (ANLA for its acronym in Spanish) to allow any citizen, organization or company to use water for the development of different activities, including human consumption. Currently in Colombia, these authorizations have the title of water concessions.⁵²

Colombia has the following permissions and concessions concerning water, according to existing regulations by decree:⁵³ a) Concession Permit for surface water; b) Concession Permit for groundwater; c) Permit for wastewater discharges; d) Permit for prospecting and

⁵² Decrees 1541 of 1978 and Decree 2858 of 1981

⁵³ "The importance of water concession processes is huge for the economy and for the welfare of the population. "Concessions are one of the most valuable tools to regulate water demand. This instrument through the regulation of supply produces effects on quantities demanded. Concessions restrict the volume to be used, by putting a limit on the authorization of use, and the validity time, as well as when it is going to be granted, it should comply with specific requirements, prohibitions and restrictions of modality and opportunity for its use. In all these processes, demand analysis on the current and potential uses is structural, either for the preparation of plans for watersheds management, and for planning water resources and to define the granting of a concession or modification of volumes granted" Contraloría General de la República Warning function - technical weaknesses, administrative and institutional management of water resources that prevent guaranteeing water as a public good and fundamental human and collective right. July 23, 2014

exploration of groundwater; and e) Authorization for the construction of works that occupy the bed of a stream or a water tank.⁵⁴

There are three aspects of the way in which processes regarding access to water are currently regulated that show weak water governance.

First, regarding requests for water concessions used for human consumption, the applicant must meet certain requirements that are not required for other uses such as industrial or mining. For example, an applicant requesting a concession of water for human consumption must present a Risk Map, a study of characterization of the water to be used and a favorable authorization issued by the health authority. This means that in practical terms, for the same body of water there are disadvantages to granting its use for human consumption, because if there are multiple requests for different uses then the one having fewer requirements will have higher possibilities of getting it and take less time to gather all of the requirements.

Second, no priorities are recognized in regards to type of user. The very nature of different users of water resources is an indication of the type of use that will be given to water and therefore, this could be a determining factor in the perspective related to requests for water concessions. This explains why processing concessions of water for domestic use by certain users, such as representatives of aqueducts, does not guarantee priority for the access of water for human consumption or for domestic use. Users such as mining companies can also have access to water concessions for human consumption and for domestic use. Also, rural aqueducts have many more problems than urban aqueducts, which means that there are fewer guarantees for access to drinking water in rural areas. Rural aqueducts have specific needs that are not seen in urban

aqueducts where the population is concentrated, since dynamics and supply techniques are different because rural populations are more dispersed in the territories. This situation is not taken into consideration in the regulatory framework. Therefore, there are conflicts present around water distribution amongst all potential users. In Colombia this particular discussion has been present during the last two years through two annual international conferences about direct providers of rural and municipal aqueducts.⁵⁵

Gender considerations should also be a priority criterion for establishing guidelines in relation to the type of user. For example, a percentage of water concessions designed for activities led by women or a mechanism of prevalence for female applicants, provided if it is the case under certain conditions.

Thus, the absence of a mechanism to establish the relationship between user type and potential use creates a disadvantage for access to water between different types of water users.

Third, the current regulatory framework gives a very limited scope as to what is meant by use of water for human and domestic consumption. It establishes that the following activities are understood as human consumption: i) drinking and food preparation for human consumption; ii) satisfaction of household, individual or collective needs, such as toiletries and cleaning of items, materials or tools; and iii) preparation of food in general and especially those items intended for marketing or distribution that do not require preparation.

The list mentioned needs to include other aspects that are essential for human and domestic consumption on the understanding that they are two different issues. It also leaves out the characteristics of life styles of different populations. For example, although it includes

⁵⁴ The existence of these permits is justified knowing that the right of use of water for public use does not confer the holder its ownership but the right to use it. Therefore, any concession of resources given by the State is subject to comply with certain requirements and therefore is in essence revocable.

⁵⁵ The II International Congress of Municipalities and Direct Rural Water Providers organized by the Superintendence of Public Utilities, held in Medellin during May 19 and 20, 2015 with the presence of the National Planning Department - DNP, the Ministry of Housing, City and Territory - (MVCT for its acronym in Spanish), the Ministry of Environment and Territorial Development - (MADS for its acronym in Spanish), the Attorney General's Office, the Regulatory Commission for Drinking Water and Sanitation - CRA.

“food preparation in general,” there is no distinction between industrial preparations, or large-scale preparations, and that which really fulfills the needs of domestic self-sufficiency. Furthermore, limiting domestic activities to hygiene and cleaning of items, materials or utensils, ignores other domestic needs such as sowing, food production and maintenance of animals in small farms, which also apply to domestic activities typical of rural life.

In this regard, further consideration of the differences between use for human consumption and use for household activities is required. At the same time, the latter should recognize the different ways of life and domestic needs including those that are specific to women. Considerations are required on the scale of activities for domestic use as a fundamental aspect of the concession processes, since it is absurd to think that cleaning elements, materials or utensils located in a house or farm are the same as those located in a mine.

In regards to processes and mechanisms of access to water, it is worth noting that the Office of the General Comptroller of the Republic developed an audit. This audit was held in the framework of a Warning Function on technical, administrative and institutional weaknesses in the management of water resources, aiming to ensure water as a public good and a fundamental, human collective right in July 2014. The General Comptroller concluded that “*lack of tools were evidenced at the regional level involving in a comprehensive manner technical, social, economic, institutional, political, environmental and cultural factors to determine water demand*”. He also said, “*Environmental authorities do not have updated information on users, discharges and investment of resources that enable successful investment decisions and the improvement of the quality of water sources. Hence, actions carried out are ineffective against widespread water quality problems. For this reason, there has not been progress in strategies established in the National Policy on Integrated Water Resources Management. For example, reducing pollution of the resource, which aims to address root causes and sources of water pollution using preventive and corrective actions, prioritizes*

*actions on different types of pollution in accordance with the characteristics of the problem in each region of the country.*⁵⁶”

The comptroller’s office also found that “*The PNGIRH has contradictory aspects with the development policies of different sectors, specifically with agrarian, energy and mining sectors and in general, with the productive sector that is a big user of water resources. There is also a lack of precise procedures on behalf of MADs for the appropriate monitoring of activities proposed in the inter-sectorial environmental agenda, which has caused it to lose the course of its implementation.*”

He also said that “*the PNGIRH does not reflect an institutional design aimed towards an effective decentralization and participation of relevant stakeholders in a cross cutting manner for decisions making. It lacks decision-making bodies on advisory activities, where binding nature opinions are granted (...) and that “the PNGIRH merely translates the functions of agencies involved in Colombian water resource management without assigning responsibilities, times, activities, roles and/or instruments of coordination and cooperation between institutions. The Comptroller said that if this situation is not considered, these institutions would continue functioning with no power to summon the will and the budget for different activities. Strengthening of water regulation is necessary to allow a more equitable distribution of costs and benefits in order to stop, and eventually reverse, current trends of deterioration of watersheds and give way to improving the welfare of all inhabitants of the territory; something that is not understood in the PNGIRH”.*

⁵⁶ General Comptroller of the Republic. Warning Function - technical, administrative and institutional management weaknesses of water resources preventing to guarantee water as a public good and as a human fundamental and collective right. July 23, 2014.

3. Political Violence against Women as a Socio-Environmental risk associated with Extractive Industry

Threats and murders

For years the growing threat suffered by people who have led discussions about the mechanisms of access and use of natural resources has been reported. Some call it “criminalization of protest.” *“Social protest- expression of communities to defend nature, threatens huge investments of extractive industries, generally driven by transnational corporations. Therefore, States consider each time that social protest is dangerous, subversive and even terrorist.”*⁵⁷ The portal of the Observatory of Mining Conflicts in Latin America (OCMAL) has built a map of criminalization due to opposition to mining⁵⁸ and a questionnaire for reporting cases. In the following charts, reported cases of threats, killings or attacks, prosecution and use of force can be observed.



Chart 5. Source: (OCMAL, 2015)

Another recent report on the subject accounts for the difficult situation faced by those who do not only protest, but have different political approaches and that intercede directly in legal and political processes. Indeed, the 2015 report issued by Global Witness, *how many more?*,⁵⁹ revealed that in 2014 116 environmental activists were killed worldwide, of which three-quarters were killed in Central and South America. It also stated that the second most dangerous country in the world after Honduras, is Colombia.

ASESINATOS EN 2014 POR PAÍS

En aquellos países en los que la supervisión de la sociedad civil es relativamente débil (por ejemplo, en la mayor parte de África) se registraron pocas muertes, lo cual no implica que no se den ataques o intimidaciones. Del mismo modo, en áreas como China, Asia Central y Oriente Medio, los escasos datos sobre asesinatos de los que se dispone podrían deberse a la supresión de los medios de comunicación y otros canales de información.

VÍCTIMAS INDÍGENAS
VÍCTIMAS NO INDÍGENAS

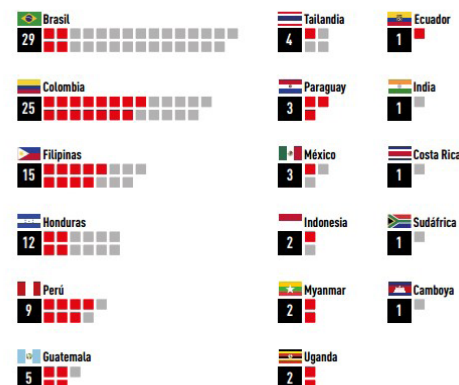


Chart 6. Source: Global Witness, 2015

The report shows the percentage of indigenous persons killed, but does not provide data by gender.

Another virtual report called “Silenced by the earth”⁶⁰ presents the results of tracking, analysis and visualization of data recorded during social-environmental conflicts in the Amazon countries, with the names of each crime. This report shows the presence of women in relation to cases reported; from 41 cases in Colombia 7 are women.

⁵⁷ Observatorio de Conflictos Mineros de América Latina -OCMA

⁵⁸ Observatorio de Conflictos Mineros de América Latina - OCMAL - Map of criminalization for opposition to mining: <http://www.conflictosmineros.net/temas-de-trabajo/mapa-criminalizacion>

⁵⁹ Report available at: <https://www.globalwitness.org/campaigns/environmental-activists/cuantos-mas>

⁶⁰ <http://ojo-publico.com/sites/apps/silenciados-de-la-guerra-por-la-tierra/>

It is evident that reports of deaths or cases of threats against environmental activists or political opponents at local level do not reflect the dimension of women affected.

Women in instances of environmental decision-making processes

There is updated information on the situation of women in areas of decision-making related to the management of natural resources. Despite that during the last two decades international mandates have been produced to strengthen gender equality and empowerment of women as a central axis of environmental decisions and sustainable development, the absence of mechanisms to monitor and evaluate the progress of governments has contributed to the poor implementation or non-implementation of these mandates.

In order to follow up on the commitments that countries have acquired at the international level, the Environment and Gender Index (EGI) evaluates the performance of governments in relation to the inclusion of national policies and plans of international mandates included in three international environmental conventions and in CEDAW. In the EGI 73 governments were initially studied, but neither Colombia, Guatemala or El Salvador were included. In the following chart the results of the performance index by country can be seen.

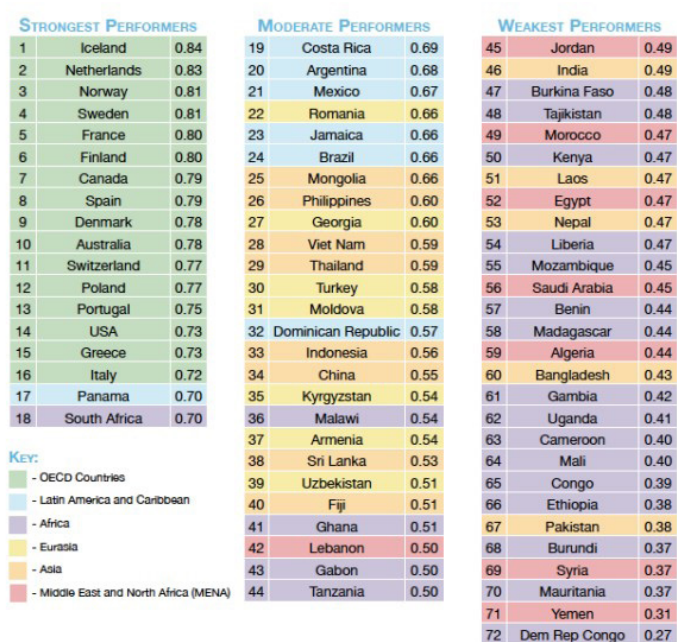


Chart 7. Source: (Genderandenvironment.org/EGI, 2015)

The index report also indicates a female under-representation in international scenarios. For example, it reveals that only 29% of government delegates to Rio Conventions are women; less than 25% of the focal points of Rio Conventions are women; 43% of the representation of civil society in Rio Conventions are women; and from 43 international organizations that have an environmental focus, 35% of its directors or equivalent positions are held by women.

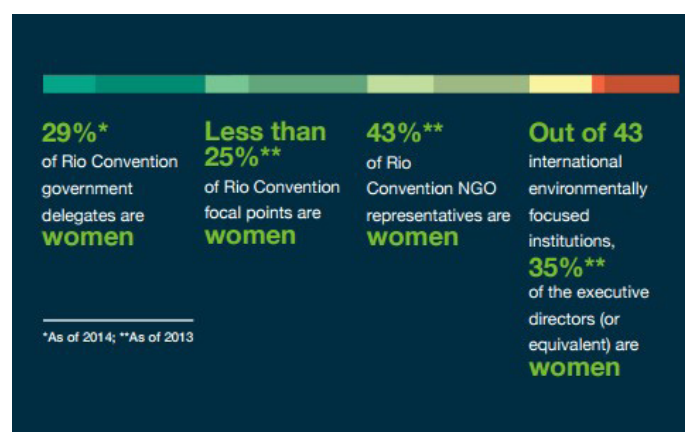


Chart 8. Source: genderandenvironment.org/EGI

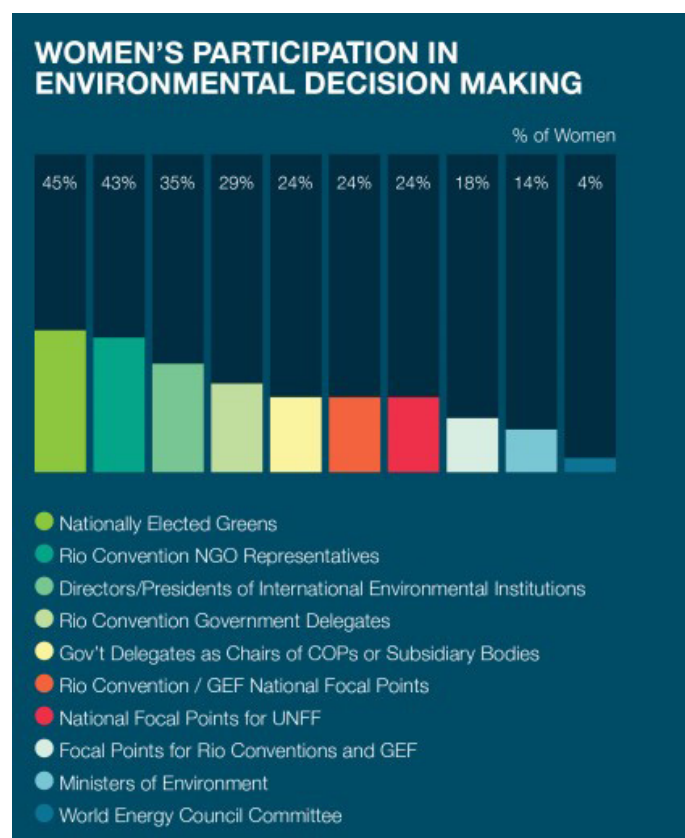


Chart 9. Source: genderandenvironment.org/EGI

Specific situation of the decision-making processes in Colombia surrounding a mining project

In the literature reviewed related to impacts of extractive industries on women, it is common to find merely a list of the impacts. However, the lists do not articulate the decision-making processes that were one of the primary causes of those impacts. This section will show the decision-making processes surrounding a mining extraction project in Colombia, and the possibilities of participation in it.

Extractive projects are usually designed to be implemented over many years or decades because they are planning projects and long-term interventions. They exceed several election cycles and generations. Therefore, decision-making processes surrounding extractive projects are complex and occur at many times; they are fragmented into various aspects and involve many different stakeholders whose decisions have different implications for their development.

The first thing to consider is that in Colombia the Mining Code is in statute (Act 685 of 2001) while all environmental processes are regulated by decree. Environmental governance achieved by decree shows a specific scenario of governance, especially in a country that has constitutionally seen tools of State intervention in the economy, the same as environmental licenses are an exclusive regulatory competence of the Congress. The institutional framework and conditions seem to work very well in regard to the viability of these projects. Environmental issues, if seen in this way, are considered as technical issues rather than matters that deserve more democratic discussions in multiparty spaces as constitutionally established. This is a serious problem of governance and an obvious cause of conflict, because controlling the management of resources is not democratic in any sense.

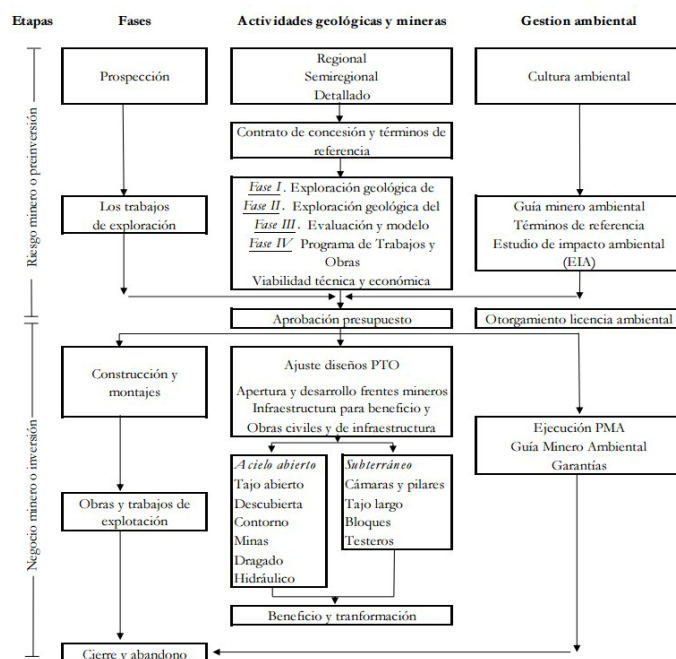


Chart 10. Source: (Rettberg & Ortiz - Riomalo, 2014)

The chart shows how authorities from at least two sectors such as mining and the environment converge with different competencies. Asynchrony can be seen where both intervene, and it can also be observed that while the mining sector is involved in all phases, the environmental authority only intervenes in the environmental licensing process after the exploration phase is over. That is to say, the mining authority effectively determines all technical, economic and even social conditions. Not to mention that the environmental licensing process itself, in the way in which it is currently regulated, is a process without real power or real incidence in regards to mining projects. Tools, such as Work Plans and Works (PTO's for its acronym in Spanish) shown in the chart, have much more weight and importance in terms of real decisions, and in fact, these are instruments of self-management for companies that are technically evaluated only by the mining authority, without any participation of citizens or of other competent authorities.

So in the way that participatory processes are designed in relation to mining processes, there are no participation mechanisms for citizens or for local authorities, and there is no possibility that the interests of women are reflected in final decisions.

Finally, it is worth noting that this diagram is very similar in every extractive activity.

4. Reflections

It is clear that in Colombia those working in the field of environmental conflicts do not work on gender issues and those working on gender issues do not know about environmental conflicts. Working to achieve an understanding and integrating these two approaches is necessary, and there is great opportunity to delve into this issue.

An important discussion about the connections between processes of implementation of extractive industries has been raised. Also, forms of political and economic violence against women, when these are associated with macro political and macroeconomic processes, has been described. As a contribution to this topic, this report highlights the intrinsic connections between these two types of violence, because one does not happen without the other.

The need to deepen the impact on women in the context of environmental security outside the analysis of disputes over access to land and control of natural resources, has been raised.

Differences between men and women in regards to access and control of natural resources, especially those different from land, are a key indicator of imbalance of power between them. It is necessary to have more information about this imbalance in Colombia.

To ensure adequate measures of reducing inequality of access to land in Colombia, it is necessary to go beyond the processes related to land rights and to strengthen processes to ensure the land is productive.

Through all the processes mentioned that have an impact on management of resources, land grabbing in Colombia has been facilitated, benefiting companies

working with extractive projects. What has been established within the framework of this investigation is that with the exception of the land restitution process, in other judicial and administrative processes, there are no gender considerations. This absence of special provisions for women does not allow for having data and information to provide monitoring of these processes in order to establish characterizations of situations and affectations of women in each of these processes, and in general terms, does not allow women to know the real situation about their rights.

It is also important to note negative consequences for women's rights to land ownership in relation to their productive role and leadership. This leads, of course, to an increase in gender inequality, as women are excluded from all the possibilities of management and control of natural resources, and they are marginalized from public discussions and decision-making processes.

Currently, there are some initiatives focused on improving mechanisms for access and ownership of land with a gender emphasis that can be very interesting to explore. For example, the Regional Movement for Land and Territory in Latin America - a massive process of reflection related to access to land and territory-systematizes successful cases around land ownership in Latin America. Some of these cases have a gender focus. FAO has a platform of data on land rights for women. It presents data regarding land distribution by gender, although data for Colombia is not yet available.

LANDESA has an initiative for a rural observatory with emphasis on women's rights to land. Finally, in 2006, USAID conducted a study related to best practices for women and ownership rights, giving emphasis to examples such as how gender perspective has been handled.

Meanwhile, the participation of women in real spaces for land use planning is a guarantee, not only for the enjoyment of their rights to land but as a measure of democratic strengthening. This is because promoting the presence of women in more local decision levels strengthens multi-party democracy in the most fundamental scenario, which is the local one.

Specific needs of women are not aspects that have been considered in the processes of defining land use in the municipalities and in specific territories where they live. To compensate for this problem, some tools that may be useful during territorial planning processes have been generated. Such tools give recommendations on gender and it will be interesting to explore them. Amongst them are: 1) Methodological guide for the implementation of a Land Use Plan with differential approach; 2) Recommendations for the inclusion of a gender perspective in Departmental and Municipal Development Plans; and 3) Document Review of the Land Use Plan for Bogota with a gender perspective. Furthermore, the recognition of different uses of biodiversity by women is a necessary step towards defining projects and initiatives involving the sustainable use of biodiversity resources.

It is key to have a map of every judicial and administrative processes related to access and control of natural resources in order to ensure women's participation and involvement in all processes present in their territories.

It is essential that the lack of visibility and lack of data in relation to the needs and contributions of women in the management and use of natural resources is no longer an obstacle for the policy proposed for resource management with a gender perspective.

The presence of women at the local level is the greatest expression of multiparty democracy, because the local Councils have the competences to consolidate the environmental process.

It is noteworthy that many aspects related to the implementation of extractive industries are part of the policies of social responsibility for companies. In that sense, the incorporation of the analysis of these types of policies is essential in any strategy related to women and extractive industries.

It is important to understand that disputes over environmental management are not technical issues; instead they are discussions regarding interests. Therefore, the current governance scheme, full of decrees and resolutions, is weak and is the cause of conflict. It is very important that environmental governance be strengthened, and bodies such as municipal councils, which are multiparty spaces, can actually serve as channels to process and reconcile different local interests.

All aspects included here are the basis for a multiparty dialogue. Obviously, there are no discussions about non-compliance of standards or lack of them, but there is also a lack of more legitimate and democratic processes that can create and develop them, and women have great potential to raise and encourage these dialogues.

