

DISCURSIVE OFFENSIVE IN COLOMBIA: THE DEVELOPMENT OF AFRO-COLOMBIAN RIGHTS DISCOURSE AFTER 1991

ALESCHIA D. HYDE¹

ABSTRACT

For decades incipient violence has raged across the Colombian state. Despite divergent political ideologies, regionalized territorial strife, and the development of the drug economy that fuels this violence, Colombian democratic institutions have shown resilience. In 1991 Colombia reaffirmed and strengthened its democratic principles with the passage of a new, revolutionary constitution. Unlike anything seen in the region at the time, the 1991 Colombian Constitution expanded both collective rights and individual protections for all the country's most vulnerable populations, but specifically for indigenous peoples and Afro-Colombians. Subsequent reforms expanded and safe-guarded the political and social rights enshrined in the Colombian Constitution. In the years following ratification, often referred to as the "Rights Revolution," Colombians experienced an onslaught of legal protections. Work remains to be done, however, as many of the changes have yet to be felt by Afro-Colombians living in the agrarian Pacific Coastal Region, which has borne the brunt of the decades-long paramilitary violence that had ravaged the country until recently. Displacement has threatened to undo the

1. Aleschia D. Hyde is a federal judicial law clerk and an adjunct professor at Northwestern University Pritzker School of Law.

work of the 1991 Constitution before it has even been fully actualized. As Afro-Colombians have scrambled to save their homelands, they have sought new ways to advocate for themselves within the Colombian political apparatus. And still, displaced Afro-Colombians struggle to have all their rights recognized as legitimate, sown into the fabric of the new pluri-cultural, multinational state. The ensuing rights enforcement mechanisms, whether used to supplement or complement Afro-Colombian collective rights, have yielded mixed results. Three theories pose explanations to this paradox, each finding that the discourse of rights, and eventually opportunities, for Afro-Colombians expanded as well as limited by the articulation of Afro-Colombian rights with that of displacement. This paper explores the discursive strategies Afro-Colombians have deployed to ensure their collective rights within the 1991 Constitution and their place within the new Colombian nation-state while simultaneously addressing the issue of mass displacement. In particular, it expands on the reasons that language, discourse, and the politics of articulation are restrained and expanded by new legal protections and external actors. It also identifies the way that language is being formulated and deployed by Afro-Colombian advocates to contextualize the Afro-Colombian experience apart from any temporal or institutional restraints. Controlling the language used within the institution, who uses the language, and how the language is used, Afro-Colombians have an opportunity to remedy the main inconsistencies found within the state-sanctioned modes of individual and collective rights protections. Finally, this paper argues that Afro-Colombians and other marginalized peoples engage in a discursive offensive with the Colombian nation-state, the Colombian people, and international stakeholders. Mass displacement has overshadowed an already tenuous situation, making it nearly impossible for Afro-Colombians to operate under their newly recognized collective identity. Thus, a discursive offensive often means shedding the nascent ethnoterritorial identities the 1991 Colombian Constitution affords them, instead cloaking Afro-Colombian issues beneath the terms and language of displacement and war.

KEYWORDS: *Colombia, Afro-Colombian, Rights, Constitutionalism, mass displacement, internally displaced, rights discourse*

For decades, incipient violence has raged across the Colombian state. Despite the divergent political ideologies, regionalized territorial strife, and the development of the drug economy that fuels this violence, Colombian democratic institutions have shown resilience. In 1991, Colombian democratic principles were reaffirmed and strengthened with the passage of a new, revolutionary constitution. Unlike

anything seen in the region, the Colombian Constitution expanded both collective rights and individual protections for all the country's most vulnerable populations, but specifically for indigenous peoples and Afro-Colombians. Subsequent reforms expanded and safe-guarded the political and social rights enshrined in that constitution. Colombians experienced an onslaught of legal protections in the years following ratification, often referred to as the "Rights Revolution,"² Still, there is work to be done as many of the changes have yet to be felt by Afro-Colombians living in the agrarian Pacific Coastal Region (PCR), who bore the brunt of the decades-long paramilitary violence that had ravaged the country until recently. Displacement has threatened to undo the work of the 1991 Colombian Constitution before it has even been fully actualized.

As Afro-Colombians scramble to save their homelands, they have sought new ways to advocate for themselves within the Colombian political apparatus. This often has meant shedding the nascent ethnoterritorial identities the Constitution affords them. Mass displacement has overshadowed an already tenuous situation, making it nearly impossible for Afro-Colombians to operate under their newly recognized collective identity. The ensuing rights enforcement mechanisms, whether used to supplement or complement Afro-Colombian collective rights, have also shown to have more bark than bite. As a result, Afro-Colombians and other marginalized peoples engage in a discursive offensive with the Colombian nation-state, the Colombian people, and international stakeholders.

This offensive often means cloaking Afro-Colombian issues within the terms and language of displacement and war. But what does this discursive offensive mean for the work done in the early 1990s, which granted Afro-Colombians greater agency and more language to articulate their position within the new multicultural, pluri-national state? How has mass displacement affected the articulation of Afro-Colombian rights in the PCR since 1991? Here, I explore the discursive strategies employed by Afro-Colombians to ensure their collective rights within the 1991 Constitution and their place within the new Colombian nation-state while simultaneously addressing the issue of mass displacement among this community. Furthermore, I challenge Afro-Colombian activists to focus their efforts on constructing a space and accompanying language that is conducive to the implementation of meaningful collective rights protections for all Black communities in the country.

2. Juan Fernando Jaramillo Pérez uses the phrase "Rights Revolution" to describe the proliferation of rights and litigation in Colombia following the Constituent Assembly of 1990.

I. BACKGROUND

Like many other Latin American countries, the Colombian state has faced numerous attacks on its sovereignty. And for nearly a century, paramilitary groups have wreaked havoc on the Colombian nation-state, and even more so on the country's nearly fifty-one million citizens. No group of Colombians has suffered more from these tensions, among other issues, than the Black and indigenous agrarian communities of the coastal regions. As a result, the two groups together compose the majority of internally displaced peoples in Colombia.

A. Forced Internal Displacement in Colombia

After Syria, Colombia houses the most displaced persons in the world (Rodríguez-Garavito and Rodríguez-Franco 2015) with estimates as high as 600,000 people from 1984 to 1995 world (Rodríguez-Garavito and Rodríguez-Franco 2015, 31). Sixty percent of displaced people in the country are women and children of which 70 percent belong to an ethnic minority (Stephenson 2011, 566). This exodus peaked between 2000 and 2002 (Rodríguez-Garavito and Rodríguez-Franco 2015). According to Colombia's national registry of victims, more than 130,000 newly displaced people were recorded in Colombia in 2021, and an additional 21,000 people were subjected to confinement by illegal armed groups in the same year (UNCHR, n.d.).

Here, and within the international discourse of displacement, the term *displacement* refers to the migration of civilians during wartime conflict. Direct or indirect actions by groups external to the legal apparatus, such as the guerilla and insurgent groups the Revolutionary Armed Forces of Colombia³ (FARC) and the National Liberation Army (ELN),⁴ along with regional drug cartels and natural disasters have given rise to mass displacement (Balcells and Steele 2016, 15). Displacement in Colombia is overwhelmingly internal—those displaced are referred to as internally displaced peoples (IDPs)—with thousands of residents forced from their rural dwellings to overcrowded cities that have limited housing, poor infrastructure, and few employment opportunities (Oslender 2020, 13).⁵

3. The Fuerza Armada Revolucionario de Colombia was a leftist guerilla group founded in 1964. The FARC disbanded in 2017 after successful peace talks with the Colombian government. For more information, see Brittain (2010).

4. The Ejército de Liberación Nacional (ELN) is an armed insurgent group established in 1964. For more information, see generally Seagrave (2001, 523).

5. See also Miroff (2016).

According to Ana María Ibáñez and Andrés Moya’s 2010 empirical study on the effects of displacement on Colombian families, “nearly 80.7 percent of the displaced population migrated individually and only 19.3 [percent] of them migrated massively” (Ibáñez and Moya 2010, 649). Colombia’s four Pacific coastal departments (or provinces)—also referred to as the Pacific Coastal Region, or PCR—accounted for almost half of the displaced population in 2021 (iDMC 2023). Black Colombians, also referred to as Afro-Colombians, have cultivated these lands for hundreds of years and are the overwhelming majority of the residents still in the region today. Approximately five million PCR residents were displaced as a result of paramilitary and guerilla violence by the end of 2021 (iDMC 2023). Therefore, the unique character of displacement in the South American country creates similarly unique lived experiences for those same displaced peoples.

Defining Afro-Colombians within the Colombian State

Behind Brazil, Colombia has the second-largest African descendant population in Latin America (Minority Rights Group International 2014). Today, Afro-Colombians—a term applied to people of African descent living in Colombia—make up around 10 percent of the Colombian population and are concentrated primarily in Pacific and Caribbean coastal regions (Minority Rights Group International 2014). Some estimates have the African descendant population as high as 90 percent in the PCR (Minority Rights Group International 2014). Although diverse, the majority of Afro-Colombians were brought to Colombia during the transatlantic slave trade, which lasted from the sixteenth until the nineteenth century (Delgado-Burbano 2007). Slaves brought to the PCR from Cartagena worked in the gold mines (Sessarego 2019, 127). The region is a mosaic of African, indigenous, and Spanish cultures. Afro-Colombians in the PCR, in response, engage in distinct cultural traditions and practices within the nation-state’s borders. This culture has contributed significantly to Colombian music, dance, and food and—as we will see—is critical to understanding the nuances of Colombian history and politics (Sessarego 2019, 127).

The term *Afro-Colombian* also applies to *raízales*, African descendants from the anglophone Antilles now living along the country’s Caribbean coast whose forebearers were runaways slaves who formed colonial settlements called *palenques*. It is estimated that 60 percent of the population living along the Atlantic coast is Afro-Colombians (Minority Rights Group International 2014). And while the PCR and Caribbean coasts are predominantly occupied by Afro-Colombians and indigenous peoples, the vast majority of Afro-Colombians are concentrated in the dense urban

centers of Bogotá, Cali, Cartagena, and Medellín (Minority Rights Group International 2014). In fact, 70 percent of Blacks live in urban and peri-urban areas (Minority Rights Group International 2014).

Afro-Colombian identity is a concept constantly expanding and contracting, reforming and reverting. This adds a layer of complexity to Colombia's ethnopolitical struggles. For instance, “[a]ccording to the census of 2005, the government estimate[d] that Afro-descendants ma[d]e up 10.6% of the total population. This [was] 16% down from the government’s previous estimations in 2002, which put the total Afro-descendant population at 26% and which is the figure still currently used by the United Nations” (Minority Rights Group International 2014). However, Afro-Colombian activists and leaders have long disputed these numbers (Minority Rights Group International 2014). Former governor of the Chocó, Colombia’s largest predominantly Afro-Colombian department, Luis Giraldo Murillo Urrutia contends that the population is as high as 40 percent (Minority Rights Group International 2014).

The changes in these figures result not from to a mass exodus of Afro-Colombians but instead from the effects of the developing pan-nationalist identity as Black people, the influence of African American scholarship on Black identity, and new concepts of blackness in general. But even as Afro-Colombian identity more clearly demarcates its members, the shared experiences of African descendants unite all Afro-Colombians. For instance, this population, regardless of geographic location, suffers from discrimination, higher rates of poverty, violence, and mass displacement (UN High Commissioner 2009).

Guerilla and Insurgency Violence in the PCR

Paramilitary insurgency and guerilla violence disproportionately affect the Afro-Colombian communities living along the PCR. Of the 134,000 people displaced and 21,000 confined in 2021, Afro-Colombian and indigenous communities account for 41 percent of those IDPs and 99 percent of the IDPs confined by the paramilitary insurgent and guerilla groups (UN High Commissioner 2009). These constant threat of attack from paramilitary groups has become a daily reality for Afro-Colombians living along the PCR.

Guerilla and insurgent groups, drug cartels, and paramilitary armies emerged around 1960, following decades of civil war, regional tensions, and political violence (Pérez 2012, 131). The most senseless exercise of violence perpetrated by paramilitary groups against Afro-Colombians occurred in 2002 when “a small Afro-Colombian fishing village in Chocó lost 10% of its

population in the most violent massacre in Colombia's forty-year war" (Minority Rights Group International 2014). "One hundred and nineteen people lost their lives, including 45 children, and an estimated 108 others were injured" (Minority Rights Group International 2014). Displacement has been so invasive that at the time of the massacre, approximately 500 victims had previously fled their smaller communities to the fishing town for protection against these same paramilitary groups. In 2014 Human Rights Watch determined that the FARC was responsible for killings, disappearances, kidnappings, torture, forced displacement, attempted recruitment of members, planting mines, extortion, death threats against community leaders, and acts of sexual violence that occurred the year before in the Afro-Colombian city of Tumaco and the surrounding communities. These paramilitary groups continue to terrorize the PCR and the people living there.

Despite the peace agreement and ceasefire brokered between the FARC and the Colombian government in 2017, Afro-Colombians in the PCR still saw themselves in the crossfire of war. In fact, according to Amnesty International, in November 2017, thirteen people in the Magüi Payán Nariño department were murdered when caught between FARC dissidents and ELN guerillas fighting each other (Amnesty International 2018). Afro-Colombian activists place blame squarely on the Colombian state arguing that its lack of state capacity in the area allowed paramilitary groups to continue terrorizing their community with little fear of consequences (Amnesty International 2018). Displacement is thus the consequence of both the violent character of paramilitary groups and the state's lack of capacity within rural regions.

Effects of Displacement on Afro-Colombians

Displacement has disproportionately affected communities along the resource-rich and isolated PCR including the largest predominantly Afro-Colombian department (or province), the Chocó.⁶ Eighty-five percent of residents in the PCR, roughly 500,000 people, identify themselves as Afro-descendants in the Chocó alone (Wouters 2001, 502).

The PCR lags the rest of Colombia. The Colombian government has struggled to establish itself in the region, leaving residents to maintain cultural customs and traditions; and simultaneously to fend off poverty and guerilla violence. With the

6. The Chocó is a department located in the Pacific Coastal Region of Colombia. It has one of the largest Afro-Colombian populations in the country. Note that a department is the equivalent of a province.

limited state capacity in the PCR and the region's vulnerability to paramilitary and insurgent groups, violence disrupts an already fragile community. For example, one of the worst acts of violence by paramilitary groups in the region occurred when thirty people were brutally murdered along the Río Naya—an Afro-Colombian community (Wilson 2001). The state lacked the infrastructure, resources, and capacity to respond to the atrocity. As a result, Afro-Colombian livelihood in the PCR is and has constantly been under threat. Without a nation-state capable and willing to protect this vulnerable population, Afro-Colombians are oft left to fend for themselves against the more organized and armed paramilitary and insurgent groups.

In addition to the violence threatening Afro-Colombian indigenous lands is the consequence of more stringent government regulations and formal titling processes,⁷ which have facilitated the growth of multinational and national logging, mining, and pharmaceutical companies interested in exploiting the region's untouched natural resources (Wouters 2001, 502). Studies have shown that the increase in governmental and multinational corporate enterprises correlates with increased violence. Fleeing the countryside for the major population centers of Cartagena and Bogotá, the population has looked for new ways to reclaim the rights promised to them in the text of the new constitution, which is pluri-national and multicultural.⁸ Yet, this too has yielded few, if any, protections in the thirty years since its ratification.

Many point fingers at the Colombia government for its lack of state capacity. Per usual, Colombia stepped up becoming one of the first countries to set up policies and legal frameworks to prevent and address conflict displacement (Shultz 2014, 13). Immediately after identifying the issue, the Colombian government enacted the 1997 national law on internal displacement and later the Victim's Law of 2011 (Internal Displacement Monitoring Centre, n.d.). Colombia now has "one of the world's most comprehensive registries of conflict victims, which identifies IDPs and recognizes their situation," along with "a sophisticated disaster risk management system in line with the Sendai Framework for Disaster Risk Reduction" (Internal Displacement Monitoring Centre, n.d.). But these initiatives have done little on the ground and forced Afro-Colombian activists and advocates to turn to more complex, albeit creative, methods of pursuing and ensuring their rights in the midst of a forty-year conflict along the PCR and the resultant mass displacement.

7. Under Law 70 of 1993, the government established a formal titling system for collective land titles.

8. Multiculturalism mediates the tension between individual and collective rights by emphasizing inclusion and diversity. See Hyde (2016).

B. Development of Rights for Afro-Colombians after 1991

As mentioned, Colombia embarked on an experimental multicultural state in 1991 when it ratified a new constitution. The revolutionary document expanded rights and enshrined them with constitutional protections. The legal protections provided by the Colombian Constitution have been or can be used by Afro-Colombians to realize these rights. The provisions of the 1991 document bestow both positive and negative rights as well as collective and individual rights on citizens. A concept diffused throughout the more ethnically diverse countries of South America—in Brazil,⁹ for example, and in Ecuador¹⁰—Colombia grants its citizens many social and economic rights such as the right to education¹¹ and the right to healthcare (Pérez 2012, 321). Likewise, the Colombian Constitution provides negative rights, or rights that restrain the government or others from taking certain actions towards or against the individual who holds the rights, similar to those found within the US Constitution such as the right to free association,¹² as well as the right to practice one's own religion.¹³ Afro-Colombians have explored different ways to ensure their rights are met. One way has been to deploy new discursive strategies as IDPs, instead of as Afro-Colombians, whose ethnic status impedes the guarantees of access to housing, productive projects, health care, and humanitarian aid.¹⁴

Collective Rights Mechanisms

Many of the grievances brought by Afro-Colombians in the PCR have been under the notion of collective rights. Colombia recognizes that “groups that transcend the ending of discrimination against their members can be called ‘collectives,’ for their members are joined together not simply by external discrimination but by an internal cohesion,” with the goal of protecting their cultural history and expression (Sanders 1991, 369). These groups possess collective rights in relation to the

9. For more information, see generally Hanchard (1999).

10. For more information, see generally Marable and Sánchez (2009, 33–47).

11. For more information, see generally Reales (2011, 167).

12. Constitución Política de Colombia [C.P.], art. 38. The text reads, “Me garantiza el derecho de libre asociación para el desarrollo de las distintas actividades que las personas realizan en sociedad.”

13. Constitución Política de Colombia [C.P.], art. 19. The text reads, “Se garantiza la libertad de cultos. Toda persona tiene derecho a profesar libremente su religión y a difundirla en forma individual o colectiva. Todas las confesiones religiosas e iglesias son igualmente libres ante la ley.”

14. Corte Constitucional [C.C.] [Constitutional Court], 3d Rev. enero 22, 2004, M.P. M. Espinosa, T-025 (Colombia).

government. Individual rights are defined as rights equally inherent to all members within the citizenry (Sanders 1991, 369). Colombia's rights model, which protects both individual and collective rights, presents a plethora of opportunities for all stakeholders to actively engage the political apparatus and posture for rights. The status of an individual's rights is usually litigated through the counter-majoritarian judicial system. The litigious nature of the Colombian system compounded with the access to the many legal mechanisms and diversity of rights to be litigated does not always correlate with equal rights for the Black residents of the PCR.

The Constitution of 1991 created Transitional Article 55 (AT55),¹⁵ also known as the Law of Black Communities, which recognized Afro-Colombians living in the PCR as a distinct cultural group entitled to collective land rights and promised to invest in the social and political development of the Afro-Colombian communities in the region. Law 70 of 1993 authorized the effectuation of AT55.¹⁶ Here, the government detailed the process needed for Black communities to legally secure collective land titles, including the development of community councils and representatives. The first land title was granted in 1997 in the Chocó (Wouters 499). Since its inception, the state has titled over five million hectares to these communities (Pérez 2012, 318).

Studies indicate that violence in 1997 simultaneously skyrocketed with land-titling, particularly in the PCR (Wouters 2001, 511). Other indicators point to the breakdown of peace talks between the government and the FARC, making Afro-Colombian efforts to mark their lands as neutral spaces moot (Escobar 2003, 159). As a result, some scholars, like Mieke Wouters, postulate that the formal recognition of Black collective rights in the underdeveloped, yet resource-laden region,

15. Constitución Política de Colombia [C.P.], trans. art. 55. See text, "Dentro de los dos años siguientes a la entrada en vigencia de la presente Constitución, el Congreso expedirá, previo estudio por parte de una comisión especial que el Gobierno creará para tal efecto, una ley que les reconozca a las comunidades negras que han venido ocupando tierras baldías en las zonas rurales ribereñas de los ríos de la Cuenca del Pacífico, de acuerdo con sus prácticas tradicionales de producción, el derecho a la propiedad colectiva sobre las áreas que habrá de demarcar la misma ley. En la comisión especial de que trata el inciso anterior tendrán participación en cada caso representantes elegidos por las comunidades involucradas. La propiedad así reconocida sólo será enajenable en los términos que señale la ley. La misma ley establecerá mecanismos para la protección de la identidad cultural y los derechos de estas comunidades, y para el fomento de su desarrollo económico y social."

16. Law 70 as translated in English reads, "The object of the present Law is to recognize the right of the Black Communities that have been living on barren lands in rural areas along the rivers of the Pacific Basin, in accordance with their traditional production practices, to their collective property as specified and instructed in the articles that follow. Similarly, the purpose of the Law is to establish mechanisms for protecting the cultural identity and rights of the Black Communities of Colombia as an ethnic group and to foster their economic and social development, in order to guarantee that these communities have real equal opportunities before the rest of the Colombian society."

increased tensions between warring drug cartels and encouraged insurgent groups to mobilize (Wouters 2001, 499). In response, the Court passed T-769 to ensure the cultural integrity of indigenous communities and to protect their natural resources from exploitation and exploration in 2009 (Pérez 2012, 319).¹⁷ The next year, the Constitutional Court passed T-1045, which expanded the rights of T-769 to more Afro-Colombians living in rural areas.¹⁸

The Colombian legislature then provided another legal mechanism to protect collective rights—the *acción popular*. The *acción popular* “seek[s] to protect this category of rights and interests as they relate to public heritage, space, security and health, administrative morals, the environment, free competition and the similar that are defined by the legislator.”¹⁹ Here, members of nationally recognized cultural groups have the authority to bring a suit to prevent the violation of the collective’s rights. The *acción de grupo* is another, lesser used means by which collective groups can assert their rights. This writ is limited to redress for damages (Pérez 2012). Afro-Colombians facing threats to their ancestral lands have exhausted many of the legal mechanisms. Indeed, *acción popular* and *acción de grupo* may present the best opportunity for Afro-Colombians to collectively reclaim their ancestral lands and to increase economic development in the PCR.

Conversely, laws focused on collective rights have seemingly been less effective, but more in excess. The Colombian lawmakers and stakeholders have created a mesh of collective rights laws that do little individually and even less when read together. To no tangible effect, the Colombian government passed Law 387 or the Law of the Displaced (*Ley de Desplazados*), to address displacement (Cárdenas 2018, 76). The law was developed to ensure IDPs had “assistance, protection, consolidation, and socio-economic stabilization” (Oslender 2016, 14). Yet, violence and displacement continued to jeopardize the existing Black land titles, the enjoyment of the land itself, and the potential to acquire new land titles.

Individual Rights Mechanism: Tutelas and Acciones Populares

More success has come from Afro-Colombians using *tutelas* as individual citizens. In addition to incorporating Black rights into the new constitution, representatives

17. Sentencia T-769 of 2009, <http://www.corteconstitucional.gov.co/relatoria/2009/t-769-09.htm>.

18. Sentencia T-1045A of 2010, <http://www.corteconstitucional.gov.co/relatoria/2010/t-1045a-10.htm>.

19. Constitución Política de Colombia [C.P.], art. 88. The text reads, “La ley regulará las acciones populares para la protección de los derechos e intereses colectivos, relacionados con el patrimonio, el espacio, la seguridad y la salubridad pública, la moral administrativa, el ambiente, la libre competencia económica y otros de similar naturaleza que se definen en ella.”

to the constituent assembly expanded individual rights by instituting the *writ of tutela* (*tutela*). Professor Juan Fernando Jaramillo Pérez claims that the *tutela* is “arguably the most important innovation of the 1991 Constitution” (Pérez 2012, 314). The *tutela* is a legal mechanism to protect individual rights. Under a *tutela*, individual citizens may directly seek redress in any jurisdiction (Delaney 2008, 54) for violations of either their economic or their political rights without formal representation (Schor 2009, 187). Within ten days, judges must adjudicate the issue. Claimants may also bring issues of social rights to the Constitutional Court, granting it immense authority to rule on those rights that are not fundamental but adjacent rights—and these are mostly positive rights. From the year of ratification to 2011, more than three million *tutelas* were filed (Pérez 2012, 314). The exponential increase in the number of *tutela* actions in the years since 1991 demonstrates the growing awareness of fundamental rights for all Colombians.²⁰ Over one thousand individual PCR Afro-Colombian residents in January 2004 filed *tutelas*,²¹ thereby invoking protections for their fundamental individual rights, despite working a decade earlier to secure the ability to petition the states under their collective identity (Rodríguez-Garavito 2015).

Addressing Displacement through Existing Mechanisms

The Constitutional Court of Colombia responded to the large numbers of Afro-Colombians flooding the country’s large cities by passing T-025 in 2004. T-025 acknowledged the Colombian government’s failure to adequately respond to the impending IDP crisis and its need to develop programs for IDP resettlement and to provide additional resources for policy initiatives (Rodríguez-Garavito 2015, 3–4). It effectively ruled the “state of affairs for IDPs in Colombia [as] ‘unconstitutional.’” (Oslender 2016, 16).” T-025 was the most significant action to protect the lands of Afro-descendants living in the PCR. For many this was a win. But others saw only a farce. The T-025 ruling conflated the issue of Afro-Colombian land rights with that of displacement.

Their status as IDPs obscures Afro-Colombian rights—especially in a nation-state that lacks reliable data on the number and wellbeing of its IDPs (Oslender 2016, 15). Afro-Colombians needed to adapt to their ever changing political and social landscape to secure rights promised to them decades earlier. And they did.

20. In 1991 there were 8,060 *tutelas* filed. In 2005 there were 221,348 *tutelas* files, and in 2008 about 1.4 million *tutelas* were filed (Delaney 2008, 54).

21. The Colombian Constitution refers to *writ de Tutela* as a legal protection mechanism. It can also be understood as issuing a temporary constitutional injunction.

The group re-articulated itself as “victims” of the ongoing drug trafficking, leftist violence, and guerilla seizures, thereby discarding their ethnoterritorial identity for that of internally displaced victims (Rodríguez-Garavito and Rodríguez-Franco 2015, 3). This mechanism, initially created as a failsafe for Afro-Colombian collective and individual rights, did anything but that. For instance, *tutelas* proved to be an unsuccessful mechanism for ensuring Afro-Colombian rights. Instead, Black communities rearticulated their grievances in terms of IDPs, stripping away the many years of Black ethnicity they, coincidentally, articulated to gain such recognition.

II. AFRO-COLOMBIAN RIGHTS IN THE TIME OF MASS DISPLACEMENT

The significance of the T-025 decision and the role of the *tutelas* demonstrates a discursive strategy that shifted the articulation of Afro-Colombian rights for those living in the PCR—collective and otherwise. *Tutelas* have changed the political landscape for Afro-Colombians living in the Pacific Coastal Region. Mostly, the relationship between the communities of the PCR and the national government has operated on a continuum in which Blacks in the region relied on the rhetoric of peasant farmer rights to secure recognition and political influence under the 1886 Constitution, then to enforce the ethnoterritorial collective rights under the constitutional provisions of 1991, and finally to leverage the language of victimization perpetuated by the individual rights mechanisms of T-025. Changes in rights articulation for Afro-Colombians has not occurred in a vacuum. In fact, the rights founded in the 1991 Constitution and the judicial and legislative orders thereafter constantly interact with the international discourse of rights and the agendas of Afro-Colombian mobilization efforts. Therefore, Afro-Colombian rights are operating under the guise of internally displaced peoples, shedding the collective rights enshrined in the 1991 Constitution and the individual rights sewn into the fabric of the *tutelas*.

A. International Discourse of Afro-Colombian Rights during Times of Violence

For well over thirty years, international organizations have campaigned for the acknowledgment and advancement of human rights for refugees, indigenous, and Afro-descendant peoples from around the world. For instance, the International Labor Organization’s (ILO) Convention 169 on Indigenous and Tribal Peoples (ILO 1989) contributed to the expansion of rights for marginalized groups with the

ratification of new constitutions in Colombia and surrounding countries (Ng'weno 2007, 415). Often local movements co-opt international efforts to draw national as well as international attention to these seemingly local issues. Similarly, the local Afro-Colombian movement sought international support in claiming cultural rights and fighting discrimination.

Many scholars believe that international pressure forced Colombia's strained government to act in 1991, therein making multiculturalism and territorial rights for Afro-Colombians a political issue for the Constituent Assembly of 1990 despite Afro-Colombians having little to no actual voting power in the process (Ng'weno 2007, 41). It is reasonable to conclude that the Colombian government—the Latin American government that has ratified the most international human rights treaties—is responsive to international discourse of rights and its awareness of these international issues has seeped into its national politics (Reales 2011, 164).

The international discourse of human rights limits when and how Afro-Colombians can challenge the Colombian political apparatus for rights. Displacement in Colombia began as early as 1964 when the first paramilitary groups challenged the state ensnaring the nation into an ideological civil war for several decades, but the international community did not recognize the plight of IDPs in the country until 1991. Afro-Colombian sociopolitical movements arguably did not flourish until the international community took interest in the late 1980s. When the international community released its first evaluation of refugees detailing the situation on the ground for all IDPs in the world (using the acronym IDPs for the first time) Afro-Colombian movements had just started to proliferate and expand beyond the confines of their local communities (Cárdenas 2018, 76).

International discourse pressured the national government to act, intermingling the language of “ethnicity” with that of “displacement.” In 1995, the Inter-American Human Rights Institute intervened by offering humanitarian aid (Rodríguez-Garavito and Rodríguez-Franco 2015, 33). Two years later the National System for Comprehensive Assistance to the Population Displaced by Violence (NSCA) was formed to increase the state's institutional capacity to deal with the influx of IDPs from the exterior inward (Rodríguez-Garavito and Rodríguez-Franco 2015, 33). Nonetheless, NSCA's efforts struggled to meet the needs of thousands of displaced Afro-Colombian people. Then in 1998 the United Nations commissioned its High Commissioner for Refugees (UNHCR) in Colombia following the uptick in violence along the Colombian Pacific lowlands (Cárdenas 2018, 76). At this point, Afro-Colombians witnessed successes in establishing their distinct cultural rights even though the accompanying territorial rights had been under threat from the conflict's beginning.

By emphasizing displacement, the international human rights community provided another way for Afro-Colombians to articulate their plight in terms of displacement. Displacement offered new possibilities for these movements, especially since Afro-Colombians could not make claims to autochthony (Gausset et al. 2011, 135). Instead, Afro-Colombians based their claims of ethnic difference “on the documentation of the ‘traditional production practices’ of ‘black communities’ in the predominantly rural region of the Pacific Basin” (Cárdenas 2018, 78). Limited by the term *ethnicity* as used in the international discourse, some Afro-Colombian movements applied instead the term *displacement* as a new means of obtaining their rights. As shown, on the world stage the labels ethnic minority and IDPs dominated the discussion of Afro-Colombian advocacy as mutually exclusive labels despite the unrelenting efforts of Afro-Colombians and their closest allies to reshape the discourse (Reales 2011, 160).

B. Organizational Discourses of Afro-Colombian Rights

Although violence consumed many parts of the PCR lowlands prompting mass displacement of the land’s inhabitants, the Colombian government responded slowly to the impending epidemic. The government authorized the independent group, Consultancy for Human Rights and Displacement (CODHES) as early as 1992 to maintain records on the effects of the internal conflict, but it proved to be inadequate and thus unhelpful in remedying the problem (Oslender 2016, 13). CODHES seemingly represents the Colombian government’s reluctance to reallocate resources for the conflict and preference for delegating administrative tasks to local and national Afro-Colombian organizations in hopes of addressing the crisis. This approach complicated the development of Afro-Colombian rights from its very inception.

Early on, Afro-Colombian groups’ proximity to the growing violence made them the best advocates for Colombian rights. Intimidation tactics and the threat of violence often silenced many Afro-Colombian activists; nonetheless, several local activists and organizations aligned with one another for protection and imposed a new political strategy (Cárdenas 2012, 119). Here the Black organizational front, anthropologist Roosbelinda Cárdenas suggests, intentionally engaged in the measures that (1) “substituted the language of ethnic rights with that of human rights and (2) expanded their range of interlocutors to include international actors such as watchdog groups, human rights courts, and U.S. Congress members [and also] (3) rerouted their political actions through these newly established international networks” to push their agenda (Cárdenas 2012, 120). Afro-Colombian organizations

created platforms to address many issues persisting with IDPs. The agenda-setting initiative focused on three phases: prevention, resettlement, and temporary support for IDPs (Escobar 2003, 164). The Colombian government, along with international actors, incorporated these elements into its platform.

In varying degrees, each of the major organizations mobilized on behalf of one of these measures. In the fall of 2000, the First National Encounter of Displaced Afro-Colombians (*Primer Encuentro Nacional de Afrocolombianos Desplazados*) pushed for new guidelines for Black IDPs, articulating these same concerns (Escobar 2003, 164). With more political capital than before, these organizations employed a strategy focused on Afro-Colombian ethnicity as opposed to solely articulating the crisis in terms of displaced peoples (Cárdenas 2018, 76–77). Twenty-two Afro-Colombian organizations sent representatives to speak to the high court, offering testimonials illustrating the impact of violence on the lives of Afro-Colombians in the PCR and imploring the justices to address the issue urgently (Cárdenas 2018, 76–77). These measures seemed to be making a difference. Afro-Colombian social movements strengthened their resolve by making forceful demands and increasing their visibility. These efforts reinforced the Afro-Colombian movement's determination and enabled the enactment of T-025, which acknowledged the hardships experienced by IDPs.

The unified vision did not reflect the individual strategies for the three most significant Afro-Colombian organizations in the region. The Black Communities Progress (PCN) stratagem included the international discourse of human rights that dominated much of the national framing around displacement.²² Second, the National Association of Displaced Afro-Colombians (AFRODES) worked to integrate all three Afro-Colombian political identities of victimization, ethnoterritorialism, and antiracism by linking the PCR's poverty and limited educational attainment to that of its region's higher susceptibility to violence and maladjustment to the city life once displaced.²³ Indeed, Cárdenas asserts that this new articulation was both revolutionary and limiting (Cárdenas 2012, 129). Once again, Afro-Colombians were constrained by their own politics and the multiple national and international actors within the Colombian political apparatus. Third, ACIA,

22. Proceso de Comunidades Negros (PCN) was founded in 1993 to promote collective rights for Afro-Colombians. It brings together over one hundred grassroots organizations to support the recognition and expansion of Black rights. For more information, see generally Dtorres and PCN Comunicaciones, "Convocatoria Gestor(a) Documental," Proceso de Comunidades Negras de Colombia, <https://renacientes.net>.

23. For more information, see generally Asociación Nacional De Afrocolombianos Desplazados (AFRODES, n.d.) at <http://www.afrodescolombia.org>.

one of the earliest Afro-Colombian organizations in the Chocó, continued to work locally. The organization had historically advocated for collective rights through territory entitlements and represented an estimated 120 communities in the Middle Atrato River region (Wouters 2001, 504). Although its religious roots, as opposed to its ethnic ones, propelled the organization in the fight for land rights, ACIA continued to be a leading voice in the Chocó for territorial rights in the midst of the armed conflict (Wouters 2001, 502). The three most powerful Black organizations in the region, PCN, AFRODES, and ACIA used T-025 and the activism in the region to further their own agendas albeit to the detriment of a united front.

Afro-Colombian organizations and communities have heavily depended on the Constitutional Court, often staking their political strategies on its decisions. A year after passing T-025, the government consolidated many of its ancillary programs under *Acción Social*—an attempt to reconcile the weakness of Colombian institutions in dealing with displacement (Cárdenas 2018, 72). The Constitutional Court stepped in once again to leverage its authority in the crisis. In particular, the Court relied on Afro-Colombian groups like AFRODES and PCN to help implement the sweeping policies of the administration. Although well intentioned, these policies never quite lived up to their expectations, thereby leaving Afro-Colombians to again fend for themselves.

By the end of the first decade of the twenty-first century, the Court had passed yet another decree, *Auto 005*, “which mandated specific government offices to design and implement ethnic-specific action for displaced Afro-Colombians” (Cárdenas 2018, 77). Today, the Unit for Integrated Support and Reparations for Victims (UARIV) is one of the appendages of the government to properly document and supply information on the situation in the PCR (Oslender 2016, 14). Despite the significant advancements in securing protections for expelled PCR residents, Colombia continues to struggle to properly address the issues facing Black IDPs (Cárdenas 2018, 76–77). These efforts are far from remedying a decade’s long problem, and even further away from establishing a mechanism that ensures the rights of Afro-Colombians within the ever-evolving Colombian nation-state.

III. THEORETICAL UNDERSTANDINGS OF AFRO-COLOMBIAN RIGHTS AND DISPLACEMENT

As shown, protections for collective and individual rights create different modes of articulation for political subjects. These modes often conflict with one another. The results of this conflict are unclear. The following theories interpret these various modes of articulation and their effect on the discourse of Afro-Colombian rights

and displacement. Each, explicitly or implicitly, relies on the assumptions founded in the American-derived, interest convergence theory. Derrick A. Bell propelled this theory to mainstream academic circles by arguing that “political authorities institutional[iz]e rights only when they perceive them to be in their own interests and when they do not threaten existing power structures” (Ojulari 2015, 23). Rights, in short, are political tools wielded by those with the most power in an effort to reify the existing power structure. Arguably, the discourse of rights is a concept employed by those with the least power at the will of those with the most. Consequently, these mechanisms do not always benefit the rights holder as argued by academics, Pablo Rueda-Saiz Rueda, Roosbelinda Cárdenas, and Ulrich Oslender. These theories elucidate the different outcomes for Afro-Colombian rights and the effectiveness of the discourse of displacement.

A. Displacement Discourse as Reaffirming the Status Quo

Does the discourse of displacement limit Afro-Colombians’ ability to advocate and establish their rights? According to some scholars, individual rights mechanisms are limiting because they depend on the legal language established by the courts to pursue their own political agenda. Pablo Rueda-Saiz contends that during times of crisis and economic upheaval the court may superimpose the legal language of the state to legitimize the state’s efforts to impose unpopular and often entitlement-ending policies (Rueda 2010). Subsequently, the recipients of these policies may mobilize around this type of legal language prompting increased political participation and litigation within the state’s judiciary (Rueda 2010, 45). These mobilization efforts are constrained by the status quo and reinforce existing power structures.

In Colombia, on the contrary, these mobilization efforts have proved to reflect a politically aware and active populace to whose demands the state responds; but in actuality, the use of these legal meanings reproduces the same status quo the populace wishes to undermine (Rueda 2010, 41). Moreover, the abstract and general nature of the language of rights fails to protect the threats to individual rights because courts do not draw distinctions between the people, places, and circumstances necessary to secure these practical rights (Rueda 2010, 25). Thus this language supports the status quo by obscuring the diversity of Black suffering (Rueda 2010, 26). Here, the new language of the 1991 Constitution allowed litigants to diversify their claims and to bring into the political process individuals historically excluded from it (Rueda 2010, 49). The onslaught of litigation created a bottom-up movement, thereby removing power from the judiciary to steer the conversation in making social policy (Rueda 2010, 49). The new constitutional language and

mechanisms provided another avenue for those individuals who have not been historically excluded to further their political objectives. Of course, these objectives usually work against those who have been historically excluded. Thus, other actors, such as the middle class, co-opt the litigation aimed toward more excluded groups, relegating these groups to a position barely above that from which they started (Rueda 2010, 49).

B. Displacement Discourse as Political Constraint

Roosbelinda Cárdenas argues that the increase in violence along the PCR catalyzed a new conjuncture in Black political rights by rearticulating ethnoterritorial multiculturalism in light of mass displacement (Cárdenas 2012, 119). Recognizing the amorphous nature of Afro-Colombian identity and rights, particularly when faced with constant threats of violence, Cárdenas argues that these rights are constantly articulated in conjunction with two social processes that alter the meaning and effect of Black rights claims: (a) the politics of victimization following the increase surge of violence in the region and (b) international efforts to unite and mobilize Black ethnic identity after the Durban conference (Cárdenas 2012, 119).²⁴ The analysis characterizes “multiculturalism as an articulation, that is, a contingent social formation made up of diverse elements that have become provisionally conjoined” (Cárdenas 2012, 119). Indeed, Cárdenas frames the development of Afro-Colombian identity politics within the articulation of ethnoterritorialism, victimization, and antiracism (Cárdenas 2012, 119).

With origins in the 1997 passage of Law 387,²⁵ which outlined the rights of IDPs, Cárdenas finds that the politics of victimization and multiculturalism converged creating a narrative in which Black suffering is entangled with the conclusion of the armed insurgency (Cárdenas 2018, 79). This creates two problems, according to Cárdenas (2018, 81). First, the state’s rearticulation of Black ethnopolitical identity as those of victimization obscures the multitude of ways in which Afro-Colombians face discrimination and structural impediments (Cárdenas 2018, 74). Instead, the state settles for a narrative of victimization and the language of war

24. The Durban conference (2001), officially titled the World Conference against Racism, was held in Durban, South Africa, in 2001 and focused on addressing transatlantic slavery and the Palestinian-Israeli conflict.

25. Law 387 of 1997 was published on July 24, 1997, in the *Diario Oficial* no. 43,091: “By means of which measures are adopted for the prevention of forced displacement, and for assistance, protection, socioeconomic consolidation and stabilization of persons internally displaced by violence in the Republic of Colombia.”

because this language implies an end and a solution to displacement as opposed to structural impediments that have more abstract, time-consuming, and expensive solutions (Cárdenas 2018, 77). Second, conflating the two Black identities presumes to preference some identities over others (Cárdenas 2018, 77). Afro-Colombian suffering spans beyond the violence along the Pacific coast (Cárdenas 2018, 81–82). However, Afro-Colombians’ pleading for nondisplacement-related suffering is seen as worthless or illegitimate, according to Cárdenas (2018, 81–82). Therefore, Black identity becomes a monolith that has little legitimacy in the political apparatus.

Ultimately, Black identity in the PCR is “attuned to power and to the contextual uses that black multiculturalism is put to, asking how it operates at given moments and in given places and exploring who mobilizes it and for what purpose” (Cárdenas 2018, 74). For this reason, the political options for Afro-Colombians remain open, flexible, interpretive, and indeterminate—a status Cárdenas refers to as a political formation “without guarantees” (Cárdenas 2012, 119). Afro-Colombians must accept temporary achievements at the expense of protecting their rights in the long term. This too can prevent real change.

C. Displacement Discourse as Normalizing Violence, Obscuring Black Plight in the PCR

Finally, some scholars view the future of Afro-Colombians IDPs as subject to the limiting national narrative of causalities of violence. Ulrich Oslender argues that as violence from the civil war continues,²⁶ the lived experiences of those displaced by the violence become normalized and lost in the detached language of statistics and blanket identities. He approaches the issue of Afro-Colombians and the discourse of displacement through the lens of Hannah Arendt’s “evils of banality.”²⁷ The politics of victimization described by Cárdenas diminishes the emotional and national sympathies of the Colombian people overall.

First, Oslender finds that Colombian discourse on violent conflict articulates the crisis in terms of numbers. Measures indicating the number of people affected by forced displacement legitimized displacement as an issue for national

26. In 2017 Colombia’s largest paramilitary group, the FARC, disarmed and disbanded, effectively ending the largest Colombian internal conflict; however, as of August 2019, some FARC leaders took up arms. The Colombian government swiftly and effectively disrupted these attempts to revive the paramilitary group.

27. The “evils of banality” refers to Hannah Arendt’s psychoanalysis of Adolf Eichmann. For more information, see Allen (1979).

and international stakeholders and allowed these actors to identify victims as IDPs. Here, Oslender finds that the sheer numbers of people affected by the violence allow national actors to easily prescribe solutions. The numbers do not tell the whole story, however. In fact, he argues, the numbers render the complicated situation monolithic (Oslender 2020, 10). For one, the numbers drastically underrepresent the number of displaced peoples (Oslender 2020, 14). Many IDPs chose not to register with the national government out of fear of retaliation from guerilla operatives living in large, IDP-receiving cities (Oslender 2020, 14). Similarly, the use of data often generalizes IDPs and ignores the ethnic differences among them (Oslender 2020, 14). Note that the phrase “internally displaced people,” while functional for the purposes of the government, obscures the dire situation of these communities (Oslender 2020, 11). For instance, “refugees” connote victims of civil war, a label more appropriate for Afro-Colombians along the PCR. Instead of provoking a heightened sense of severity inherent in civil conflicts, “internally displaced peoples” removes this same sense of urgency.

Likewise, the label IDP ignores that the faces of IDPs are of Afro-Colombians who tend to live significantly different lifestyles. For example, most Afro-Colombians reside in tropical wetlands in which they daily subsist on a diet of fish and plantains and suffer great degrees of poverty (Oslender 2020, 16). So when a large number of Afro-Colombian IDPs arrive in “refugee camps” in the city, they immediately fall severely ill because of dietary changes. In addition, Afro-Colombian men from the PCR are more likely to experience abject poverty because few jobs exist for agrarian workers (Oslender 2020, 15–16). As a result, the government’s terminology inadequately reflects the vast and varied experiences of Blacks in Colombia.

Second, Oslender addresses the normalization of violence in Colombia (Oslender 2020, 10). After over a century of internal conflict and its resurgence in the late 1990s, Colombian media and popular culture constantly reflects this understanding of the conflict. However nowadays, when compared with the unparalleled years of democratic governance, many Colombians are protected from the realities of the forced displacement and violence on the Pacific coast. Perhaps international attention changes these circumstances as these actors bring a special kind of legitimacy to and affirmation for the conflict. Oslender acknowledges that the general populace’s perception of the conflict stymies many opportunities to address the issue as it regularly affects more urban metropolises and abates the government’s sense of urgency (Oslender 2020, 16). In sum, Oslender fears, much as Cárdenas does, that the new narrative obscures the severity of displacement, not only for those affected by it but also for the stability of Colombian institutions as a whole.

On the one hand, the argument recognizes the success that Black organizations have had in garnering support from the Constitutional Court and advocating for the individual rights of the displaced (Oslender 2020, 16). Black organizations have allowed for better data collection and have greater agency to shape the discussion of Afro-Colombians and displacement in a way that recognizes the multifaceted contours of the crisis. On the other hand, Oslender's argument converges with the ideas perpetuated in Rueda's and Cárdenas's discussions of the portrayals of the conflict and its effects on the PCR's Black population.

Overall, the mechanisms employed, both legal and discursive, are limited in their effect and expanse. Rueda asserts that the legal language perpetuated by governmental actors permeates the Constitutional Court, creating a new, direct way for Afro-Colombians to voice their grievances while at the same time reifying these same limiting structures. Cárdenas's interpretative framework views the achievements of these organizations as short lived and amorphous—useful at the moment but fleeting in their practical long-term objectives. Oslender sees the discourse as normalizing violence and ignoring the lived experiences of the Afro-Colombian population most affected by the armed conflict. These theories of displacement and Afro-Colombian rights are grim at most in their predictions of Afro-Colombian attempts to control the discourse of displacement from the PCR and Afro-Colombian rights.

IV. WHAT'S NEXT FOR THE AFRO-COLOMBIAN DISCURSIVE OFFENSIVE?

So, what does this mean for Afro-Colombians now? In 2017 the FARC entered into peace talks with the Colombian government and agreed to a ceasefire. With mixed results, the country has experienced relative stability and a decrease in violence. But this has not changed the day-to-day experiences for the thousands of displaced Afro-Colombians who have made their homes elsewhere in the country. Their homelands remain under the tutelage of drug cartels and smaller insurgent groups. The homes for those who settled in urban areas are ridden with poverty. This is not to say that the peace agreements have not brought a sense of normalcy to the PCR, but it does compromise an already vulnerable region and the people who do or have inhabited it.

The real issue facing Afro-Colombians, individually and as a collective, is what to do when the discursive offensive and mechanisms lodged against the Colombian state in response to its contained volatility have created too many options to be successful? Since the 1990s, Afro-Colombians have worked to create various modes of

accessing a state that has often lacked the ability to follow through on its promises of a multicultural, pluri-national state. *Tutelas*, *acciones populares*, and T-025, to name a few, have worked to create a rich body of legal tools that assist Afro-Colombians in advocating for the rights promised to them.

Unfortunately, several holes remain in the body of law. Rather than being cohesive, the law often muddies the waters. Black Colombians are given many options but few clear means to fully achieve universal access to rights for the broader community. The Colombian state and its actors take advantage of this and thwart their responsibilities to Afro-Colombians. As shown herein, nation-state actors diffuse issues of displacement and conflate issues of poverty unique to Blacks in Colombia with that of a larger problem. Afro-Colombian identity is then articulated in a way that is convenient for the state and is thereby temporally restrained. Somehow after all this, Afro-Colombians are lost in the mix, silenced, ignored, and without a long-lasting and meaningful way to identify themselves within the discourse of rights. Simply put, Afro-Colombian identity is rarely in the driver's seat when it comes to Afro-Colombians' identity and actualizing their constitutional rights.

To combat these issues, Afro-Colombians need to build an identity that is defined by them, separate from both previous identities (i.e., peasant farmers, displaced peoples) and not ethnoterritorially bound. This means using language necessary to define their position within and against the Colombian state and its actors. From all accounts on the ground, Afro-Colombian movements are doing just that. Plugging up the holes in the existing individual and collective rights case law also means that advocates have ample knowledge of what works and what does not. A stronger identity within the African diaspora also provides new ways to articulate the Colombian experience. This is intangible in the fight for rights, as words mean things.

Even more encouraging is the number of Afro-descendants in the region taking up and developing creative ways to attack the issue. This speaks to the paradigms in which scholars, and now activists, have posited the use of Afro-Colombian identity in times of mass displacement. Privy to the theories Oslender and Cárdenas describe, Afro-Colombians have worked to create a discursive offensive to take on the discursive attacks lodged against them. Afro-Colombians are in the midst of a Black revolution on the South American continent and are arguably at the helm. The next frontier for Afro-Colombians is not in the mechanism itself but in cultivating the context for which the mechanism can thrive—a language of rights (and existence, even) unique to African descendants and an environment that opens the playing field instead of shrinking it. Understanding how the language of rights has operated in the space is necessary for future efforts to ensure the actualization of said rights.

V. CONCLUSION

From the beginning of the modern Colombian state, Afro-Colombians have fought for recognition and the actualization of their collective rights. In this fight, Afro-Colombians have simultaneously created space for other groups and new avenues for securing rights, both collective and individual. The so-called 1991 Rights Revolution presented an opportunity for Afro-Colombians to use the international discourse and national rhetoric of multiculturalism to make claims of collective rights, establishing Afro-Colombians as an ethnoterritorial minority. Simultaneously, Afro-Colombian land-titling rights under Law 70 of 1993 increased with the region's growing violence, thus exacerbating the displacement caused by the armed conflict with guerilla groups and drug traffickers. With support from the international effort to recognize the increase in displaced people and refugees, Afro-Colombians were given a new mode to articulate their plight in the national discourse. Yet, these processes have yielded mixed results.

Several fronts have contributed to the discourse of Afro-Colombian rights and displacement; these are mainly international actors and local social movement organizations. International organizations have created a framework for Afro-Colombians to challenge the government, but the same framework dictates which issues are accessible to the displaced Afro-Colombians. Local organizations, using the influence and power generated by the international rhetoric, have also been able to keep aspects of their agenda in the mainstream conversation, their most success coming from their relationship with the Constitutional Court. Nonetheless, displaced Afro-Colombians still struggle to have the government recognize all their rights as legitimate and adequately addressed them.

Three theories pose explanations to this paradox. First, Rueda contends that the legal language used by Afro-Colombians reinforces the status quo, thus constraining the actual possibilities of success for Afro-Colombians. Next, Cárdenas contends that the specific language of victimization replaces and obscures that of ethnoterritorial rights and means that the government conflates a conclusion to the IDP problem with that of the fight for Afro-Colombian rights. Afro-Colombians are then forced to find new ways to articulate their rights to the Colombian government. Finally, Oslander focuses on the descriptor “internally displaced peoples” and the quantifiability of the situation to normalize and ignore the true issues facing Afro-Colombians. Each theory sees the discourse of rights, and eventually opportunities, for Afro-Colombians expanded as well as limited by the articulation of Afro-Colombian rights with that of displacement.

Even though these theories provide context for the discursive war between Afro-Colombians and the Colombian state over the way in which the term

displacement is deployed in the context of rights, they lack any insight into the best ways Afro-Colombians can alter the playing field and eventually the mechanisms for change. Here, Afro-Colombian activists are encouraged to think about and engage in opportunities to alter and expand the discourse of rights in an attempt to eventually improve the necessary mechanisms. This strategy is referred to as a “discursive offensive.” By focusing on the context in which Afro-Colombian rights and displacement are discussed, Afro-Colombian activists may create a new language around rights and eventually provide an avenue for the nation-state to enact rights that ensure collective rights for all Afro-Colombians.

This research presents several questions about how we use language to secure rights and how a group rearticulates its relationship to the political apparatus. Mostly, it expands on the reasons that language, discourse, and the politics of articulation are restrained and expanded by new legal protections and external actors. Future studies may answer the following questions: Under what conditions do Afro-Colombian identities expand to consider the multitude of issues facing the community in the PCR? What types of articulations of Afro-Colombian identities are not normalized or subject to the status quo? When does the discourse of displacement create new opportunities for Afro-Colombians to inject ethnopositional and antiracist rights into the political apparatus?

In sum, Afro-Colombian rights, while expanded by the discourse of displacement, are constantly being re-formed and challenged to meet the needs of the political apparatus, making progress a slow and even complicated process. Therefore, Afro-Colombians must create a space in which they dictate the language and the articulation of their rights as opposed to a mechanism to express their existence and rights within the apparatus. By dictating the language and context of Black rights, Afro-Colombians are well positioned to achieve rights equality in theory and in practice.

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