Tabasará Libre:  
A Case Study of Carbon Colonialism in Panama’s Barro Blanco Hydroelectric Project  

by  
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Class of 2015  

A thesis submitted to the faculty of Wesleyan University in partial fulfillment of the requirements for the Degree of Bachelor of Arts with Departmental Honors from the College of the Environment  

Middletown, Connecticut  April, 2015
“Somos gente de la tierra, la corazón de la tierra.”
“Nagare Barro Blanco, Tabasará Libre”
-mi familia Ngöbe.
# Table of Contents

ACKNOWLEDGEMENTS .................................................................................................................. II
ACRONYMS ..................................................................................................................................... III

INTRODUCTION ............................................................................................................................... 1
  To Search for Water ......................................................................................................................... 1
  An Overview ................................................................................................................................. 2

CHAPTER 1 ....................................................................................................................................... 5
  A SOCIAL AND ENVIRONMENTAL DISASTER ........................................................................... 5
    Introduction ................................................................................................................................. 5
    Background: A History of Development and Protest ................................................................. 6
    Barro Blanco: Construction and Protest History ..................................................................... 10
    The Dirty Side of Clean Development: What GENISA’s EIA Left Out ..................................... 15
      Environmental Impacts ............................................................................................................ 16
      Social & Economic Impacts ..................................................................................................... 20
      The Cost of Fighting Back: An Indirect Impact .................................................................... 27
      A Narrative of Disenfranchisement ......................................................................................... 31

CHAPTER 2 ....................................................................................................................................... 33
  CANALABALISM: A COUNTRY CONSUMED BY TRANSIT ....................................................... 33
    Introduction ................................................................................................................................. 33
    A Transit Based Economy .......................................................................................................... 35
    An Economy of Exclusion ......................................................................................................... 38
    The Limitations of Economic Rule ............................................................................................ 40
    Conclusion .................................................................................................................................. 42

CHAPTER 3 ....................................................................................................................................... 44
  HOW TO BUILD A DAM: THE CONVERGENCE OF NEOLIBERALISM, THE
  ENVIRONMENTAL MOVEMENT, AND AN ERA OF RECONSTRUCTION ................................. 44
    Introduction ................................................................................................................................. 44
    The Factors ................................................................................................................................ 46
      An Era of Reconstruction ......................................................................................................... 46
      Neoliberalism ............................................................................................................................ 49
      The Kyoto Protocol .................................................................................................................. 51
    When Three Become One ........................................................................................................... 53
    Conclusion .................................................................................................................................. 62

CONCLUSION ................................................................................................................................... 64

SOURCES CITED ............................................................................................................................... 69
Acknowledgements

Kiadb:
Por su amistad, su amor, su cariño, y su paciencia, gracias. Espero que un día pueda ser tan fuerte, valiente, y perduren como todos de ustedes. Me dijeron que somos familia y no voy a olvidarlo. Me pediste que comparta su historia, así que aquí está. Un pueblo unido jamás será vencido. Somos familia, somos unidos, no vamos a ser derrotados. Nagare Barro Blanco, Tabasará Libre.
Por Chocho, Igrami, y todos de los niños de Kiadb- Gracias por sus chistes, sus juegos, sus curiosidades y sus corazones abiertos.

Mom, Dad, Elizabeth, Sam, Thomas, and Grandma:
Thank you for your support, your honesty, your intellect, your friendship, your phone calls, and, of course, your love. Thank you for listening to my endless talk of Kiadb and Barro Blanco. I am so lucky to have a family and home that I will always be able to, and want to, return to. Mom- thank you for your cookies that sustain me with love. Dad- thank you for your jokes that can make me laugh without even being funny. Liz- thank you for blazing a trail that forces me to work my hardest. Sam- thank you for your adventure that has inspired me. Thomas- thank you for your boredom, through which you have built a palace, become a surfer, and ultimately inspired me to do things. Grandma- thank you for making your home my own, and putting up with my “flaming liberal” arguments. I love you all.

Fauver 207:
Thank you for invading my space, disturbing my naps, and trashing our home. Because you invaded it with love, you woke me up with music, and you reminded me to get my hands dirty. Katy- you are my rock. You always tell me I am so capable but it is your own capabilities- your determination, your balance- that inspires me everyday. Win- This thing that you call your craziness energizes and invigorates my life. Don’t ever lose it. T- you have been there, without fail, throughout this whole process- your humor and your love are constantly making me smile when I think that I can’t. Jage- you have advised me, loved me, and dealt with mean Kat through this whole process- my thesis would be an incoherent pile of words without you. I love you all.

Thesis Homies:
Thank you for the inspiration, the laughs, the perspective, the snack, and for talking me through what you were struggling with yourselves. Nicole, thank you for getting me to “turn up turn up” for my thesis despite being sleep deprived and frustrated.

Barry:
Thank you for supporting my ideas, for sharing your own, and for showing me I was in fact capable of doing this. I appreciate the time you have given me, and this process has taught me so much.
## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACD</td>
<td>Alliance for Conservation and Development (Alianza para Conservación y Desarrollo)</td>
</tr>
<tr>
<td>AENOR</td>
<td>Asociación Española de Normalización y Certificación</td>
</tr>
<tr>
<td>ANAM</td>
<td>National Environmental Authority</td>
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<tr>
<td>BBHPP</td>
<td>Barro Blanco Hydroelectric Power Project</td>
</tr>
<tr>
<td>CCCM</td>
<td>Cerro Colorado Copper Mine</td>
</tr>
<tr>
<td>CDM</td>
<td>Clean Development Mechanism</td>
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<tr>
<td>CITES</td>
<td>Convention on International Trade in Endangered Species of Wild Fauna and Flora</td>
</tr>
<tr>
<td>DNA</td>
<td>Designated National Authority</td>
</tr>
<tr>
<td>DOE</td>
<td>Designated Operational Entity</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>EIB</td>
<td>European Investment Bank</td>
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<tr>
<td>ERSP</td>
<td>Public Services Regulatory Entity</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GENISA</td>
<td>Generadora del Istmo, Sud America</td>
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<tr>
<td>IADB</td>
<td>Inter American Development Bank</td>
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<tr>
<td>ILO 169</td>
<td>International Labor Organization Convention 169</td>
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<td>IUCN</td>
<td>International Union for Conservation of Nature</td>
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<td>KP</td>
<td>Kyoto Protocol</td>
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<tr>
<td>M10</td>
<td>10\textsuperscript{th} of April Movement (Movimiento 10 de abril)</td>
</tr>
<tr>
<td>MIDP</td>
<td>Mesoamerica Integration and Development Project</td>
</tr>
<tr>
<td>MV</td>
<td>Mission of Verification</td>
</tr>
<tr>
<td>MW</td>
<td>Megawatt(s)</td>
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<tr>
<td>PDD</td>
<td>Project Design Document</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNFCCC</td>
<td>United Nations Framework Convention on Climate Change</td>
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<td>WB</td>
<td>World Bank</td>
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Introduction

To Search for Water

“Vamos a buscar agua.”

Chocho grabs what appears to be a red plastic gasoline tank and takes off down the path. I look at the pile of red, clear, blue and yellow empty plastic containers that lies next to the fire and quickly choose two empty milk jugs. I follow his sprint with a leisurely walk, knowing exactly where he’s headed.

I know that I will find Chocho just down the hill, a few yards from the Tabasará River, most likely hidden in a tree and ready to startle me. His feet will be muddy, his gasoline tank slowly filling under a white PVC pipe that stretches down the dirt path away from home. Though I can’t see it, I know that down the road where the pipe begins a spring. This pipe delivers water to the edge of the community of Kiadb, where it wets children’s feet as it fills milk jugs, gasoline canisters, buckets, and bottles. Today the water is slightly less than clear. Tomorrow it could be mud.

When Chocho says “vamos a buscar agua” I hear “lets go get water.” However, when directly translated, buscar does not mean “to get” but to “search for” or to “look for.” To look for something is to not have it, to not know where it is, and at times, to not know if it even exists.

In 2007 the Panamanian government granted an energy concession to Generadora del Istmo, S.A. to build the Barro Blanco Dam on the Tabasará River,
right outside of the Comarca Ngäbe Buglè. Since construction began, the Ngäbe have watched their home and their lives change, and have done everything they can to stop the project.

In April of 2014 I stayed with Chocho and his family in Kiadb, their town in the Comarca Ngäbe-Buglè, an indigenous reservation in Panama. At the time, I knew where I would find Chocho because, although the Ngäbe are the poorest community in Panama, their water source is not determined by capital or plumbing, but by the river and springs.

Should the Barro Blanco Dam be fully constructed and operated, I do not know where I will find Chocho. This is not because the reservoir that Barro Blanco creates will limit the Ngäbe’s access to drinking water. It is because the river will no longer be what it is now. Right now, the Tabasará is not just drinking water—it is the mangos and guineos that Chocho’s family eats for breakfast and the clean dress his abuela wears into town. It is Kiadb’s classroom, its playground, and its church. Should the Barro Blanco Dam be fully constructed, the Ngäbe will no longer have any of these things, for they depend up the nature of the Tabasará as a river, not a reservoir. As the poorest community in Panama, the Ngäbe don’t have much. However, most of what they do have comes from the freely flowing waters of the Tabasará.

An Overview

The Barro Blanco Hydroelectric Power Project is advertised as a sustainable development project. It has been granted carbon emission reduction credits through
its approval under the Clean Development Mechanism of the Kyoto Protocol— an international entity that was created to fight climate change and its injustices. Almost a year ago, I left the Comarca Ngäbe-Buglé asking the following question: why is the Barro Blanco Hydroelectric Dam labeled as “clean” and “sustainable” when it is exploiting the Ngöbe community and the environment they depend on?

To understand why, this thesis investigates the events that have lead to Barro Blanco’s construction. What are its current impacts? What are its projected impacts? What have the Ngäbe done to stop it? Chapter One serves to answer these questions by presenting public information as well as my own observations and experience in the Comarca. Most importantly, this chapter will include the personal experiences of the community of Kiadb. For it is the absence and suppression of their voices that is at the root of this conflict.

Chapter Two will begin to explore the absence of Ngäbe voices in the decisions leading up to Barro Blanco. To do track this absence this thesis will examine Panama’s economic history, starting with Spain’s colonial presence in the 1500s. Due to the exploitation of its geography, and not its resources, Panama is an anomaly in the colonial narrative. This chapter will explain Panama’s specific case with a focus on indigenous voices, the environment, and economic development—the forces at war in the Barro Blanco conflict.

Finally, Chapter Three will examine the current factors contributing to the Ngäbe’s disenfranchisement and the environmental degradation occurring as a result of development. Panama’s economic reconstruction, the rise of neoliberalism, and the international environmental movement occurred in tandem. The convergence of these
three factors has greatly impacted Panama’s national policy. Additionally, the synergy of neoliberal ideology and the climate movement have resulted in the Kyoto Protocol, and given rise to a new form of imperial domination, carbon colonialism.

The term carbon colonialism was coined by Harald Eraker to describe the effects of a Norwegian carbon sequestration scheme in Uganda. Eraker noted that carbon credits from a tree plantation were promoting foreign investment in developing countries and resulting in local land conflicts and exposing inequalities.

Heidi Bachram has expanded upon this idea, noting that the Kyoto Protocol’s climate change mitigation strategy, the carbon market, is not combating climate change or climate injustice but rather contributing to it. She notes that carbon trading is defined by colonial and imperial ideology and, “As with colonialism of old, this new colonizing force justifies its interference through moral rhetoric.”

This thesis serves as a case study of carbon colonialism. However, unlike other studies of carbon colonialism, which have focused entirely on the corruption of sustainability politics in the carbon market, this thesis seeks to show that Panama’s own national policy promotes the exploitation of the environment and enables environmental injustice under the guise of sustainable development and indigenous rights.

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2 Ibid.
Chapter 1

A Social and Environmental Disaster

Introduction

Since colonial times of conquest, indigenous and native peoples have been subjects of discrimination and exploitation. Often, these communities and their culture are regarded as backwards and “primitive.” They are seen as opposing the forward direction of development that so many countries set as their goal. Indigenous peoples comprise 6% of Panama’s population. As a whole, they are considered the most marginalized people in Panama. Within this population, the Ngäbe are considered both the largest and poorest, placing them at the bottom of Panama’s socioeconomic scale.⁴

Unfortunately, like most indigenous communities, the Ngäbe are in a position of little power and are continuously finding themselves at the mercy of the government and public. Development opportunities often take priority over their

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well-being, and their rights are violated blatantly and repeatedly. Often times these development projects involve resource extraction on traditional indigenous lands, as these lands have been fairly well preserved and thus the resources are plentiful. Hydroelectricity has been especially common due its cost efficiency, clean reputation, and Panama’s extensive network of rivers.

**Background: A History of Development and Protest**

In the province of Chiriquí, the Barro Blanco Hydroelectric Power Project is being built on the Tabasará River. This river runs alongside and into the Comarca Ngäbe Bugle, an indigenous territory that is recognized by the government as autonomous. Despite the protests of the local Ngäbe communities, the project has been in a state of construction since 2011.

Barro Blanco is one in a series of proposed dams on the Tabasará River. The first dam, Tabasará I, was planned in 1980 as a power source for the proposed Cerro Colorado Copper Mine (CCCM). President Omar Torrijos was making an effort to develop Panama’s internal economy. At the time, he viewed CCCM as the beginning of Panama’s economic independence. Torrijos was also very much a man of the people. Despite disagreements between the Ngäbe and CCCM, as well as the general opposition the Ngäbe felt about the project, Torrijos was able to stay in their favor.

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until his death in 1981. This favor can be explained by Torrijos’ willingness to
negotiate and theoretically approve a comarca\(^6\) for the Ngäbe people.\(^7\)

However, after Torrijos’ death it became clear that the creation of a Comarca
was conditional upon approval of CCCM and its accompanying hydroelectric
projects. The Ngäbe saw the project as a direct threat to not only their land, but also
to their existence as a culturally unique people. The project had various social,
economic, and environmental effects that conflicted with the their traditional
subsistence lifestyle. The communities refused to approve the projects and thus the
government refused to grant their comarca. This refusal, in addition to falling copper
prices and economic projections, placed CCCM and its hydroelectric counterpart on
hold\(^8\).

In 1992 the Panamanian government presented the Ngäbe with a similar deal.
Again a comarca was offered in return for approval of the CCCM and its
hydroelectric power source. However, the deal differed in the area of land offered.
Since the original negotiations of the Torrijos administration, the area of land offered
had continuously diminished. This was problematic considering the original area the
government offered didn’t include all traditional Ngäbe lands. As subsistence
farmers, land is life for the Ngäbe. Since the arrival of the Spanish in the 1500s, this

\(^6\) Comarca has no formal definition. It generally refers to an autonomous indigenous
reservation under collective ownership. However, specifics vary between comarcas as each is
defined by a separate national law.

\(^7\) Gjording, *Conditions Not of Their Choosing: The Guaymi Indians and Mining
Multinationals in Panama*.

\(^8\) Ibid.
land had been shrinking, threatening their culture and lives. A comarca was supposed to mitigate this threat, but instead it was increasing it.

The progressive unfairness of these negotiations, as well as the threat it posed, prompted another refusal from Ngäbe leaders. Additionally, protest efforts grew, especially following the first casualty of this conflict. After Saturnino Aguirre, a Ngäbe student, was killed in a protest in 1996, the Ngäbe marched to Panama City to confront the government.

The following year Law 10 created the Comarca Ngäbe-Bugle. As before, the area of land the government offered was much smaller than in each of the earlier negotiations. Although CCCM and its hydroelectric projects had finally been withdrawn from the negotiations, the two projects had not been completely abandoned. Furthermore, Article 28 of the law grants the rights to the natural resources and the development of the Comarca to the national government to use in whatever way deemed necessary for Panama’s best interest.

Two years later, in 1999, the government began to take full advantage of this clause. The Ngäbe first learned of the 49 megawatt (MW) hydroelectric dam, Tabasará II, when studies were already being done for its Environmental Impact Assessment (EIA). Despite being granted a comarca, the Ngäbe were now being threatened by three development projects: Cerro Colorado Copper Mine, Tabasará I, and Tabasará II.

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9 Young, "Ngawbe: Tradition and Change among the Western Guaymi of Panama."
10 Jordan-Ramos, "Indigenous Mobilization, Institutionalization and Resistance: The Ngöbe Movement for Political Autonomy in Western Panama."
Threatened and angered by these projects, along with their lack of consultation, Ngäbe protest efforts escalated. The resistance organization Movimiento 10 de abril (M10) was formed when, on the 10th of April, several Ngäbe activists were arrested.\(^\text{12}\)

The Ngäbe’s struggle was finally acknowledged in 2000, when the Supreme Court of Justice of the Republic of Panama provisionally suspended the Tabasará II Hydroelectric Project. The suspension was based on violations of Law 41, the General Environmental Law. The articles in this law, “bear relation to the participation and assent that is precise to obtain from the indigenous communities,”\(^\text{14}\) Unfortunately, this was a temporary step forward, because just two years later this lawsuit was withdrawn.\(^\text{15}\)

Shortly after, in 2003, three articles in Law 41 were quietly removed. Law 18 of 2003 was largely concerned with redistricting. However, hidden in this law was legislation that repealed articles 63, 96, 98, 101, and 102 of Law 41. The removal of these articles allowed the government to auction a concession for the area previously planned for Tabasará I. In 2007 Generadora del Istmo, S.A. (GENISA) was awarded this concession and plans for the Barro Blanco Hydroelectric Power Project (BBHPP) began shortly thereafter.

\(^{12}\) The 10th of April Movement  
\(^{13}\) Melissa Orozco, "Chronology of Events for Barro Blanco Dam (Panama)," International Rivers, http://www.internationalrivers.org/chronology-of-events-for-barro-blanco-dam-panama.  
\(^{15}\) Orozco, "Chronology of Events for Barro Blanco Dam (Panama)"
Barro Blanco: Construction and Protest History

The Barro Blanco Hydroelectric Power Project is a 28.84 MW gravity dam, meaning its design includes a reservoir. Investors include the Netherlands Development Finance Company, the German Investment Corporation, and the Central American Bank for Economic Integration.\textsuperscript{16} Until 2010 the European Investment Bank (EIB) was also an investor. However, in 2010, after the EIB expressed interest in investigating human rights violations, GENISA withdrew their application for funding.\textsuperscript{17} Despite these violations, the Clean Development Mechanism, a part of the Kyoto Protocol, has approved this project. Thus, the aforementioned investors benefit from the carbon emission reduction credits associated with this “clean” project.

This project violates multiple international and national laws and agreements including Panama’s General Environmental Law, the International Labor Organization’s Convention 169 (ILO 169), and the UN Declaration of Indigenous Rights. Due to these violations, the project should not fulfill CDM standards\textsuperscript{18}.

This past February 2015, the government temporarily halted the project’s construction and opened a dialogue with the affected Ngäbe communities. They have now found GENISA guilty of violating numerous laws (see below), resulting in the detriment of the surrounding environment and communities. However, the suspension

\textsuperscript{17} Caterina Amicucci et al., "Dire Straits: Eib Investments in Panama and Their Impacts on Indigenous Communities, Workers, and the Environment," (Counter Balance: Challenging the EIB, 2011).
\textsuperscript{18} Osvaldo Jordan, (Alianza para la Conservacion y el Desarrollo (ACD), 2008); "Commentaries on the Validation of the Hydroelectric Project Barro Blanco."
of this project comes after much damage has already been done and construction is well underway, as both the Panamanian Environmental Authority and the Clean Development Mechanism approved it previously.

As with Tabasará II, the Ngäbe community did not learn about Barro Blanco until the EIA was in process. After hearing about it tangentially, about fifty Ngäbe community members rushed to a public consultation meeting that GENISA was holding in Tolé, a town neighboring the comarca. The Ngäbe had not been formally notified of this meeting, and only heard about it when a community member happened to see an advertisement during an outing in Tolé. Upon arrival to the meeting, all fifty Ngäbe community members were denied access. When finally five were allowed to enter they were informed that the meeting was a closed one, and they could only listen and could not participate. Although this meeting was not noted as the official public consultation for the EIA, the meeting that was cited in the 2008 EIA also excluded the Ngäbe. This violates ILO 169 and the UN Declaration of Indigenous Rights, which establish that indigenous communities have a right to participate in decision-making processes that affect them. It also violates the CDM’s requirements of participation and free, prior, informed consent of affected communities.

At this point in time, plans for BBHPP were smaller, with a maximum energy production estimated at 19 MW. It wasn’t until 2009, when the company was

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19 Orozco, "Chronology of Events for Barro Blanco Dam (Panama)".
requesting validation under the CDM that the Ngäbe and other activists became aware that the project had been expanded to 28.84 MW. This expansion increased the dam’s height from 42 meters to 61.09, the reservoir area from 234 hectares to 258 hectares, and the maximum flood level from 103 meters to 108.25 meters above sea level. Although ANAM had approved the expansion, they had not required a new EIA and thus no new studies or consultations were done. Consequently, the Ngäbe were yet again excluded from participating in decisions that affected them. The change in reservoir area was particularly concerning; as the original smaller reservoir area was already feared to negatively affect their agricultural lands.

The Comarca Ngäbe-Buglé contains 2,500 square miles of mostly mountainous, rocky, and steep terrain. With this sort of topography, land suitable for farming is not easy to find. In 1971, Young estimated that only half of the comarca’s land was arable. Due to climate change, developments such as BBHPP, and overuse of the limited farmland available, it is likely that this is now an overestimation. Additionally, the 2011 government census estimates that 178,127 people live on this land. By flooding agricultural lands, Barro Blanco will be aggravating a land and population issue that is already threatening the traditional Ngäbe lifestyle.

In 2011 the Panamanian government reformed Law 8, the Mineral Resource Law. The reforms allowed for strip mining as well as foreign investment and involvement in mining projects in Panama, namely Cerro Colorado. This resulted in mass protests of Panama’s indigenous and their allies. Protests culminated in 2012, with a blockade of the Pan American Highway to which the police responded with

21 Young, "Ngawbe: Tradition and Change among the Western Guaymi of Panama."
force, killing two and injuring hundreds. After this show of violence, some Ngäbe leaders and the Panamanian government began a dialogue, each with very different agendas. The government hoped to put a stop the protests while the Ngäbe sought to put a stop to Barro Blanco’s construction.

Before these talks had begun, dam construction started unannounced and without legitimate or official consult or consent. In retaliation, M10 set up protest camps at the construction site’s entrance and wrote letters to the dam’s investors. Responses stated the investors would take no action, as they followed their own standards. When the talks began, the camps were dissolved as part of the agreement and construction was put on hold.

Despite uneasiness between the communities and the government, this dialogue resulted in the signing of Law 11. On paper, this law appears to be a huge step forward. It cancels and bans all future and current mining concessions in the Comarca, annexed, and neighboring Ngäbe lands. It also establishes a consultation process for future hydroelectric concessions and states specific economic benefits for these areas. These include a five percent royalty and guarantee employment as well as economic compensation for all those displaced.23

Unfortunately, Law 11 fails to address the overarching problem— the lack of rights the Ngäbe have to their own land. While the above measures are taken to create a more participative and beneficial process, the Ngäbe are still largely at the mercy of the Panamanian government. This is due to article 48 of Law 10, which still places the national government as the primary holder of resource rights of the Comarca.

Furthermore, Law 11 only addresses future hydroelectric projects. Thus, the processes and laws established are not legally binding for Tabasará II or Barro Blanco.

Dialogue between the Ngäbe and the Panamanian government also resulted in an intervention by the United Nations. On March 15, 2012, Barro Blanco’s construction was officially suspended until the UN had reviewed the project’s EIA and completed a Mission of Verification (MV). The MV, including a Topographical Survey done by the United Nations Development Programme, was finalized in June. Standard procedure states that a MV must be presented to, reviewed by, and signed by all stakeholders. However, it was never made available to the Ngäbe leaders and M10. Furthermore, during these talks construction began unannounced, accompanied by a permanent police presence. By giving up their protest camps at the construction site, the Ngäbe had also given up any power to prevent this. Camps were thus reestablished outside the construction zone. However, these positions lack the strategic importance of the previous sites, making effective action difficult. These camps were therefore more symbolic than effective.

As dialogue with the government proved ineffective, protests continued through to 2015. While I was staying in Kiadb in April of 2014 the police force often dissolved peaceful protests with tear gas. Additionally, rubber bullets were shot directly at protestors, a measure that can easily lead to death. Police also attacked camps unprovoked, when community members were sleeping or resting.
This past February 2015, yet again construction was suspended and a table of dialogue was opened between the Ngäbe and the Panamanian government.\(^{24}\) However, the project already stands 90% complete\(^{25}\) and the surrounding communities and environment have already felt its negative impacts.

### The Dirty Side of Clean Development: What GENISA’s EIA Left Out

The EIA sponsored by GENISA has a section for every necessary aspect outlined by Law 41. It touches upon possible environmental, social, and economic impacts the dam might have. However, the assessments are incomplete and the document presents inadequate conclusions that present the project’s costs as small when compared to its benefits. It even asserts that the project will improve the quality of life of local communities and help to increase sustainability and environmental health overall\(^{26}\). The Executive Summary of the EIA states that the project, “contributes from the social, environmental, and economic point of view.”\(^{27}\)

However, according to the local communities and various outside assessments\(^{28}\), the project will have impacts of huge detriment- impacts that aren’t


\(^{27}\) Ibid.

mentioned in the EIA and that are in direct violation of Law 41. Since dialogue began this year, some of these impacts have been addressed, and GENISA has been held accountable. However, the point of an EIA is not to acknowledge but to prevent these impacts.

**Environmental Impacts**

One of the most obvious and visually notable affects of Barro Blanco’s construction is pollution. The EIA approved by ANAM specifically states that only small amounts of oil will be used, and disposed of, properly. Additionally, throughout the report it is maintained that water quality is not expected to change, but that a monitoring program will be utilized from the start of construction in order to ensure of this. However, when construction first began in 2011, community members starting noticing iridescent oil stains covering the river’s surface near the dam. A massive die off of fish occurred in the following weeks. In a video taken by a community member, hoards of dead fish as well as a sheen of oil cover the river’s surface.


30 KIA12, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA14, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA15, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama.
The flooding, and resulting reservoir, from the construction of Barro Blanco, also poses a threat to the water quality of the river. By changing a section of the river into a reservoir, the environment is changing from lotic to lentic. This change can result in an accumulation of nutrients and sediments in the reservoir, causing large blooms of algae and plants that crowd out other aquatic organisms.\textsuperscript{31} Additionally, studies have shown that reservoirs often trap nutrients and sediments, creating deficiencies upriver that greatly affect the river and riverbank environment\textsuperscript{32}. It has also been shown that due to a larger surface area, reservoirs have higher evaporation rates than rivers.\textsuperscript{33}

Finally, lentic reservoir water can have lower oxygen levels, especially in tropical environments. Dissolved oxygen levels are an important indicator of water quality and health. This is due to the decomposition of plant materials at the reservoirs bottom. Despite the deforestation that has occurred to prepare for the reservoir, plants are extremely likely to start growing back before the flooding actually occurs which will cause decomposition of these plants. Decomposition consumes oxygen, and thus lowers dissolved oxygen levels. When water is released from the dam its oxygen levels are potentially insufficient to support some types of river ecosystem life.\textsuperscript{34}

\textsuperscript{32} Ibid.
\textsuperscript{33} MP McCartney et al., "Ecosystem Impacts of Large Dams," \textit{Thematic review II} 1 (2000).
\textsuperscript{34} McCully, "Silenced Rivers: The Ecology and Politics of Large Dams."
Barro Blanco’s design also includes a number of low-level outlets so that the river’s “ecological flow will be ensured.”\textsuperscript{35} However, these outlets will draw water from the bottom of the reservoir. It is at this lower stratum that plant decomposition and bacteria can deplete oxygen levels. The addition of oxygen poor water to areas below the reservoir can cause environmental change and negatively affect river organisms.\textsuperscript{36} While technology such as aerating turbines and surface water pumps can re-oxygenate this water, based on their absence from the EIA, it is unlikely that Barro Blanco will employ this technology.

Gravity dams also create a physical barrier in the river. This causes a number of negative impacts on the river ecosystem. Most obviously, the dam structure will block the movement of aquatic organisms from one side to the other. The Tabasará River is home to many migrating fish species, such as robalo and shad, as well as river shrimp and a shrimp like species that the locals refer to as “congas.”\textsuperscript{37} Before the dam’s construction, “There were so many,” congas and shrimp. Now, however, “There are barely any.”\textsuperscript{38} The same has been said for the robalo, shad, and other large fish species that formerly inhabited this part of the Tabasará River.\textsuperscript{39}

Since construction began, large tracts of land have been deforested and burned to make way for the dam’s structure and resultant flooding. The current land clearing


\textsuperscript{36} McCartney et al., "Ecosystem Impacts of Large Dams."

\textsuperscript{37} KIA11, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama.

\textsuperscript{38} KIA14.

\textsuperscript{39} KIA2, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA13, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; TOL1, interview by Katharine Evans, April, 2014, Personal Interview, Tolé, Chiriquí, Panama; KIA14.
and future inundation pose threats to ecosystems and species that inhabit the area. This includes at least two species of frogs, numerous species of birds, and various mammals.

*Dendrobates auratus* and *Craugastor tabasarae* are two frog species that are found in this area. The *Craugastor tabasarae* is a species endemic to Panama and is listed as critically endangered. While GENISA is aware of this, they have discounted its presence as, “It has also been stated by experts that these species have reduced their number by a recent epidemic of amphibian chytridiomycosis in the area,” and due to their possible presence elsewhere in Panama. Efforts to remedy chytridiomycosis are currently being made, as amphibians are considered the most endangered group of vertebrates and are important players in the global ecosystem.

In the EIA, GENISA completely disregards this species, as the project is, “not expected to affect any threatened or endangered species as defined by IUCN or CITES.”

*Dendrobates auratus*, on the other hand, is listed as a species of Least Concern on the IUCN Red List. However, the blue morph that is found in abundance in this area is thought to be facing extinction. In the case of this frog, it seems that

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GENISA has completely disregarded its presence, as it has not been mentioned in the EIS or any other public information concerning Barro Blanco that GENISA has produced.

The local communities have also reported a significant reduction in mammal, bird, and reptilian species since the deforestation efforts began. Animal protein is an important aspect of the local diet, and these animals have traditionally been source of nutrition\textsuperscript{46}. For example, one community member has noted that both the local lizard population has been reduced since dam construction began. Additionally, a decline in their average physical size has been observed.\textsuperscript{47} The EIA includes a “Plan for Rescue and Relocation of Fauna”\textsuperscript{48}, but it does not consider the role of fauna in the local diet and there is no evidence that this rescue and relocation ever occurred.

\textit{Social & Economic Impacts}

As is required, GENISA’s EIA includes social and economic impacts of BBHP’s construction and operation. However, the UNDP’s MV confirmed that a proper consultation with the Ngäbe had not occurred.\textsuperscript{49} Thus, the source of the evaluations and claims made in the EIA is unclear due to a lack of local community participation.

GENISA’s EIA makes numerous claims concerning the consultation of the Ngäbe. Most broadly, the report states all stakeholders have been consulted. This

\textsuperscript{46} Mata, "Resultados Del Diagnostico Rural Participativo."
\textsuperscript{47} KIA14.
\textsuperscript{49} Gisele Didier, "Informe De La Misión De Verificación."; Mata, "Resultados Del Diagnostico Rural Participativo."
includes, “over thirty meetings with the members of the indigenous community,” and a public forum in February 2008 that was, “advertised on the radio, in the newspaper, and through fliers and posters. Fifty people attended.”

However, the four directly affected communities in the Comarca have stated that no representatives have visited their towns or reached out to them. This has been stated publicly, by community leaders such as General Cacica Silvia Carrera and emphasized by multiple community members in interviews last year. Affected community members have also stated that the aforementioned public forum was not publicized within comarca communities. One community member found a flier in Tolé, a town outside the comarca, where the meeting had been advertised. As mentioned earlier, members were denied access to this “public” meeting.

Current effects of the BBHP include the discrimination and devaluation of the Ngäbe culture, life, and identity as well as notable effects on the Ngäbe familial structure and youth. Should the dam be fully constructed, effects will be even more drastic. Expected results are displacement, loss of culturally important land and

51 Cacicas (female), or Caciques (male) are leaders in the Ngäbe Comarca and community.
52 KIA1, interview by Katharine Evans, April 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA2; KIA8, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA9, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA3, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA4, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA10, interview by Katharine Evans, April, 2014, April 2014, Kiadb, Comarca Ngöbe Bugle, Panama; KIA5, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA11; KIA6, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA7, interview by Katharine Evans, April, 2014, Personal Interview, Kiadb, Comarca Ngöbe Bugle, Panama; KIA12; KIA13; KIA14; KIA15.
landmarks, and further pressure to assimilate to modern lifestyle and globalization trends.

GENISA claims that Barro Blanco’s reservoir will flood only 6.7 hectares of Ngäbe land. However, topographic studies commissioned by the UNDP’s MV estimates flooding to cover 6.98 hectares. An inundation of between 6.7 and 6.98 hectares of land in the Ngäbe territory will directly affect four Ngäbe communities: Kiadb, Quebrada Caña, Quebrada Plata, and Nuevo Palomar. Flooding will affect farmland, cultural heritage sites, and recreation and bathing areas. Additionally it will affect all Ngäbe communities in the area that use the river. This includes but is not limited to Cerro Viejo and Cogle. The flooding will affect cultural heritage sites and the most productive farmland in the community of Kiadb. Furthermore, the MV identifies six homes that will be flooded.

GENISA’s EIA directly contradicts this, stating that, “Nobody will be relocated because of the project.” However, community members in Kiadb say that they have been ordered to leave their homes, either by force or by selling the land that provides the livelihoods for their entire town for $2,000.

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53 Carvallo et al., "Levantamiento Topográfico En Áreas Anexas De La Comarca Ngäbe Buglé Colindantes Con El Río Tabasará En El Área De Influencia De Proyecto Hidroeléctrico Barro Blanco Y Determinación De La Cola Del Embalse Sobre El Lecho Del Río."
54 Ibid.
56 KIA2; KIA6; KIA7; TOL1.
Within the area to be flooded there also two large boulders carved with pre-Columbian petroglyphs. These boulders rise out of the river and serve as gathering places for many celebrations and religious services related to the practices of Mama Tata. During celebrations communities from this entire area gather at this site. The loss of these petroglyphs will impact the Ngäbe’s history and current way of life.

Within GENISA’s EIS, there is a short mentioning of cultural heritage sites potentially affected by the project zone. However, their cultural significance is underplayed as the sites are described as remains of, “a domestic area or family home.” Furthermore this falsely reports the site as, “disturbed previously by agriculture and quarrying.” Finally, the report claims to be implementing an archeological study and assessment of the site, but to date no GENISA or government representatives have visited the area.

This EIS also fails to mention the two cemeteries and church that will be lost should the reservoir be realized. The Miranda family has lived in Kiadb for as long as they can remember, and the affected cemeteries are resting places for their recent and past ancestors. The church that will be lost also deserves significant attention, as Kiadb is home to one of the Mama Tata’s main leaders and teachers. For this reason the church often serves as a central meeting place of worship for multiple communities in the area. This church lies in the disputed area of flooding. According

58 KIA14.
59 KIA13; KIA14.
61 Ibid., 33.
to the topographical study that was not sponsored by GENISA, this area will be inundated. Based on GENISA’s projected flooding level and assessment of local community locations, the church will not be submerged. Apart from the aforementioned mentioned section in GENISA’s EIS, these two cultural losses are not directly mentioned.

The UNDP’s MV notes the loss of cultural heritage sites for not only their social value, but also for their environmental value. The Mama Tata religion is based on close ties between the Ngäbe and nature. Its teachings include learning about and taking care of the surrounding environment. Flooding of these sites would be detrimental to the Mama Tata religious practice, and thus could lead to less sustainable cultural practices.⁶²

Although drinking water is usually sourced in springs and not the Tabasará, the river is utilized for many everyday activities such as bathing, laundry, and recreation. While GENISA has considered these usages, they have discounted it, claiming that this type of usage is only attributed to the community of Nuevo Palomar. Furthermore they state these activities will be able to continue in the reservoir. This assessment poses two problems. The first is that Nuevo Palomar is not the only community that uses the Tabasará in such a way- all four affected communities do. Additionally, multiple “unaffected” communities use the river daily for laundry and bathing. Bathing and laundry activities in a lentic environment are likely pollute the reservoir water, as well as cause further eutrophication and thus, deoxygenation.

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⁶² Mata, "Resultados Del Diagnostico Rural Participativo."
The second problem is that GENISA has not considered the environmental differences between a reservoir and a river. The river areas that the communities use for these activities are areas with strong currents. As previously noted, reservoirs are much more lentic environments than rivers, and therefore the water moves much more slowly. Finally, it is important to consider the dry season, as it is during this time that many streams are low or dry. When this occurs, Ngäbe communities along the Tabasará often use its waters for drinking. Many of the surrounding campesino farms, such as in Alta Arena, also use this water. A community member there has said that since dam construction began water has already become a problem for his farm and community.63

According to the Environmental Impact Statement sponsored by GENISA, “The land and riverbank that will be submerged by the reservoir is not currently under cultivation, nor used for any other productive use because of its topography.”64 However, it is important to note that in maps presented by GENISA, specific communities such as Kiadb are not marked. Even if the water only floods the 6.7 hectares predicted by GENISA, the flooded area will include extremely productive land that is currently under cultivation, and has been for centuries.65 Cultivation in this area includes staples such as, “corn, yucca, beans, rice, guineo”66 and

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63 TOL2, interview by Katharine Evans, April, 2014, Personal Interview, Tolé, Chiriquí, Panama.
65 KIA1; KIA2; KIA8; KIA7.
66 A guineo is a type of banana that is generally very small and very sweet.
supplementary foods including lemons, oranges, avocados, mangoes, guava, cashew fruit, palms, and coconuts.\textsuperscript{67}

Traditionally, the Ngäbe people are subsistence farmers. Everything that is consumed comes from the land. With the growing Ngäbe population and limited land within the Comarca, most Ngäbe communities have been forced to assimilate to consumer culture entirely. There is just not enough productive land available to allow the traditional lifestyle. However, Kiadb has historically been fortunate enough to continue traditional subsistence farming practices with little supplementation from outside sources. As one of Kiadb’s residents put it, members of her community are, “people of the land.” The flooding of productive lands, and consequential effects on the subsistence lifestyle is noted in the UNDP’s MV.

With the dam’s construction this has, and will, change. Should levels reach only 103 nmm, a large amount of farmland will be flooded and the Ngäbe people will be forced to abandon their traditional lifestyle and be forced to participate in a market based economy. A community member\textsuperscript{68} emphasizes this while holding up a bunch of guineos cultivated on the land that will be flooded, stating that “In the city we have to pay five dollars for this. Here we grow it, in the city you have to pay for everything.” A shift from almost complete economic independence to dependence is difficult due to lack of monetary wealth\textsuperscript{69}, little to no experience in a workforce outside of the comarca\textsuperscript{70}, and an education system that caters to the traditional way of life\textsuperscript{71}.

\textsuperscript{67} KIA1.  
\textsuperscript{68} Ibid.  
\textsuperscript{69} Ibid.; KIA3.  
\textsuperscript{70} KIA2; KIA14.  
\textsuperscript{71} KIA9; KIA6; KIA7.
Already some Ngäbe have been able to find jobs in cities and are forced to live away from their families in order to provide money for food for their communities.\textsuperscript{72}

The shift from subsistence farming to the market has already begun due to environmental pressures. Since the dam’s construction began in 2011, land has become less productive and animals have begun to disappear from the area. Traditionally the communities along the Tabasará have utilized animals as sources of protein, from the forest and river. This includes lizards, shrimp, crayfish, birds, and fish.\textsuperscript{73} However, as these food sources have become scarcer, communities have begun to rely on grocery store foods such as canned fish and spam. There have also been reports of lowered productivity of land. In the years since construction began the river has become drier and yield of crops such as oranges has noticeably decreased.\textsuperscript{74}

\textit{The Cost of Fighting Back: An Indirect Impact}

The Ngäbe have been protesting development projects for over thirty years. Unfortunately, the time and effort dedicated to this cause has magnified the direct socioeconomic impacts these projects have. Protest efforts have indirectly contributed to a shift in lifestyle from subsistence to consumer, had a large effect on the youth, and subjected the Ngäbe people to further, sometimes violent, abuse and discrimination.

Many of those most directly involved in the effort to fight Barro Blanco are those in the affected communities themselves. Due to the amount of time this

\textsuperscript{72} KIA1; KIA2; KIA7.
\textsuperscript{73} KIA9; KIA11; TOL1; KIA14.
\textsuperscript{74} KIA13.
demands, this involvement has indirectly contributed to shifting the Ngäbe’s lifestyle. Resistance efforts include protesting, organizing, and occupying the protest camps. During protests in April 2015, directly affected towns were often almost empty. Most adults and children over the age eight participate in protests and help man the camps. Those that remain in the towns are generally grandparents and young children. Adults generally spent days and nights at the protest camps. This greatly affects the communities’ subsistence farming, as it is this group of able-bodied people that works the land- planting, tending, and harvesting. One community member interviewed stated, “We have to buy things that we can grow, because there is no one to grow them.” Since the fight began the staple crops of rice, beans, and corn have been left untended and unharvested and the community has been forced to buy these commodities.

The efforts against Barro Blanco have also greatly affected the comarca youth. As mentioned earlier, most youth over the age of seven years old is involved in the protests. At every protest I attended I knew without fail that Chocho, who was a just 8 years old at the time, was at the front of the protest lines, yelling chants and flinging rocks with his homemade slingshot. Those that are too young to directly participate, or are designated to stay at home help with the children even younger than them, have found other ways to contribute. After hearing news of the first day’s protests, a group of children in Kiadb spent the night making as many rock slingers that materials allowed, crouched on the ground using just flashlights to see. These children are growing up in a community that has been forced to fight for their way of life and home. In the process, they are not only losing parts of their culture, but also losing
their childhood. Additionally, with the defeat of Law 8, support of those unaffected by the dam has lessened. As numbers decrease, younger and younger people have taken more active roles in the fight, often meaning they are in the direct line of fire.

Resistance efforts have also begun interfering with schooling, as many teachers in the area are involved in the protests. Children are often unsure of whether school is being held on any given day. Additionally, many adolescents that are heavily involved in the protests did not attend school in order to spend more time at the camps.

During this conflict the Ngäbe communities have suffered discrimination from the national police in the forms of sexual assault, brutality, a complete disregard for their communities and culture, and death. The 2012 protests are a clear example of this, in which there have been allegations of sexual and violent physical abuse under police custody and many accounts of police brutality towards peaceful protesters. It was during these protests that Ngäbe activists were also killed.75

However, these protests are not the only example. The Ngäbe protest camps established near the dam have established a rotating schedule for shifts there, as no one can stand to be there for very long. This is due to the lights the police have set up. These stadium style lights are immediately turned on at dusk, preventing anyone staying at the camps from sleeping.

When protests began again last April, 204, police quickly resorted to force. Tear gas was utilized immediately to subdue a group of thirty peaceful protesters.

Although members of this group did have slingshots and rocks, they hadn’t yet used them when they were gassed.

It was also noted by many protesters that aggression of police increased with the absence of outsiders. The press and a few other activists were present for the first two days of protest. It was later reported that the night of the second day of the protests the police had increased the force with which they were attacking.\footnote{KIA8; KIA9.}

Protests began the 24th of April, and a break was planned for the weekend. However, early Saturday morning riot police attacked Ngäbe encampments. This occurred the next day also- an attack initiated entirely by the police. Both of these days press and outsiders were absent; the Ngäbe organizers had previously told them there would be no protest footage to shoot.

Finally, the Ngäbe have suffered discrimination against their way of life. Community members have described being treated like, “an animal with four paws,” A health organization visited the Comarca around the time of the EIA, and demanded that a local woman from Kiadb sign papers and list all of her grandchildren in the town and their birth dates. She refused, saying they were not her children and thus she did not have the right. Upon this, the representative tried to pressure her, and started telling her that all of the children were malnourished and she was not feeding them correctly. During this entire time another representative was taking pictures without asking permission.
A Narrative of Disenfranchisement

Since dialogue was reopened in February, ANAM has found GENISA in non-compliance with the following aspects of the EIA: consulting and negotiating with local indigenous communities, lack of a management plan for areas of cultural significance, failure to manage sedimentation and erosion, extraction of non metal minerals without EIA approval, mismanagement of waste, logging without permission, utilization of explosives without permission, and lack of ecological compensation. Unfortunately, these allegations have come months late and the dam already stands 90% complete.

There are countless international and national measures in place to prevent this exact situation. Law 41 demands EIAs and community participation. Law 10 establishes the autonomous Ngäbe Comarca. ILO 169 and the UN Declaration of Indigenous Rights demand recognition and inclusion. The CDM states that community participation and consultation are required. Yet Barro Blanco is just days away from completion, blocking the river and threatening to cause irreversible harm to the Ngäbe and the environment.

Since the planning Cerro Colorado Copper Mine, the Ngäbe voice has been fighting to be heard. But try as they might, after more than 35 years of fighting, the Ngäbe are still excluded from decisions about their homes, their lives, and, ultimately, their fate as a community. How is it that in spite of numerous laws and international agreements that protect their rights and the environment, as well as years of protesting...
these projects, the Ngäbe remain disenfranchised and the environment is still being exploited?
Chapter 2

Canalabalism: A Country Consumed by Transit

Introduction

When I first returned to the U.S. from living in Panama, all that anyone could ask me about was the Canal. After living with the Mirandas and witnessing their fight against Barro Blanco, the Canal was the last thing on my mind. However, upon further thought, I have realized that maybe it shouldn’t have been. Despite being more than 300 kilometers away from the Comarca, the Panama Canal has played a large role in the Ngäbe’s struggle.

Not only does the Panama Canal lie at the center of most Panamanian hearts and prides, but it also lies at the center of Panama’s economy. While it directly accounts for just 4% of the Gross Domestic Product (GDP), another 75% of the GDP comes from the service industry associated with the canal. This includes banking, Free Trade Zones, and flagship registry.

In actuality, it is not the Canal itself that is important, but its history and significance for Panama’s economy. For this history has shaped the entire country, affecting the Ngäbe as well as the structure of Panama’s economy and politics.

Therefore, in order to understand why the Ngäbe are still disenfranchised, as well as
why the environment is being exploited, we must understand how the economy has
developed shaped Panama.

Since the Spanish arrived in the New World, Panama has been exploited for
its geography- its narrow isthmus, low elevation and central location combined makes
it an ideal highway for trade. Although this highway has changed shapes and
ownership, it effects are the same: an externally based service economy whose goals
and achievements are just beyond the majority of its population’s reach.

According to the World Bank’s quantifications, Panama has a wealth disparity
of 51.9\textsuperscript{77}. Although this number has been decreasing over the past ten years,
economic disparity of this magnitude is too large for a country this small. While the
majority of this poverty lies in the \textit{interior}\textsuperscript{78}, small slums interrupt the Panama City,
wrinkles the government has yet to be able to smooth and press into the countryside.

On the larger scale these imperfections fall out of focus and Panama City and
the transit zone stand a city on a hill, a center of economic activity and wealth
overshadowing the interior. While skyscrapers are being built in the city, many towns
in the interior lack sanitation and electricity. Others simply can’t rely on the
inconsistency of these amenities.

The disparity in wealth and development is a direct result of a historically
transit based economy that is dominated by foreign trade. Additionally, this economy
and disparity have allowed Panamanian politics to be dominated by a group whose
control is both dependent upon and constrained by this economic model and its
associated disparity.

\textsuperscript{77} This number is based on the GINI index, with 0 representing complete equality and 100
representing complete inequality (World Bank Data Panama GINI).
\textsuperscript{78} \textit{El interior} refers to the area to the west of the Canal.
A Transit Based Economy

Transit began to define Panama’s economy during the Spanish Conquest, when Balboa first caught sight of the Pacific Ocean while traversing the isthmus in 1513. In this moment Panama’s worth was first realized— not in gold or precious metals, but in the transportation of these materials.

Talks of a trans-isthmus canal began as early as 1534, when Pedrarias Dávila, a Spanish colonist, commissioned surveys to measure the feasibility of such a feat. Although Davila’s surveys did not result in a canal, they did contribute to the creation of the “Royal Road.” Like the canal today, this road was anchored by city ports—Panama City on the Pacific and Portobelo on the Atlantic. The Royal Road brought the riches of Spain’s Pacific coastal empire to the Atlantic, where the Spanish fleet would be waiting to bring it back home. Like any other thruway or interstate, trade traffic promoted concentrated development efforts on this road—both economically and physically.

The Royal Road was hugely successful, and soon its reputation as a trading mecca grew to international proportions. In fact, Panama’s economic success grew to fame, and even attracted the attention of pirates such as Henry Morgan and Francis Drake. However, such attention did not stop Portobelo and Panama City, trading

79 This road is also known as the “Camino Real.”
hubs at either end of the road, from becoming the richest cities in the New World.\(^\text{80}\) In 1739 this wealth and success came to an end when the British destroyed Portobelo, and Panama was incorporated into the Viceroyalty of Nueva Granada.\(^\text{81}\) With Portobelo’s destruction, trade slowed down and the Royal Road essentially became obsolete.

In 1846 Panama was placed back in the colonial sphere of influence when the Bidlack-Mallarino Treaty granted the US permission to build a trans-isthmus railroad. At this point, Latin America had fought for, and won, its independence from Spain. Panama was now part of what would one day be modern Columbia. As railroad construction began, the transit zone once again became an area of concentrated development.

With the completion of the railroad in 1855, the transit zone and Panama City returned to their economic success. A railway made the journey from Caribbean to Pacific accessible to both travelers and goods, and business boomed because of it. But for travelers and trade alike, Panama was never the final destination- it served as a convenience along the way, a place to see but not stay. With each steamer’s arrival, foreigners would flood the city only to return to their ships within the same day.

In 1869 the US completed a transcontinental railroad within the continental US, a convenience that the Panamanian Railway could not compete with. However, just as before, Panama’s geography proved too convenient to be left alone. In 1878, more than 300 years after Pedrarias’ original surveys, Columbia gave the French

\(^{81}\) Ibid.
Compagnie Universelle du Canal Interoceanique\textsuperscript{82} the right to build a canal. Like the Royal Road and the Panamanian Railway, the canal created a market for service-based businesses. With the beginning of construction, Panama began to build a transit-based economy for the third time.

In 1899, with only 40\% of the canal complete, the French were forced to abandon the project and declare bankruptcy. At the same time, the Thousand Day War erupted in Columbia, spreading into Panama by 1900. When the war ended in 1902, the US and Colombia began discussions over Panama’s fate. The Hay-Herrán Treaty of 1903 resulted, allowing the US to pay a small fee for the unlimited use of the isthmus. Again, Panama’s fate was placed the hands of external actors. However, with the Thousand Day War fresh in their minds, the Colombian government was still recovering from their loss of control. Fearing their loss of the isthmus, the Columbia failed to ratify the treaty.

Shortly after, with US support, Panama declared independence. This declaration was closely followed by the ratification of the Hay-Bunau-Varilla Treaty. This treaty established Panama as a protectorate of the US in order to preserve its newly declared independence. Additionally, in return for this protection, as well as an annual rental fee, this treaty grants the US full rights to the development of a trans-isthmus canal. With the treaty ratified in 1904, the US picked up where the French had left off.\textsuperscript{83} By 1914, just ten years later, the Canal was complete.

\textsuperscript{82} This company employed Ferdinand de Lesseps, engineer of the previously constructed Suez Canal.

\textsuperscript{83} David McCullough, \textit{The Path between the Seas: The Creation of the Panama Canal, 1870-1914} (Simon and Schuster, 2001).
At this point Panama’s economy had revolved and developed around three separate modes of transport—road, rail, and canal. Although they were based on different forms of transit, these economies were largely the same in their origins and their products. As transit economies, they were all dependent upon foreign powers or entities using this transit. Additionally, in all three cases, transportation control was monopolized by an external power.

**An Economy of Exclusion**

When asked to describe his home country, Roberto Eisenmann, founder of a daily Panama newspaper, describes it as two, “a first world country that is going gang busters and a half hour away a fourth world country with too many poor people.” As described earlier, Panama’s economic disparity is too large to ignore. While disparity is most visible when comparing the capital and its rural neighbors, it’s presence cannot be ignored within the city’s own limits. A main driver of this disparity is Panama’s transit economy and the resulting concentrated development of the transit zone.

When Pedrarias Davila first arrived in Panama, colonial power was still struggling to take hold. True to the typical colonial story line, difference, discrimination, and the conquering mind set lead to violent conflicts with native peoples. As he explored Panama’s transit and resource potential, Davila waged a war

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84 Quote by Roberto Eisenmann, founder of Panama City daily newspaper La Prensa in NPR’s Panama Booms While Poor Watch from Afar 2012 http://www.npr.org/2012/04/16/150727218/panama-booms-while-poor-watch-from-afar
against those whose existence challenged his discovery. Today, Pedrarias’ biggest challenge is etched on one side of the Panamanian Centismo- Ngäbe leader Urracá. For over 10 years he lead the resistance against Spanish colonial claim. Davila is remembered as one of the cruelest of all Spanish colonialists, even named “Furor Domini” or “Wrath of God” by Spanish and indigenous alike. Despite Urracá’s efforts, after more than ten years of fighting, Davila prevailed, taking Urracá’s life along with thousands of others. Those remaining were forced to abandon their homes and flee to areas beyond colonial reaches of interest.

The Ngäbe, Bugle, Naso, and Bri Bri indigenous communities of Panama are now acknowledged as descendants of these native peoples. After fleeing from Pedrarias’ violence and the pressures of colonialism, these communities were almost entirely isolated from colonial activity, largely retaining their traditional lifestyles. Today the Comarca Ngäbe-Buglé predominately consists of the lands to which the Ngäbe fled during Davila’s violent campaign.

While the indigenous communities’ retreat opened up lands to colonial settlement, this land was not exploited by resource extraction or huge export based farms. Unlike most Latin American countries, Panama lacks the large-scale agricultural development that has proved to be, to some degree, a building block for most of their economies. With transit and foreign trade driving the economy, it was unnecessary to exploit resources in the rural areas. Instead, these areas remained

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86 Ibid.
87 There are accounts of various missionaries that mention these communities, but otherwise contact between colonial and indigenous communities was very limited.
relatively unchanged from their state under indigenous inhabitance, occupied by small, mostly subsistence based agricultural plots and homes.

Due to their dominance of a subsistence lifestyle, as well as the transit zone’s concentrated, service driven, development, the physical distance that separated these two areas quickly became economically and socially distant and increasingly separated. As the transit economy was controlled by foreign actors, and chiefly catered to their interests, it paid little attention to public services, much less public services that would extend beyond the transit zone. Furthermore, as mostly subsistence farmers, the rural population did not need much from the transit zone’s market economy. Panama’s transit economy generally excluded the participation of both the interior’s population and its resources. As a result, many of Panama’s resources have been preserved. However, as a consequence, the interior has not shared in the fiscal benefits of the transit economy’s success. Thus, Panama’s poverty is also heavily concentrated in the interior.

The Limitations of Economic Rule

Through a combination of exclusion and externalization, Panama’s transit based economy has also resulted in control of Panamanian governance by those who lack true power. Historically, Panama’s merchant elite controlled the political realm. The merchant elites’ power is fundamentally due to their shared economic interest with the US. As merchants, the wealth of this elite class, like that of the US, was
dependent upon foreign trade and the success and development of the transit economy.

Due to this shared interest, the merchant elite generally had the full support of US powers. Not only did this support mean benefitting from the economic power of the US in Panama, this support also meant benefitting from US military power in Panama. For in addition to granting the US rights to build a railroad, the Bidlack-Mallarino Treaty gave the US the right to military intervention in Panama.

When Panama gained its independence, this economic and military power was strengthened via the Hay-Bunau-Varilla Treaty of 1903. This treaty granted the US, “in perpetuity the use, occupation, and control” and power, “as if it were sovereign”\(^89\), of an area extended five miles wide on either side of the Canal route. Additionally, it declared Panama a protectorate of the United States. In sum, Panama’s independence resulted in an extension of US military and economic power. Furthermore, this extension of power supported the merchant elites’ political control.

However, Zimbalist and Weeks point out that, “control by Panama’s merchant class over politics was *formal*.\(^90\) This control was formal and, therefore not effective, because subordinate classes were not dependent upon the merchant elite. The majority of Latin American oligarchies are characterized by their control of land access in which control of land serves to control the people; access to this land was dependent upon the oligarchy.

\(^89\) Convention for the Construction of a Ship Canal (Hay Bunau-Varilla Treaty), November 18, 1903.
\(^90\) Zimbalist and Weeks, *Panama at the Crossroads: Economic Development and Political Change in the Twentieth Century*. 
The majority of Panama’s subordinate economic class inhabited the *interior* and was dependent upon land for their livelihood as subsistence farmers. However, Panama’s elite did not control land, but the market. As mentioned above, the interior was largely excluded and disengaged from this market. Therefore, without US support, the merchant elite class exercised no effective power over the majority of the Panamanian population.

Instead, like development, the merchant elite’s control did not extend past the limits of the transit zone. Even within these limits, political control was unstable. However, the few times that power was wrested from the merchant elite, it was overthrown through US support or the US was able to protect their interests, and thus those of the elite.  

### Conclusion

As mentioned at the start of this chapter, Panama’s current economy is very similar to that of the Canal’s youth—fundamentally dependent upon the trade it promotes. Disparity is still very much evident, and the transit zone still stands well above the *interior* in measures of both wealth and development. The Ngäbe also still occupy the same general social and economic space as capital-poor subsistence farmers living in the *interior*.

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Based on this chapter, the continued dependence, disparity, and separation should mean that Panama’s *interior* is still economically excluded and Panama’s ruling class is still essentially powerless over those excluded. However, Barro Blanco is an exact contradiction of this because it is a development project that is exploiting the *interior’s* resources. If dependence, disparity, and separation have continued, why does the government have such power over the Ngäbe and their land? What has changed that has allowed this historical structure of exclusion and power to change?
Chapter 3

How to Build a Dam: The Convergence of Neoliberalism, the Environmental Movement, and an Era of Reconstruction

Introduction

Chapter one described the history and current status of the Barro Blanco Hydroelectric Power Project. This project will have negative social, environmental, and economic impacts. GENISA’s EIA is an inadequate assessment of these impacts, explicitly excluding: i) legitimate stakeholder consultation and participation, ii) environmental information, and iii) economic factors concerning both the Ngäbe and the project’s finances. Despite these inconsistencies and violations of the law, ANAM and the CDM have approved this project, and construction is almost complete.

Chapter Two began to explore the Ngäbe’s disenfranchisement through Panama’s economic history. Due to an externally oriented, transit based economy, Panama’s economy has a history of exclusion. With concentrated development in the transit zone, the physical gap between the interior and the capital quickly turned into a social and economic gap. This exclusion, as well as foreign support, has allowed
Panama’s elite to dominate politics without actually having any effective power over Panama’s majority.

This chapter will seek to show why Barro Blanco has been built, despite this historical exclusion and the Panamanian government’s lack of power. Why are resources and people suddenly being exploited in the interior? Why does the governing elite now have the power to exploit these people and resources? Moreover, how has this historically exclusive, externally dominated economy contributed to this? How has the role of the previously powerless Panamanian elite?

To answer these questions I will examine the direct forces and pressures that are driving Barro Blanco—Panama’s ontogeny, the rise of neoliberal ideology, and the environmental movement. Each of these factors plays a role in the progression of this dam. However, each of these factors contributes to and depends upon the development of all the other factors. It is therefore nearly impossible to discuss each one singularly. Below I provide a visual aid to emphasize and clarify the connectivity of these three forces.

Separately, each of these parts works towards an economically successful Panama independent of the US. However, it is the convergence and synergisms among these parts that has disenfranchised the Ngäbe, exploited the environment, ultimately built Barro Blanco.
The Factors

An Era of Reconstruction

In 1989, the US invaded Panama in order to remove Manuel Noriega from power and charge him with the illegal trafficking of drugs. To this day, the invasion is thought of as one of the bloodiest events in Panama’s history. Before the invasion, Noriega’s leadership and US economic warfare had resulted in a huge amount of debt. The destruction caused during the invasion further inflated this debt.

As Panama struggled to rebuild its economy and government, its true independence was fast approaching. The Torrijos-Carter Treaty of 1977 established

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that the US would officially pass the canal over to Panamanian control by 1999. It also established that by the end of that same year the US would remove its extensive military and political presence.

Although this freedom and independence had been sought for a long time, in 1989 Panama was suddenly unprepared for its realization. After years of protesting US occupation and feeling excluded in their own country, Panamanians were finally going to control their own nation. However, following the US invasion in 1989, Panama found itself in a vulnerable state. Combined with its previous economic condition, the destruction caused by the invasion left Panama with more debt than any Latin American country had previously seen.93 In addition, Noriega’s removal after nearly ten years in power further destabilized Panamanian politics.

In 1911 Theodore Roosevelt stated that he, “took the Isthmus,” and “started the canal.”94 The US had taken credit for, and controlled, the Canal and Panama’s economy for nearly 100 years. To take back what was theirs, Panama had to prove that the Canal and its success did not belong to the US, but to Panama. In essence, they had to rebuild, and maintain, their economy to a state of pre invasion success to truly claim their independence and agency. With 1999 just ten years away, economic success became a priority.

In Chapter Two I showed how Panama’s transit economy relied heavily on foreign trade and investment. However, the unstable state of post invasion Panama troubled many foreign businesses. Those that had previously benefitted from the

93 Ibid.
Canal Zone’s success were now questioning the prospect of Panamanian control. In an effort to reestablish confidence and rebuild its economy, Panama fell back into old trends of dependency and looked to the US and other foreign entities for support.

In order to encourage investment from the global community, Panama began to incorporate international trends into their politics. Reconstruction efforts included the incorporation of neoliberal philosophy, the environmental movement, and an attention to the indigenous rights movement. Through conditional loans from the US and others, Panama adopted neoliberal structural adjustment programs (see below). In 1988 Law 88 ratified the Kyoto Protocol (see below). And in 2007 Panama voted in favor of the UN Declaration on the Rights of Indigenous Peoples.

To date, Panama has yet to ratify the International Labor Organization’s Indigenous and Tribal Peoples Convention (ILO 169) of 1989. Like the UN Declaration on Indigenous Rights, ILO 169 recognizes land and property rights, equality and liberty, and autonomy for indigenous peoples. Unlike the UN Declaration, ILO 169 is a binding agreement.

In 2010, the Panamanian government declared that it would not be ratifying ILO 169 on the basis of “constitutional, economic, political, administrative, social, legal, and environmental reasons.” While the entirety of this list is not easily explained, studies have shown that indigenous rights and neoliberalism directly

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oppose each other. As Victoria Tauli-Corpus, chair of the United Nations Permanent Forum on Indigenous Issues, states, “Much of the world’s natural capital—oil, gas, timber, minerals—lies on or beneath lands occupied by indigenous people.”

Signing a binding agreement to protect these lands, would surrender the government’s ability to allow this capital to flow freely in a neoliberal, free market.

**Neoliberalism**

Neoliberalism is an economic and political ideology that promotes the shift of economic control from the public to the private sector. David Harvey states that neoliberal theory, “proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade.”

Neoliberalism began to sweep the international community in the 1970s, just twenty years before Panama was reconstructing its economy. By 1989 the US, the World Bank, and the Inter-American Development Bank had embraced this ideology. Due to their similar economic interests, the US supported and encouraged the wealthy

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98 Victoria Tauli-Corpus (UNPFII Chair), quoted in John Vidal, ‘We are Fighting for Our Lives and Our Dignity’, *Guardian*, 13 June 2009.
99 "Definition of 'Neoliberalism'," http://www.investopedia.com/terms/n/neoliberalism.asp.
100 David Harvey, *A Brief History of Neoliberalism* (Oxford University Press, 2005).
elite to reclaim control of the Panamanian national government.\textsuperscript{101} As beneficiaries of foreign investment success, the governing elite was responsive to conditional loans from the US, the World Bank, and the Inter American Development Bank\textsuperscript{102}.

Loans were granted on the condition of the adoption of neoliberal structural adjustment plans. Resulting legislation included the privatization of public services such as electricity and telephone, the relaxing of labor laws, and the lowering of import tariffs.\textsuperscript{103} Today, import tariffs in Panama are still among the lowest in Latin America.\textsuperscript{104}

Structural adjustment plans invited increasing amounts of foreign investment into Panama. This investment caused an incorporation of the interior into Panama’s economy. As discussed in Chapter 1, the interior had previously been excluded from development. Its largely untouched state was very attractive to foreign investors from industrialized countries that were “finance-rich, resource poor.”\textsuperscript{105} Unlike most Panamanian businesses, foreign investors have the capital and experience to invest in these areas and exploit these resources\textsuperscript{106}.

Neoliberal structural adjustments were not made blindly, and laws were established to regulate the market. Law 26 of 1996, created the Public Services Regulatory Entity (ERSP), which is responsible for granting 51% of public electricity


\textsuperscript{102} Jordan-Ramos, "Indigenous Mobilization, Institutionalization and Resistance: The Ngöbe Movement for Political Autonomy in Western Panama."

\textsuperscript{103} Zimbalist and Weeks, \textit{Panama at the Crossroads: Economic Development and Political Change in the Twentieth Century.}

\textsuperscript{104} "A Singapore of Central America?", \textit{The Economist}, July 14, 2011 2011.

\textsuperscript{105} Annelies Zoomers, "Globalisation and the Foreignisation of Space: Seven Processes Driving the Current Global Lad Grab," \textit{The Journal of Peasant Studies} 37, no. 2 (2010).

\textsuperscript{106} Gjording, \textit{Conditions Not of Their Choosing: The Guaymi Indians and Mining Multinationals in Panama.}
and telephone to private corporations and for protecting against abuses by said corporations.

In 1998, the General Environmental Law, Law 41, was passed. Like Law 26, Law 41 was created as a regulatory measure. It created the National Environmental Authority (ANAM)\textsuperscript{107}, the body responsible for reviewing and approving environmental impact assessments (EIAs), implementing environmental standards, and, of course, granting concessions for natural resource use.

\textit{The Kyoto Protocol}

In 1997, as a result of global climate talks, the Kyoto Protocol (KP) was established to reduce atmospheric greenhouse gases. The KP is a binding agreement that acknowledges the existence of global warming as well as the large role that anthropogenic carbon dioxide emissions have played. It thus works to reduce climate change by committing involved parties to internationally binding emission reduction goals. Furthermore, the Kyoto Protocol only places these goals on developed countries in an effort to delegate mitigation efforts in a more just and fair manner. Article 12 of the KP establishes an international carbon credit market, which acts as one of the frameworks under which developed countries can reduce their emissions.

The Clean Development Mechanism (CDM) is a carbon mitigation mechanism under the Kyoto Protocol. It is one of the three market-based tools that

\textsuperscript{107} ANAM is the Panamanian acronym and stands for La Autoridad Nacional del Ambiente.,
developed countries can use to reach their carbon emission reduction goals under the KP. Unlike the other two approaches, the economic incentives under the CDM promote carbon mitigation projects in developed and developing countries.

Developed countries are awarded carbon credits by paying for carbon mitigation projects in developing countries. In essence, the CDM allows for the outsourcing of carbon emission reduction. The cost of land, technology, and labor are usually lower in developing countries so by outsourcing emission reduction developed countries can save money. On the other hand, developing countries receive funds to implement technology that increases energy efficiency and therefore reduces energy costs. The CDM claims that both countries benefit from reduced emissions and that everyone wins both economically and sustainably.

For projects to receive CDM certification they need the approval of a designated operational entity (DOE) and the host country’s designated national authority (DNA). Both parties are responsible for reviewing and verifying the Project Design Document (PDD). If a project is approved, it may then submit an application to the CDM consisting of the DOE’s and the DNA’s approval as well as the PDD. A PDD is similar to an EIA and includes a description of the general project activity, baseline and monitoring methods, timeline and crediting period, environmental impacts, and stakeholders’ comments. A project must also prove its additionality in order to be approved. To have additionality, a project must prove that it is not economically feasible without being offset by the CDM.

After the DOE and DNA have approved a project the CDM receives the PDD and opens the project up to the public through an online commenting period. This
commenting period ensures that any voices that were left out of the PDD can be heard. The United Nations Framework Convention on Climate Change describes approval of each of these aspects as, “a rigorous and public registration and issuance process.”

When Three Become One

The convergence of neoliberalism, the climate movement, and Panama’s reconstruction has disenfranchised the Ngäbe, promoted the exploitation of the environment, and allowed for the approval and construction of Barro Blanco. By focusing on building an economy that caters to foreign investment, Panama has put its own people and environment second. The result is an economy of contradiction. Structures exist to protect the environment and the people, but these structures are dwarfed and modified within a neoliberal framework. Above all, this framework promotes the free market. The convergence of the climate movement and neoliberalism in the international community has resulted in a commodification of the environment. This has allowed those who control the market to control the environment. In both Panama and the international community the environment and the Ngäbe are not voluntary participants in the market and therefore they have no voice. Thus, they are at the mercy of the market and those who control it.

In 1997, amidst the application of neoliberal structural adjustments, the Ngäbe were finally granted their Comarca. After years of negotiations dating back to the semi-populist Torrijos administration, Law 10 of 1997 created the Comarca Ngäbe-Buglé. This law establishes the Comarca Ngäbe-Buglé as autonomous, with articles addressing the establishment of their own internal laws and political structure.

The word Comarca is not formally or legally defined. While similar in idea, Comarcas differ based on the legislation that creates them. For many indigenous groups, the word is understood to be synonymous with autonomy and self-determination. In theory, the Comarca system is the government’s effort to promote indigenous rights and multiculturalism. In practice, most Comarcas establish a tense relationship with the government due to the incomplete acknowledgement of their human and indigenous rights.

Such is the case of the Comarca Ngäbe-Buglé, due to a single article. Negotiations leading up to the comarca’s establishment were constantly defined by conditional development agreements: should the Ngäbe approve certain development projects within said territory, they would be granted their Comarca. By 1997, through protest and mobilization, the Ngäbe had temporarily shut these projects down. However, Article 48 of Law 10 grants the rights to the Comarca’s natural resources and development to the national government to use as is in the best interest of the nation.

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109 The comarca is called the Comarca Ngäbe-Buglé because it is shared by the Ngäbe and Buglé indigenous groups.
110 Carta Organica is essentially the constitution of the Comarca and establishes internal laws that are based on Ngäbe customs.
111 Jordan-Ramos, "Indigenous Mobilization, Institutionalization and Resistance: The Ngöbe Movement for Political Autonomy in Western Panama."
112 Gjording, Conditions Not of Their Choosing: The Guaymi Indians and Mining Multinationals in Panama.
of Panama’s economy.\textsuperscript{113} In essence, Law 10 is a rental agreement that gives the Ngäbe autonomy and ownership of the land until the government decides it could be put to more economically productive use. Although specific projects were left out of the law, Panama now had the tools to establish many projects in the future.

Velázquez-Runk states that, “under neoliberalism governments promote a utilitarian version of land, which is often privatized and incorporated into integrated markets.”\textsuperscript{114} At this time, Ernesto Perez Balladares was president. Having studied economics in the U.S. he, “was sympathetic to U.S. advocacy of neoliberal policies.”\textsuperscript{115} His administration was responsible for many of the neoliberal reforms previously mentioned. When considering this, it is clear that neoliberal thought was behind Article 48. This law is theoretically consistent with the UN Declaration on Indigenous rights and protects indigenous, collective lands. However, by granting the resource rights to the government Article 48 allows the government, via Law 26, to grant these rights to private companies.

Balladares’ neoliberal trajectory, exemplified by Law 26, placed pressure on Ngäbe leaders to reach a Comarca agreement with the government. Jordan-Ramos states that the Ngäbe became, “worried about the future of their collective lands in the midst of the accelerated private allocation of natural resources...”\textsuperscript{116} Considering the Comarca’s negotiation history, Panama’s political and economic climate, as well as the marginalized space the Ngäbe occupied, the they agreed to this Comarca

\textsuperscript{113} Wickstrom, "The Politics of Development in Indigenous Panama."
\textsuperscript{114} Velásquez Runk, "Indigenous Land and Environmental Conflicts in Panama: Neoliberal Multiculturalism, Changing Legislation, and Human Rights."
\textsuperscript{115} Conniff, Panama and the United States: The End of the Alliance.
\textsuperscript{116} Jordan-Ramos, "Indigenous Mobilization, Institutionalization and Resistance: The Ngöbe Movement for Political Autonomy in Western Panama."
agreement out of fear that negotiations and development in the future could only
further diminish their rights and lands.

Like the Law 10, Law 41 of 1997 appears to protect both the environment and
indigenous lands. Title VII is entirely dedicated to indigenous rights. Additionally,
Article 63 of Title VI establishes the required participation of indigenous
communities in determining the parameters of development projects in the Comarcas.

Unfortunately, in 2003 Law 18 removed Article 63 from Title VI as well as
Articles 96, 98, 101 and 102 from Title VII from Law 41.\textsuperscript{117} Article 96 states that
ANAM must coordinate with traditional leaders of indigenous communities on all
issues having to do with the environment and natural resources on their land. Article
98 establishes the right of indigenous communities to sustainably use, manage, and
take advantage of natural resources on the Comarcas. Article 101 states that qualified
authorities must approve the industrial and commercial use of indigenous peoples’
lands. Article 102 states that land within Comarcas cannot be transferred from their
reserves or seized without the community’s prior consent. Additionally, they have the
right to compensation and relocation to comparable lands to those previously
occupied. The articles removed account for the majority of indigenous rights
established by the UN Declaration of Indigenous Tribal Peoples and ILO 169.

Law 18 was predominately concerned with redistricting. The section that
repeals articles from Law 41 is very quietly hidden amidst articles pertaining to
districting. For this reason, the law was passed without protest. This same

\textsuperscript{117} Ley 18 Que Crea Los Corregimientos Las Llanas, Segregado Del Corregimiento La
Pitaloza, En El Distrito De Los Pozos, Provincia De Herrera, Y San Jose, Segregado Del
Corregimiento San Juan, En El Distrito De San Francisco, Provincia De Veraguas, 18,
(January 31, 2003).
methodology had been used just two years before, with Law 15 of 2001. Articles 11 and 12 of this law altered Law 10. Originally, Law 10 stated that local consultation and an EIA were required for all projects that could affect the Comarca. Articles 11 and 12 of Law 15 modified Law 10 to state that electric and hydroelectric projects only need an EIA and to consult the Ngäbe if the project falls completely within the Comarca boundaries.\textsuperscript{118} The BBHPP falls just outside of the Comarca therefore does not technically require local consultation or an EIA in spite of flooding between six and seven hectares of Comarca land and affecting areas inside of the Comarca.

Law 18 and Law 15 were passed shortly after the Supreme Court of Justice of the Republic of Panama suspended Tabasará II. This suspension was based on the grounds that the project did not get free, prior, informed consent from the Ngäbe and thus violated the exact articles that Law 18 abolished. Interestingly enough Law 15 most closely followed the suspension of Tabasará II. Law 15 also removed articles that required consent, but to a lesser degree than Law 18. As both these laws removed articles in a similar quiet manner, it is not too far fetched to believe that Law 15 was perhaps testing the waters. When it passed with no attention or dispute, the way was cleared for Law 18. With both laws enacted, the path was clear for a new project. In 2008, ANAM granted GENISA a land concession for Barro Blanco that occupied the same area previously planned for Tabasará II.

Neoliberalism and the climate movement were also converging on the international level. This convergence resulted in the Mesoamerica Integration and Development Project (MIDP) and the Kyoto Protocol (KP). In the early 2000s,

\textsuperscript{118} Ley 15 Que Establece Las Normas Para Subsidiar El Consumo Básico O De Subsistencia De Los Clientes Del Servicio Público De Electricidad Ydicta Otras Disposiciones, 15, (February 7, 2001).
President Fox of Mexico endorsed the MIDP\textsuperscript{119}, a regional program to improve economic and physical infrastructure to promote social development. Due to public opposition, the project was reorganized, resulting in the adoption of sustainability goals and the promotion of “clean development”. The MIDP includes a number of projects that connect Southern Mexico all the way to Columbia, including the Central American Regional Electric Market (MER). The MER is a regional, electric market that allows capital, in the form of electricity, to flow past country borders. The creation of this free market increases energy profitability. An article in La Prensa in April 2004 stated that 4.3% electricity generated in Panama entered the MER,\textsuperscript{120} meaning that Panama generates more power than the national population demands.

Following the MIDP, Panama’s Law 45 of 2004, as its title states, “establishes a regime of incentives for the promotion of hydroelectric generation systems and other new, renewable and clean resources, and other dispositions are dictated.” Article 10 incentivizes hydroelectric projects by way of fiscal benefits. Benefits include the exoneration of tax and customs duties of imported equipment. Article 10 also specifically offers an “equivalent fiscal incentive of up to 25\% of the direct investment cost in the respective project, based upon the reduction of tons of equivalent carbon dioxide emissions per year.”\textsuperscript{121}

Like the MIDP, the Kyoto Protocol creates a market for “clean” development that extends beyond a country’s borders. The KP was created at the same time as Law

\textsuperscript{119} At that time, the project was called the Plan Puebla Panama. However, due to opposition movements, the name was changed to dissociate it from the negative press.

\textsuperscript{120} Jordan.

\textsuperscript{121} Ley 45 Que Establece Un Regimen De Incentivos Para El Fomento De Sistemas De Generación Hidroeléctrica Y De Otras Fuentes Nuevas, Renovables Y Limpias, Y Dicta Otras Disposiciones, 45, (August 4, 2004).
10 and Law 41, and like these laws, neoliberal ideology is woven into its framework. This is reflected in the market-based tools it provides to reduce emissions, and its heavy focus on economic benefits. Specifically, as mentioned above, the CDM creates a global carbon market.

CDM approved projects are, as the United Nations Framework Convention on Climate Change (UNFCCC) website states, “cost effective” and stimulate investment.\(^ {122}\) Without approval, projects don’t receive carbon emission reduction certificates, and the KP incentive for developed countries to invest is lost. According to CDM standards, projects can only be approved if they depend upon the CDM offsets to be realized (i.e. *additionality*). The Barro Blanco PDD acknowledges this, stating in multiple sections that this “clean” alternative energy project will be pursued conditional upon CDM approval due to costs. Throughout the entire document it emphasizes that other “dirtier” energy production technologies would be cheaper to implement should the project not receive CDM approval.

In emphasizing this, GENISA is proving its *additionality* (see definition in *Kyoto Protocol*), a requirement for CDM approval. However, as pointed out by the Alliance for Conservation and Development (ACD), a Panamanian non-governmental organization (NGO), Barro Blanco does not actually fulfill this requirement.\(^ {123}\) In the PDD, GENISA cites the financial incentives of Law 45 and states that these, “incentives apply only to projects up to 20 MW meaning the project activity does not benefit from them.”\(^ {124}\) If this were in fact the case, the net cost of Barro Blanco, a

\(^{122}\) "Clean Development Mechanism (Cdm)".

28.84 MW dam, would be higher. GENISA is stating that because Law 45 does not apply to dams larger than 20 MW, Barro Blanco is not economically feasible without being offset by the CDM. Therefore it fulfills the CDM’s *additionality* requirement.

This is untrue. GENISA has incorrectly cited this law in the PDD. Article 2 of Law 45 defines hydroelectric dams based on size, including, “hydroelectric power station systems” that have, “an installed capacity greater than 20 MW.” While Article 9 outlines the, “Benefits for power stations of more than 10 MW up to 20 MW,” Article 10, states that, “Natural persons or legal persons who develop mini hydroelectric power station systems, small hydroelectric power station systems, *hydroelectric power station systems*… will enjoy the following fiscal benefits.”

The article then goes on to state the benefits described above. With a generation capacity of 28.84 MW, Barro Blanco is eligible for these benefits.

As stated above (see *Kyoto Protocol*), a Doe and the host country’s DNA review every PDD for rejection or approval. In Panama, the National Environmental Authority (ANAM) is also the DNA. When ANAM approves an EIA, it does so with a resolution that outlines the project’s specifics. Resolution No. IA 332-2008 approves BBHPP’s EIA. This resolution also sets up an annual community support fund that will receive 20% of the profits from the dam’s carbon emission reduction credits. However, under no Panamanian legislation is ANAM authorized to promote community development projects. The ACD points out that this fund is therefore questionable, as ANAM itself is unregulated, and therefore there is no

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125 Ibid.
126 Ibid.
127 Ibid.
128 Jordan.
guarantee this money will reach the community. So not only is ANAM responsible for approving a project for national and CDM purposes, but it is also responsible for 20% of the profits that result from CDM approval.\textsuperscript{129} Thus, ANAM, one of three entities responsible for approving this dam, has a conflict of interest.

Part of the DOE’s responsibility in approving a project is to prepare a validation report. Barro Blanco’s validation report, prepared by the DOE Asociación Española de Normalización y Certificación (AENOR), states in the introduction that it has validated Barro Blanco’s \textit{additionality}, the environmental impact, and the stakeholder consultation. However, as shown earlier in this chapter as well as in Chapter One, Barro Blanco does not fulfill any of these requirements. Despite numerous letters from Panamanian NGO’s and Ngäbe activists, AENOR approved BBHPP and did not publicize any of these comments. Ironically, AENOR’s website states that they are, “helping organisations to generate one of the most sought-after values in today’s economy: trust.”\textsuperscript{130}

The CDM Executive Board is the final step in approving projects for the KP’s carbon emission reduction credits. After receiving a PDD and the DOE’s validation report for a project the CDM opens these projects to public comment for 30 days. Comments are received online. However, despite receiving the same comments that AENOR did from local and global stakeholders, they did not respond and the comments did not show up online. Therefore, despite the CDM’s “rigorous and public” process, all three responsible parties approved BBHPP by 2011 and construction began soon thereafter.

\textsuperscript{129} Ibid.
\textsuperscript{130} Asociación Española de Normalización y Certificación, "Aenor's Profile," http://www.en.aenor.es/aenor/aenor/perfil/perfil.asp#.VR9PqpPF8mU.
Conclusion

The convergence of neoliberal reform, the international environmental movement, and Panama’s reconstruction has incorporated the *interior* into Panama’s transit based economy. Neoliberal structural adjustment programs and the CDM have invited foreign investors into Panama. These investors are often from resource poor, industrialized countries and seek to utilize the *interior’s* largely preserved resources.

This convergence has also produced structures that seemingly promote the clean development of these resources. The MIDP and MER, the CDM, and Law 45 all promote and incentivize sustainable development of these resources. However, when examining Barro Blanco, it is clear that these structures have not promoted or incentivized sustainable development but used the guise of sustainability to promote the exploitation of resources and capitalize upon their economic value. While Barro Blanco is just one project, it shows what these structures are truly capable of.

Furthermore, This convergence has removed any obstacles that lie in the way of this incorporation and development. Laws 18, 15 and 10 disenfranchise the Ngäbe by denying them their rights to land and property, consultation, equality, liberty, and autonomy. By not ratifying ILO 169, a binding agreement, Panama is in no way required to ensure these rights. However, national policy maintains the appearance of protecting these rights. This suggests that something is gained through this appearance. Based on the other factors at play, I would argue this appearance
promotes the market by fulfilling any ethical codes or agreements to which possible investors are held accountable.

Finally, in this case study the CDM encourages the Ngäbe’s disenfranchisement, and thus environmental injustice. Most obviously, the CDM places power into the hands of ANAM, an entity has a conflict of interest and is responsible for exploiting the Ngäbe and their environment. Furthermore, the CDM has promoted environmental injustice by the nature of placing the other two thirds of power in the hands of actors almost entirely removed from the situation. Despite the their, “rigorous and public registration and issuance process” the CDM and the DOE approved a project that does not fulfill the requirements of additionality, stakeholder consultation, and sustainability.
Conclusion

When examining the current state of the Barro Blanco Hydroelectric project, it is clear that disenfranchisement is one of the main challenges that the Ngäbe face. This disenfranchisement is rooted in the unequal distribution of power. Without the power to participate in decision-making processes, the Ngäbe have been unable to stop the degradation and destruction of their homes, culture, and lifestyle. Instead, they are at the mercy of those who do have power- the Panamanian government.

Historically, due to Panama’s externally dependent transit economy and the economic neglect of the interior, Panama’s governing class has not had power over the Ngäbe. While this separation and neglect did create an economic disparity between the transit zone and the interior, this disparity was largely irrelevant and, in a sense, unrecognized precisely because the Ngäbe, as subsistence farmers, were not yet a part of the economy. Thus, disparity did not translate into a tangible inequity of power until the interior was incorporated into the transit zone’s externally dependent economy.

Fundamentally, this incorporation grew from the convergence of neoliberalism, Panama’s reconstruction, and the environmental movement. As shown in Chapter Three, all three of these factors have contributed to the exploitation of the interior’s resources- through incentivizing clean development, promoting foreign investment, and prioritizing the market.
As subsistence farmers that did not participate in the market economy, the Ngäbe themselves had no power within it. Suddenly the people of the interior were dependent upon the national government for the protection of their land from this incorporation. This is exemplified by the Ngäbe’s fight for a nationally recognized Comarca. The Ngäbe’s willingness to engage in this national discourse of recognition allowed the government a power it had previously lacked. In addition, as Velásquez-Runk has stated, due to the influence of the environmental and indigenous movements, the government has, under the façade of protecting indigenous rights and the environment, exploited the interior in order to optimize its economic value and stimulate the market\textsuperscript{131}. Because these laws do not protect the Ngäbe and the environment, but actually promote their exploitation, the Barro Blanco Hydroelectric Power Project has been made possible.

Through financial incentives, the Clean Development Mechanism has taken this possibility and turned it into a reality. The CDM works to fight climate change and climate injustice through the same structure that has led to the Ngäbe’s disenfranchisement- the market economy. However, what remains to be seen is whether the market economy and the climate movement are compatible in the first place. Climate change, including the over emission of green house gasses (GHGs), is often attributed to a lifestyle of overconsumption. The market economy, driven by neoliberal ideology, promotes this overconsumption. If the market economy promotes the overall production of GHG emissions, can it also be used to mitigate these emissions?

\textsuperscript{131} Velásquez Runk, "Indigenous Land and Environmental Conflicts in Panama: Neoliberal Multiculturalism, Changing Legislation, and Human Rights."
Through the sponsorship of Barro Blanco, the Clean Development Mechanism has also sponsored carbon colonialism. Although the Kyoto Protocol specifically addresses environmental injustice through the idea of “common but differentiated responsibilities,” it does so on a global level. Because developed countries are the primary contributors to climate change, they are responsible for reducing their national emissions or for financing climate change mitigation efforts in developing countries. In contrast, developing countries, which have generally contributed less to climate change, are not required to reduce their emissions and can use the funding of developed countries to implement new, “clean” technology that not only reduces emissions but also stimulates their economies. In this way, the CDM seeks not only to reduce GHG emissions, but also to remedy global climate injustice.

However, the CDM does not acknowledge the national and local structures of injustice and inequality that are residual structures of colonialism and global injustice. Ultimately, the Ngäbe’s disenfranchisement is a product of an economic disparity that has been developing since Spain began exploiting Panama for its geography. With the incorporation of the interior, and the effective empowerment of the government, this disparity has evolved into national structures of injustice that have been written into Panamanian law.

Because the CDM does not acknowledge these structures, it does not combat or regulate them. While local consultation and approval are required, this requirement is just another box to check and does not actually place any power in the hands of those who stand to lose the most. Instead, the CDM places power in the hands the national government and perpetuates this injustice. While the CDM and DOE also
have equal shares of power, their approval of Barro Blanco suggests an inability to see past structures of global injustice to those of local injustice.

These findings are consistent with the work of Heidi Bachram, which discusses the Kyoto Protocol and its failures, including that of the carbon market. Bachram also attributes the carbon market to neoliberal influence. Furthermore, she states that, “Emissions trading therefore becomes an instrument by means of which the current world order, built and founded on a history of colonialism, yields a new kind of “‘carbon colonialism’”\textsuperscript{132} that can “perpetuate and aggravate environmental injustice.”\textsuperscript{133}

Due to Panama’s unique economic history, Barro Blanco poses an interesting case study. Inconsistent with the narrative of European colonialism, Panama was been exploited for its intangible value—its geography. Because of a focus on the transit zone, as well as the formal, not effective, power of the merchant elite, Panama experienced little resource extraction before reconstruction. While the transit zone indirectly protected many of its natural resources and people from exploitation during colonial times, its external dependency and the disparity it created would prove to actually promote this exploitation in post-invasion Panama. The CDM and carbon colonialism compound this exploitation through carbon market incentives. However, this exploitation and neocolonial structures also exist independently within Panama’s national policy.

In a sense, Barro Blanco does not fulfill the CDM’s requirement of \textit{additionality} not only because the it does not need its offsetting to make it

\textsuperscript{132} Bachram, "Climate Fraud and Carbon Colonialism: The New Trade in Greenhouse Gases."

\textsuperscript{133} Ibid.
economically feasible, but also because it does not need its support to “perpetuate and aggravate environmental injustice.”\textsuperscript{134}

\textsuperscript{134} Ibid.
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*Ley 18 Que Crea Los Corregimientos Las Llanas, Segregado Del Corregimiento La Pitaloza, En El Distrito De Los Pozos, Provincia De Herrera, Y San Jose, Segregado Del Corregimiento San Juan, En El Distrito De San Francisco, Provincia De Veraguas*. 18. January 31, 2003.


