

COMPETING CLAIMS ON
DISPUTED LANDS:
The Complexity of Resource Tenure in the
Nicaraguan Interior

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Abstract: This essay analyzes the complexity and contradiction of resource-tenure regimes on tropical forest frontiers by drawing on a case study carried out in the department of Río San Juan, southeastern Nicaragua. The main attention is given to competing claims over productive resources and to contradictory relationships between the diverse modalities of resource control. The resource struggles emerging in Río San Juan are analyzed in the context of larger political-economic and socio-legal processes to understand the wider relations of politics and power that affect local resource access. The main goal is to reveal how control over resources is defined and contested in the everyday reality of legal pluralism where multiple legal orders intersect in people's lives, and where the conflicts over whose law applies, and who gets what resources and why, have increasing significance.

INTRODUCTION*

The struggles over the fate of forests and the contested claims over natural resources on tropical forest frontiers have been a matter of public interest in recent years. A substantial body of literature has appeared on the chaotic processes of land colonization and resource appropriation in Amazonia. Many of these studies have challenged the main paradigms of legal centralism, based on the idea that "law is and should be the law of the state, uniform for all persons, exclusive of all other law, and administered by a single set of state institutions" (Griffiths 1986,

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3–4). Some of these studies have carefully illustrated that there is a plethora of more or less official legislation controlling the land tenure in Amazonia and that the governmental policies regulating the natural-resource use patterns consist of shifting regulations with many kinds of internal contradictions.¹

Much less attention has been given to the plurality of resource-tenure regulations and land-use struggles in Central America, despite the very complex processes of land claims and resource control on Central American forest frontiers and in other contested territories.² This gap is especially important to the case of land struggles in Nicaragua, where conflicts over the compatibility of legal orders have particular relevancy. First, because of the dramatic regime transformations during the last decades—from the Somoza dictatorship of the 1970s through Sandinista revolutionary rule in the 1980s to current neoliberal electoral democracy—complex institutional structures exist in this country (Spalding 1999; Walker 1997). Second, despite the official transition to democracy, Nicaraguan democracy remains fragile in terms of basic citizen rights. The state has demonstrated a weak capacity for good governance, especially concerning the issues of land rights, poverty alleviation, and human rights (Abu-Lughod 2000; Luciak 2000).³ Third, there are many inconsistencies between the legal orders and normative rules validated by state institutions and non-state mechanisms in Nicaragua. Diverse peasant and squatter movements; grassroots organizations; and human rights, feminist, and other social movements have contested authoritarian state politics and the ways in which decisions about people's rights to resources are made (Babb 2001; Polakoff and Ramée 1997). What is at stake in these struggles is an increasing resistance to coercive policies of resource regulation and a growing demand to recognize the existing diversity of normative orders regulating issues of land tenure and resource access.

This essay examines the contested struggles over natural resources in the Nicaraguan interior by drawing on a case study from the department of Río San Juan in southeastern Nicaragua, near the border with Costa Rica. The main focus is on the complexities of land tenure institutions and normative orders regulating local resource access and how inconsistencies between the different orders, and the asymmetrical power relations embedded in them, contribute to social marginalization, rural

1. For land colonization and legal complexity in Amazonia, see Branford and Glock (1985); Cleary (1993); Lisansky (1990); and Schmink and Wood (1992).

2. In this respect, see Brockett (1998); Jones (1990); Seligson (1995); and Stonich (1993).

3. A similar kind of "disjuncture" between democratic politics and the living reality of political insecurity, social exclusion and unequal distribution of resources is characteristic of many Latin American new democracies (Caldeira and Holston 1999; Pearce 1998; and Pinheiro 1999).

violence, and the failure of well-intentioned environmental and development programs implemented in the region. The resource struggles emerging on Río San Juan's forest frontier are analyzed in the context of larger political-economic and socio-legal processes to understand the wider patterns of politics and power that affect local resource access. The main goal is to reveal how control over resources is defined and contested in the everyday reality of legal pluralism where multiple legal orders intersect in people's lives, and where the conflicts over whose law applies, and who gets what resources and why, have increasing significance.

By conceiving the law in pluralistic terms, this study aims to challenge the strict boundaries between legitimacy and illegitimacy, and formality and informality, in the practical dynamics of resource questions (Coutin 1995, 27). Everyday struggles over resources are often an arena of complex patterns of competition and negotiation between different social actors, interwoven with uneven power relations (Hirsch and Lazarus-Black 1994; Merry 1998; Neumann 2000). To understand this complexity, a careful analysis of the socioeconomic and political factors that impinge on resource-claiming dynamics is required, as well as analysis of the strategies by which different social actors negotiate the existing conditions of legal inconsistency. In many cases, the issue is not just legality against illegality, but the articulation of different interpretations of the law and reformulation of property relations whose legitimacy is variably called into question (Harris 1996; Meszaros 2000). By analyzing the "law as process" (Benda-Beckmann 1997, 9), this study aims to draw attention to the marked contrast between the abstract rule of law and its practical implementation in the everyday struggles over resources.⁴

The primary information presented in the following analysis is based on ethnographic field research conducted in the municipality of El Castillo, Río San Juan, in 1996–98. The research area, which covers 180,000 hectares of land and has some 15,000 inhabitants, belongs to the buffer zone of the protected area of Indio-Maíz (DANIDA 1998). At the same time, it is one of the most intensive agricultural frontiers in the country, with high rates of immigration and deforestation. In general, Río San Juan is a very mobile territory; people are coming and going, and everyday life is colored by migration and transience. It is a place with ever-changing conceptions of space and with multilayered connections to broader economies and policies through development and trade, and politics and power. As such, Río San Juan offers an interesting case study of the multifaceted struggles over productive resources and over the

4. For inspiring studies on legal pluralism, emphasizing that the key to understanding legal processes is not so much the legislation itself, but how the legal orders are played out in practice, see Coutin (2000); Gutiérrez Sanín (2001); Merry (2000); and Sarat and Kearns (1996).

contested interpretations of rights, rules, and legality in frontier politics and society.

The majority of the population of this frontier are land-poor peasants who have migrated from other parts of Nicaragua in response to increasing constraints on their livelihoods. Mainstream society considers these small-scale settlers as marginal because of their geographical isolation and their limited socioeconomic power. The frontier settlements suffer from a lack of basic infrastructure, including roads, electricity, schools, and health centers, and most of the local inhabitants have limited opportunities to guarantee their rights or to resolve their conflicts through official channels. As suggested by Goldstein (2003) in his study on urban squatters in Bolivia, legal anthropology can contribute to understanding this problematic situation by examining how issues of law and legality are played out in the life of the people living on the margins. This matter is highly relevant in the case of Río San Juan—where many kinds of conflicts exist between the government, which aims to establish “law and order” and promote “rational” land-use patterns in this periphery situated on the fringe of a protected area, and local inhabitants, who state that the order promoted by the government is one-sided and ignores local people’s rights to resources. The following analysis aims to show how the government’s failure to recognize the existing plurality of resource rights leads to a misunderstanding of local residents’ livelihood strategies and undermines their dignity. This failure also delegitimizes state institutions in the eyes of local people and, thus, makes it difficult for ongoing environment-development programs to generate the self-motivated local participation necessary for successful programs. A better understanding of these problems is crucial in order to integrate nature conservancy programs more successfully with issues of democracy and social justice.

This study is based on multiple data-collection methods, including participant observation, in-depth interviews, social network analysis, and content analysis of the available archival material.⁵ The principal method for collecting data was ethnographic interviews that were carried out with local inhabitants, state officials, development experts and nongovernmental organization (NGO) representatives working in the area. Two thirds (ninety hours) of the interviews were tape-recorded. After becoming familiar with the research setting, I developed a matrix of theoretically important criteria to identify potential informants. Strategic sampling, designed to gain maximum variation, was augmented by employing a snowball sampling technique. Local informants were selected on the basis of such attributes as age, gender, social position, political and

5. Except where it is explicitly mentioned, the material presented is based on my own field data.

religious affiliation, length of residence, and their experience and knowledge. Semi-structured interviews, which focused on basic information of local resource use patterns and livelihood strategies were conducted with sixty households and more detailed interviews with thirty households. Eight key informants, who had deep knowledge of the research topic, were selected from the pool of nominally representative informants.

In an effort to understand the multiple visions concerning the "proper" development of Río San Juan, interviews and participant observation were conducted in forty-five institutions with ongoing or recent experiences of environment-development projects in Río San Juan. Seven of them were governmental organizations, twenty-seven were NGOs, while eleven consisted of programs implemented by governmental institutions and NGOs together.⁶ A content analysis of their development reports assisted in exploring the differences between the projects' official agendas and practical outcomes. By a network analysis, data were gathered about the positions occupied by different actors in formal and informal networks, while the existing archival data and secondary documents provided general socioeconomic information of the area.

The first section of the essay presents a historical review of the governmental policies and agrarian legislation mechanisms that have shaped resource tenure in Río San Juan. The second section analyzes the competing claims over productive resources and the contradictory relations between the diverse modalities of resource control. The final section draws some general conclusions concerning the struggles over resources, rights, and social justice on tropical forest frontiers.

SHIFTING POLICIES AND TRANSIENT HISTORIES

Pioneers Occupying the Unclaimed Lands

According to the National Census of Nicaragua, the population of Río San Juan was 20,832 in 1971 and 70,143 in 1995; a population growth of 240 percent in twenty-four years. The regional planning officials could not, however, confirm with any certainty how many people had settled in Río San Juan's interior in recent years. According to their estimate, some ten to twenty new families come to this frontier every week, and the intensity of migration usually increases during the dry season, when the land is prepared for planting.⁷ In any case, only a fraction of the present-day population was actually born in the area.

6. To avoid any harm to these organizations, I am unable to give more exact information on these organizations and their sources of funding.

7. Larson and Barahona (1999) present similar figures. Using different ministerial reports, they estimate that annual population growth in El Castillo has been 10 percent, or more, in recent years.

Until the 1950s, hamlets of smallholders in Río San Juan's hinterlands were scattered. These households cleared patches of forest for crop production, and they also practiced forest extraction (Rabella 1995, 101–05). The history of the region is characterized by cyclical penetrations and withdrawals governed by the vicissitudes of tropical resources on the world market (Girof and Nietschmann 1992). The economic heydays and lost bonanzas of rubber in the 1930s and 1940s, were followed by the booms and busts of chicle.⁸ As typical of tropical forest frontiers, the extractive economies of Río San Juan were very unstable over time. Prices varied according to market supply and demand and were heavily manipulated by traders (Offen 1992).

In the 1950s, the dictator Somoza and his associates began to appropriate large areas of land in Río San Juan for cattle grazing and for speculative purposes (Rabella 1995, 105). At the same time, national and foreign timber companies were given logging rights to Río San Juan's forests. Many of the local smallholders worked temporarily as wage laborers on the cattle estates. Their life was characterized by mobility and provisionality. In fact, many regional officials and cattle raisers prohibited the construction of permanent dwellings by smallholders to prevent human settlement patterns that would obstruct the expansion of grazing lands for cattle (Utting 1993, 87).

During the 1960s and 1970s, a wave of new colonists entered the region. They were principally smallholders from Pacific areas who had lost their lands to cattle estates and cotton plantations in the boom of export agriculture. The National Agrarian Institute (INA) encouraged the colonization of Río San Juan, seeing it as an outlet for social tensions caused by land-tenure conflicts in the Pacific.⁹ In terms of the state, the colonists served as agents of land valorization by clearing the land and providing basic crops for national markets (Utting 1993, 84–87). These colonists began to open up Río San Juan's forests to slash-and-burn agriculture. Since the decline of the extraction of rubber and chicle, the extraction of raicilla (*Psychotria ipecacuanha*) became an attractive livelihood strategy until its price began to decline dramatically in the late 1970s.¹⁰

8. This ephemeral boom of rubber was linked to the closure of the Malaysian rubber plantations by the Japanese invasion during World War II (Offen 1992).

9. Despite the state's encouragement, most of this colonization remained undocumented and invisible, flourishing on the periphery with relatively little governmental control.

10. Medicines used against amoebic dysentery, as well as to induce vomiting in a child who has swallowed poisonous material, are processed from raicilla. Both wild and cultivated raicilla were extracted from Río San Juan and exported to Europe and the United States, where a commercial medicine was processed from its subproduct. In the late 1970s, the economy of raicilla suddenly declined in Río San Juan. This was partly

The lands in this periphery had the legal status of public land domains (*tierras baldías*). According to the agrarian legislation of that time, a person could appropriate a parcel of public land on a frontier by putting it to productive use. The simplest way to prove that the land was under production was to cut down the forest. Most of the settlers had no titles to their lands, but the property rights were conceptualized in terms of usufruct (*posesión*), meaning rights to the benefits of land by virtue of use. According to contemporaneous legislation, a person who could prove that he/she had lived in the area and cultivated the land without interruption for more than ten years, could apply for ownership of the land.¹¹ Officially, the lands obtained by settling a piece of national forest could not be sold. However, much land changed owners in an informal market, where the value of the land was calculated according to the amount of jungle area cleared. As characteristic of pioneer frontiers, threat and violence also became keys to land ownership. Many land speculators claimed the land colonized by peasants as their own and expelled them without any compensation after they had cleared the land (Utting 1993, 86–87).

By the time of the Sandinista revolution in 1979, social conditions of Río San Juan were among the worst in the country. About 87.7 percent of cultivated land was in the hands of large landholders, who represented 3.4 percent of the landowners in the department. At the same time, small and medium-size producers, representing 96.6 percent of the landowners, controlled 12.7 percent of the land (table 1).¹² The illiteracy rate was recorded at 96 percent of the population, and the infant mortality rate and the average life expectancy were the worst in the country (Rabella 1995, 104–05; SNV 1992, 78–79).

The Sandinista Era with an Agrarian Reform and a Civil War

Soon after the Sandinista government took power in 1979, a civil war broke out in Nicaragua. Heavy fighting flared up in Río San Juan in 1982, when a fraction of the Counter-Revolutionary (*Contra*) army began to operate in the area. As part of its tactics in the region, the government displaced some 1,400 peasant families from their forest

because a synthetic substitute displaced the subproduct extracted from raicilla. The principal cause, however, was the rapid depletion of natural supplies of raicilla due to over-exploitation. For the history of resource extraction in Río San Juan, see Offen (1992).

11. Similar legislation was common in many Central American countries; see Heckadon-Moreno (1984); Jones (1990); and Salas Viquez (1985).

12. At the national scale, large landholders, representing 1 percent of the population, accounted for 52 percent of the land under cultivation by 1979 (Jonakin and Enriquez 1999, 151).

Table 1 *Land Tenure in Río San Juan in 1979, 1989, and 1995*

Sector	Area (in percentages)		
	1979	1989	1995
State farms, APP	0	49.6	0
Cooperatives	0	22.3	12.8
Large estates (<i>latifundio</i>)	87.7	6.2	45.2
Small and medium-size producers	12.7	21.9	42.1

Source: INRA, Río San Juan; Utting 1993.

homesteads into government-established *asentamientos*, organized through cooperatives. These displacements caused unrest among the local population and gave rise to misunderstandings between the authorities and *campesinos* (Utting 1993, 148–50). Thousands of persons who opposed the government's decision to resettle them sought refuge in Costa Rica.¹³

The Sandinista agrarian reform significantly transformed the land tenure system in Río San Juan, as elsewhere in the country. Between 1979 and 1981, the government confiscated all rural properties owned by Somoza and his close associates, in total more than 20 percent of Nicaragua's cultivable land. These holdings were turned into state farms, known as Areas of People's Property (APP). Land redistribution to agricultural cooperatives began in 1981, while in 1985 the government started to redistribute land to individual small farmers. These individual grants were offered in the nation's interior, such as Río San Juan, where land could be distributed without alienating the Pacific's agrarian bourgeoisie with additional confiscations (Brockett 1998, 160–166; Jonakin 1997). In 1989, half of the land in Río San Juan was in the hands of the state, one-fifth was in the hands of cooperatives, one-fifth in the hands of small and middle-size producers, and the rest in the hands of large private producers (see table 1).¹⁴

The Sandinista government also put great effort into improving the health and education systems in Río San Juan. The government estab-

13. The number of official refugees leaving for Costa Rica was 30,000, while the number of unofficial refugees and exiles was estimated at about 200,000. Some 250,000 people were internally displaced by the Contra war (Ortega and Acavedo 1991, 20).

14. At the national level, the portion of agricultural land controlled by large-scale estates dropped from 50 percent to 20 percent by 1988. During the same period of time, 60 percent of the peasants and seasonal workers gained access to land (Jonakin 1997).

lished a dozen health posts in the region and in 1987, Río San Juan was optimistically proclaimed to be free of illiteracy (SNV 1992, 78–79). Farmers benefited from the government's policies of easy credit terms and technical assistance, while popular organizations played an important role in incorporating the local inhabitants into the political life of the country. Regardless of these improvements, the 1980s was also a decade of tremendous threats upon the people of Río San Juan. Both armies treated the *campesinos* with violence. Underage boys were inducted into the military, and many families saw their fathers and sons tortured and murdered. Society was highly polarized and there were few opportunities to remain neutral. Farmers worked armed in the fields and every settlement maintained *vigilancia*. The forest became the fearsome location of terror, which the enemy used for refuge, supply routes, and ambush tactics (Nygren 2003).

By the mid-1980s, about 62 percent of the Nicaraguan national budget went for defense, crippling the government's programs for socio-economic recovery (Faber 1993, 181). In this situation, the residents of Río San Juan began to dream about the end of the war. Although Río San Juan was a region of strong Sandinista support during the 1980s, the government's relations with a segment of Río San Juan's peasantry proved to be disappointing. Many peasants did not share the Sandinista vision that the road to raising their standard of living lay in collectivizing their production (Kay 2001, 759–60). Those people who remained as individual farmers especially tended to express strong opposition to the Sandinistas, while those formerly landless agrarian reform beneficiaries who had been brought into a comprehensive process of collective production voiced more support for them. The government's effort to guarantee reasonable prices to producers by controlling agricultural prices and marketing processes was also a source of discontent. Many farmers viewed the state purchasing monopoly as authoritarian.¹⁵

Simultaneously, the performance of many cooperatives created resentment. Although the members of the cooperatives came from very different backgrounds, they had to make joint decisions about production. Many people did not identify with the cooperatives, feeling that the cooperative's land was not really theirs. A great number of cooperatives in Río San Juan collapsed under high debt and evidence of corruption.¹⁶ Besides, the Roman Catholic Church hierarchy opposed the Sandinistas' revolutionary ideology and the relations between the Church hierarchy

15. For an excellent analysis of the decreasing support for the Sandinista agrarian reform among Nicaraguan peasants, see Enríquez (1997).

16. These issues became evident both from people's own accounts and from the archival data of the cooperatives.

and the Party were problematic.¹⁷ In the growing institutionalization of the revolution, people started to feel that the party officers benefited personally from their position and that issues were managed from above. The inhabitants of Río San Juan had paid a high price in terms of economic hardships and social suffering for the hope of a more just society without seeing their desires fulfilled. For many of them, the peace became the issue of vital importance; it meant the possibility of returning to life without the daily threat of becoming victims of the war.

Postwar Policies of Resettlement and Structural Adjustment

While the 1990 electoral defeat of the Sandinista National Liberation Front (FSLN) ended the military fighting in Nicaragua, the process of national reconciliation opened the door to serious disagreements. The demobilization of two armies—22,000 ex-Contras (ex-RN), and 72,000 discharged members of the Sandinista Popular Army (ex-EPS)—was an enormous task. The peace agreements promised to provide land to those fighters who laid down their weapons, giving priority to Contra combatants. This issue turned out to be a main source of discontent in postwar Nicaragua (Abu-Lughod 2000).

The main areas of resettlement designated for demobilized people were located in Río San Juan and in northern Nicaragua. The postwar settlement retained the general logic of previous land transfer programs by relocating land claimants in remote jungles where little infrastructure exists (Armony 1997). Most plots allocated to ex-combatants were not suitable for agriculture; soil fertility was fragile and could not sustain prolonged agricultural production. The resettlement programs also lacked assistance to reinsert the former fighters into production. Most of the regular soldiers in both armies were poor peasants and wageworkers from the country's interior. Since many of them had spent most of their adolescent lives as soldiers, they had little farming experience. These uprooted ex-combatants moving to Río San Juan presented a grave danger to the region's fragile peace (Ortega and Acavedo 1991). The National Institute of Agrarian Reform (INRA) did not even investigate whether the lands designated to ex-soldiers were unoccupied. Many of the demobilized groups received ownership of land possessed by smallholders, but who, without any title to the land, were unable to file legal claims to their possessions. This conflict has promoted deep hostilities between the demobilized people and local peasants, each side accusing the other of being parasitic.

17. For more on relations between the Catholic Church and the Sandinistas, see Dodson and O'Shaughnessy (1990, 145–75).

The policies of resettlement practically ignored the needs of the general civil population that had borne the sufferings caused by the war. When the major fighting ceased in Río San Juan, a considerable number of refugees and displaced people returned to their farms, the vast majority without any assistance. The lands of many displaced people had been delivered to other persons, an act which caused severe conflicts (Ortega and Acavedo 1991). Equally affected by the insecurity were the holders of Sandinista agrarian reform land. Thousands of agrarian reform beneficiaries who had received land in the 1980s but who lacked legal titles to it, faced claims from the former landowners. Initially, the Chamorro government was committed to respecting the land tenure transformations effected by the Sandinistas. In practice, the counter-reform, however, began almost immediately with the government favoring the confiscated landowners (Prevost 1996). The chaos that followed opened a market for speculative land purchases. Uncertain about the status of their property titles, many peasant producers, agrarian reform beneficiaries, and demobilized people began to sell their lands at inordinately low prices. The beneficiaries of these transactions were usually the relatively large landholders, who possessed the initial capital, access to credits, and the connections to take advantage of the smallholders' insecurities (Abu-Lughod 2000).

To ease the situation, the Chamorro government promulgated its own agrarian reform. By 1995, INRA had transferred 64,900 *manzanas* of land to 7,600 beneficiaries in Río San Juan.¹⁸ About 68 percent of the titles were given to peasant colonists, 19 percent to ex-RN, 8 percent to ex-EPS, 3 percent to repatriated people, and the remaining 1 percent to resettled people and the members of the Ministry of Government. The source of these reform lands was often that of state farms and cooperatives; thus, the fulfillment of one claimant's demands served to displace another. From 1987 to 1995, the number of cooperatives in Río San Juan dropped from 123 to 28, while the state farms had been practically all privatized (see table 1).

During the Alemán administration (1997–2002), and under the current government of Enrique Bolaños (2002–), land titling has gained a key role in the land policies in Río San Juan, as elsewhere in the countryside. According to dominant neoliberal policies, rural development is to be achieved through clarified property regimes and increased productivity, rather than through land redistribution (Ruben and Bastiansen

18. Author's interview with Thelma González, INRA, San Carlos, 24 November 1996. *Manzana* is a Central American measurement equivalent to 0.69 hectares. The concept of beneficiaries utilized by INRA includes family members. This number is obtained by multiplying the number of titles by a factor of 5.2 to account for average family size (Abu-Lughod 2000, 44).

2000). This has occurred in a context where structural adjustment programs have worsened the standards of living of the majority of the population (Pearce 1998; Walker 2000). In 1998, the highest 10 percent of the Nicaraguan population earned 48.8 percent of the country's total income, while the lowest 10 percent earned 0.7 percent (World Bank 2001).¹⁹ Dramatic contraction of public expenditures and agricultural extension services has affected small farmers nationwide, while tightened credit policies have placed many small producers in a precarious economic situation (Jonakin and Enríquez 1999). In Río San Juan, the patterns of poverty are desperate by any standards. About 76 percent of the population in El Castillo was living in poverty in 1998, and 41 percent of them was coping with severe poverty (Government of Nicaragua 2001). The illiteracy rate was estimated to be 37 percent of the population (DANIDA 2000).

The postwar period of Nicaragua has been characterized by intense land conflicts and increasing crime rates.²⁰ Years of fighting and political instability have made violence a common way to settle disputes (Abu-Lughod 2000). In Río San Juan, this has led to an upsurge of an array of rearmed bands and gangs of rustlers who create an atmosphere of fear and insecurity. These groups represent a complex phenomenon of postwar violence that includes criminal activities, personal feuds, and political demands. Some of these groups work as armed thugs for large landowners while others have adopted banditry as a way of life (Armony 1997). Violent land invasions flare up in Río San Juan now and then, and in recent years they have spread to the protected area of Indio-Maíz. In a survey completed by the Ministry of Natural Resources (MARENA) in 1998, some three hundred families were recorded as squatting inside the Indio-Maíz. This illegal occupation of reserve lands has close links to land speculation in a situation where a group of powerful cattle raisers, together with some political operators, have encouraged the invasion.²¹

Simultaneously, the flow of new colonists entering Río San Juan's interior has dramatically increased. Usually these migrants have left their previous homeland because they felt that their livelihood possibilities were constrained there. They have heard of the "fertile lands of Río San Juan" through rumors and made their way to Río San Juan with a hope to find a piece of land for farming. Every day a truck of public transpor-

19. In 1993, the corresponding figures were 39.8 percent and 1.6 percent. The same situation holds true in many Latin American countries (see Edelman 1999; Kay 2001; and Pinheiro 1999).

20. The number of crimes reported to the police was 8,056 in 1990. This number soared to 19,821 in 1996, an increase of 146 percent (Luciak 2000, 48; Spalding 1999, 51). The same situation characterizes other war-torn countries in Central America (Pearce 1998).

21. Author's interview with Iván Ortega, MARENA, Managua, 19 February 1998.

tation trundled into the main settlements with new families and their belongings. "I was born in Boaco and from there we moved around (*rodeamos*) to different places," don Sebastián,²² one of the newcomers explained to me. Some of these migrants have moved several times during their lifetime; clinging to a sparkle of hope to find a land of their own. Bewildered, they set up rustic *ranchos* and started to look for land, for work, anything to support their families.

CONTESTED CLAIMS OF LAND TENURE AND RESOURCE ACCESS

Precarious Titles and Defective Deeds

A wide variety of land tenure arrangements exists in Río San Juan as a consequence of the political changes and socio-legal transformations that took place. The agrarian legislation is itself ambiguous and manipulated by different parties. A gap exists between the formal law and more informal systems of property rights, which acknowledge land ownership through socially recognized occupation, instead of titles. Land registration programs underway in the region often fail to recognize the unofficial rights of resource access and the less visible forms of resource tenure.

As mentioned previously, the concepts of ownership rights among the pioneer colonists of Río San Juan were largely based on a perception of unsettled national lands that could be possessed through usufruct. Many of the pioneers never bothered to obtain legal title to the land because in their conceptions of ownership, face-to-face agreements weighed much more. This practice was fully reinforced by the earlier agrarian legislation which recognized a person's right to claim ownership to a parcel of public land if the neighbors affirmed that he was the first to occupy it (Giro et al. n.d.; Utting 1993, 39–40). The common denominator for land tenure during those years was the indication that "improvements" (*mejoras*) had been made on the land. Many colonists cleared most of their land in an anxious attempt to establish ownership and increase the value of the land. This central role of usufruct as a means of securing ownership reveals the need to move from the analysis of formal property rights to a broader approach of legal pluralism. In many contexts, socially recognized *de facto* land rights may be much more relevant than *de jure* ownership rights established by official legal mechanisms (Netting 1993, 157).

Recent governmental requirements for legal land titles have disqualified the *de facto* ownership of many homesteaders in Río San Juan,

22. Author's interview, 4 October 1996. Because of the sensitivity of the topic, and the prevailing political instability in the research area, the names of all informants have been changed to pseudonyms.

making them squatters on their own land. Many smallholders in Brazil, for example, have found to their horror that “those who don’t register don’t own” (Holston 1991, 700). The documents held in the land archives of INRA determine who possesses what, instead of the prevailing “informal” rules, according to which control over land is legitimized through continuous occupation. Many people have had bitter experiences due to the current legal doctrines, under which the written documents of government officials are privileged for validating land rights, while the socially embedded, unwritten land rights are rendered invisible and thus non-existent. In their eagerness to establish a rational system of property rights, land registration officials draw strict opposition between informal land tenure, blamed as “chaotic,” and formal land tenure, labeled as “logical,” without any recognition that the chaotic system of land tenure on Nicaraguan frontiers originates from the state’s lack of concern with the property status of national lands. Rather than being something isolated from the state, the land tenure system in Río San Juan contains elements of the past and prevailing state law, and its layered interpretations, mingled with customary norms of resource access.²³

The possession of a legal title is also a requisite for getting agricultural credit and for participating in development programs underway in the region. When more and more documents become necessary in order to protect one’s rights, more and more people remain outside the law. As many smallholders in Río San Juan have no official documents of themselves, much less their properties, they easily fail to have a legal identity. Even to obtain an identity card can be difficult in a situation where most parents never obtained a birth certificate for their children, and many people have had to change their names for security reasons during wartime. These undocumented people fall into a vulnerable position between legality and illegality, where their rights are limited and their benefits restricted.²⁴

Another issue that causes much confusion in the land tenure situation of Río San Juan is the existence of overlapping titles issued by earlier Somoza and Sandinista governments along with the titles of more recent Chamorro (1990–97) and Alemán regimes. Many of the titles issued by earlier governments were never registered; thus, there might be several claimants on the same plot of land, each armed with a title legitimized by a different regime. This situation is further complicated by the way in which each new government questions the titles given by the previous governments. Doña Leticia was one of those who suffered from

23. In this respect, see also the study by Jansen and Roquas (1998) of land tenure in Honduras.

24. For inspiring studies of the spaces of legal “non-existence,” see Coutin (2000); and Harris (1996).

this problem. Her family had received a parcel of land through demobilization under the Chamorro government; the land was bought by the state from two neighbors. After the inauguration of President Alemán, doña Leticia got very worried about the validity of the title.²⁵ She asked me several times if it was true that the new government would not respect the land grants received under demobilization, as the neighbors insisted. At the same time she firmly stated that if the neighbors evicted her from the land, she would not leave without being paid a “good compensation for the crops and the house, with more than twenty sheets of corrugated iron.” The political differences exacerbated this conflict: the family of doña Leticia were ex-soldiers of the Sandinista army, while the neighbors were fervent supporters of the Liberals. This situation was very discouraging for the family of doña Leticia; for not knowing the status of their land, they could not apply for any loans for production.

Many situations also exist in which multiple persons claim ownership of the same plot of land, but with different modalities of ownership: a definitive title, a provisional title, a bill of sale (*carta de venta*), or a simple right of occupancy.²⁶ Many deeds are defective documents, based on approximate estimations of land measurements and identifying the owner with vague qualities. I found cases where a seller had written in pencil on the other side of a package of cigarettes a certification that he sold a property to a certain person, or where a person had sold thirty *manzanas* of land for a luxurious cassette-player or an expensive watch, by word of mouth, without any documentation. Don Ramiro eagerly showed me the bill of sale of the parcel he had bought further in the interior and shyly asked if I could read him what was written in it.²⁷ It was an official-looking piece of paper, but probably a fake. To my great annoyance, the parcel was located inside the protected area of Indio-Maíz.

For land speculators or for anybody with money, the most attractive issue about land in Río San Juan is its relative cheapness. While land in northern Nicaragua might cost 4,000 or 5,000 *cordobas* per *manzana* in 1997, in Río San Juan's interior the prices varied from 800 to 1,400 *cordobas* per *manzana*. Many people who migrated to Río San Juan had sold their land in another part of Nicaragua, using the capital to purchase relatively inexpensive land in the interior. However, the view of frontiers as spaces of land speculation for *campesinos* can be easily exaggerated (cf. Clark 2000). Although a small number of the migrants improved their situation by buying and selling lands and improvements, the majority of the migrants coming to Río San Juan were land-poor or near-landless

25. Author's interviews, 9 March 1997, 20 March 1997, 14 April 1997.

26. Similar problems have been reported on many Latin American forest frontiers, e.g., Branford and Glock (1985); Lisansky (1990); and Stonich (1993).

27. Author's interview, 4 April 1997.

peasants whose migration to the frontier was more a survival strategy than an investment (Nygren, field data 1996–98).

In recent years, the idea that land titling would produce a stabilized system of property rights on tropical frontiers has become a key element in land policies of Río San Juan. According to this justification, land titling would improve agricultural production, avoid environmentally damaging resource-use practices, and prevent further migration (Alcaldía del Castillo 1996). However, such rhetoric easily ignores the ways in which titling may affect social differentiation. Taking into account existing inequalities in wealth and power, as well as access to judicial system, land titling may enable those people who have better connections to manipulate the situation for their own benefit. In places such as Río San Juan, there is a risk that titling will encourage land sales from smallholders to wealthier landowners and thus reinforce land concentration. This pattern is especially likely in a situation where local peasants lack the resources to put their land into intensive production.²⁸ In effort to restrict such mobility, *La Ley Reguladora de la Propiedad Agraria y Rural* states that smallholders are not allowed to sell their land within five years after titling. However, this prohibition only means that the transactions go unregistered through an informal market. Considering the overwhelming bureaucracy linked to official transactions, people prefer to sell and buy their lands without taking the trouble to register their transactions.

Heated Debates and Violent Conflicts

Not surprisingly, disputes over land are part of daily life in Río San Juan. The legal, irregular, clandestine, and fraudulent systems to buy land and the existence of competing and mutually exclusive land claims and other irregularities make it difficult to determine a single legal status of lands. The distinctions between legality and illegality are delicate and conceptually fine, and in a certain sense, no one has an unambiguous title to land. The question is more that those who possess extralegal powers to manage the political system and take advantage of the deficiencies in the administrative and legal structure can manipulate existing opportunities for their own benefit. Such corruption has led many people to consider the law as a resource governed by circumstances rather than by fixed principles.

28. According to some authors, the idea underlying these land-titling programs is that market forces would allocate land and other resources into the hands of most efficient users (e.g., Alston, Libecap, and Muller 1999; Feder and Nishio 1999). For a critical examination of such policies, see Jansen and Roquas (1998); and Thiesenhusen (1995).

In this chaos of dis-, mis-, and non-information, many peasants are vulnerable to attempts of large landowners to dislodge them. Many land speculators try to deceive smallholders out of their holdings, using knowledge of the ins and outs of the legal system to which peasants have little access. These intimidated smallholders often accept a ridiculous compensation offered for their lands and leave the homestead bewildered by the intricacies of the legal system. This does not, however, mean that Río San Juan is a place of total anarchy where only the greediest can survive, as tropical colonization has often been portrayed in the media. Norms and sanctions do exist, and the political empowerment of peasants during the last decades has made them more conscious actors. Many of them are unwilling to give up their land without a struggle, be it by defending themselves physically or by appealing to all possible authorities to confirm their rights to the land.

Such was also the case of land conflict in the village of El Mónico. On 13 March 1997, I participated in a meeting between the delegate of INRA and the residents of El Mónico. These people had a serious disagreement with a group of Sandinista ex-officers who had received 5,580 *manzanas* of land in El Mónico as compensation for laying down their arms. The farmers of El Mónico insisted that the land belonged to them because they were the first occupiers. The meeting was officially announced to be held at 9 A.M. at the local research station of La Universidad Centroamericana. The residents of El Mónico, however, avoided the station and instead, gathered at the nearby *pulpería* (general store). As Blanca, one of the few women who participated in the meeting, explained to me: "We're not going to hold the meeting in that nook of the university. Here's the *pueblo*, here are the problems and here they ought to be resolved!" Later, she grievously told me that her husband had been killed in a land conflict some months ago, and this tragic event had motivated her to join the struggle.

When the meeting ultimately began after a two-hour delay, the INRA delegate first gave a rhetorical speech about the "new Liberal government which is going to resolve all conflicts in a democratic way." Then, his theme suddenly changed, and he authoritatively reminded the residents of El Mónico that they were very vulnerable under the current law because they did not have any land titles. Appealing to this point, he stressed forcibly that "it's better to be flexible and not to become too radical." At this point, don Constantino, a smallholder from El Mónico, felt it was time to react. He started to explain how in 1990 the government had asked people displaced by the war to return to their homesteads. In Constantino's own words:

So, we returned to our farms, but in 1993, those ex-officers came and began to threaten us by claiming that the government had given them the land. This is just unfair! We're the real *campesinos*. There was nobody here when we entered,

the land was just idle here. We don't want to become rich, or to speculate with the land. We just want to earn our basic living.

As a response to don Constantino's arguments, the delegate informed them that land titling cannot be carried out in villages which have lands in conflict, and how such a situation would harm the local farmers. "Remember that you are living isolated here in the jungle, and institutional assistance is given only to those who have titles." He then suggested that half of the land in conflict would be titled for the ex-officers and another half for local farmers. This suggestion provoked loud resistance among the residents of El Mónico. One of the protesters was Sergio, who argued that the ex-officers were not *campesinos*, and that they had never lived in El Mónico. He also stated that if the conflict was not resolved, it would become very violent, as according to Sergio, the ex-officers had been threatening the people of El Mónico with arms. When the meeting ended, the atmosphere was very tense. To calm the situation, the delegate gave assurances that a judicial investigation of the land tenure in El Mónico would be conducted. However, everybody knew that none of them had legal documents of their ownership rights to their land.

In efforts to verify the truthfulness of the above presented claims and counterclaims, I conducted a number of interviews with state officials, lawyers, and human rights activists involved with the conflict.²⁹ Although their accounts differed, most of the interviewees agreed with the following events. In 1991, the Chamorro government identified land for this group of ex-officers in another part of Nicaragua. However, these lands had then been occupied by a group of cattle raisers, and to resolve the conflict, the government had given permission for the ex-officers to occupy the land in El Mónico. According to the interviewees, the ex-officers are absentee landowners, living in the capital city of Managua, where they own several agribusinesses. In El Mónico, they are engaged in a forestry project, with financial assistance from an international aid agency.

This conflict offers an interesting example of laws as a contested set of discourses and processes that can be used to establish and/or resist domination (Coutin 1995, 518). The peasants of El Mónico themselves saw the lands as legitimately theirs. Their view that "the person who works the land, owns it," was based on the earlier agrarian legislation of prior occupation and usufruct rights. They also justified their claims by assertions of their identity as *campesinos*. The claims of ex-officers were considered as false, based on the argument that they were neither agriculturists nor living in the area, which are the two requirements set in the law for the beneficiaries of agrarian reform land. Having been

29. Author's interviews, 5 November 1996; 15 March 1997; 8 April 1997; 28 February 1998.

threatened with violence, the residents of El Mónico further linked the denial of their land rights with human rights abuses.

The efforts of the peasants of El Mónico to justify their land rights in terms of legal norms were undermined by the dissenting view of the INRA delegate. Basing his stance on the public view of frontiers as places of disorder and scofflaw, the delegate evoked images of the local residents as radicals acting against democracy. His statement that the government will only serve those who are flexible and non-provocative aimed to intimidate the local resistance in a situation where peasant movements have been forced into political opposition. At the same time, delicate questions about the links between land conflicts, uneven distribution of resources, and rural violence were avoided.³⁰

The ex-officers I interviewed some weeks later, portrayed themselves as developers of Río San Juan. They were proud of their engagement in timber extraction in El Mónico, with a permit from MARENA and with international financial aid.³¹ According to Sr. Rivas,³² one of the ex-officers: "The residents of El Mónico accuse us of not being *campesinos*. And that's true, our purpose is not to destroy the land as these *campesinos* do. Our vision is that of sustainable forest management." By this statement, the peasants of El Mónico were portrayed as destroyers of land and enemies of rain forest conservation.

In earlier times of abundant public land, the residents of El Mónico would probably have moved to other unclaimed lands when confronted by a potentially violent conflict. Today, however, this is no longer possible as the agricultural frontier has already reached the boundaries of the Indio-Maíz reserve. Ironically, some of these peasants had settled in El Mónico on the advice of INRA, which had told them that the area was unoccupied and thus available to them.

In several other situations, conflicts over the land led to more brutal violence. The following case is an illustrative example of the explosiveness of land disputes on tropical frontiers. In March 1988, I visited the village of Kilómetro Veinte and heard that one of the local shopkeepers and his ten-year-old son had been recently assassinated. "With the greatest cowardice they killed him, a man who worked for the church and never quarreled with anybody. They came at night when he had just returned from the chapel and shot him in the back," the widow of don

30. For these ideas, I owe much to an inspiring study by Nagel (1999) on land conflicts in Paraguay.

31. Author's interviews, 17 April 1997; 18 April 1997, 23 April 1997. None of the ex-commanders could explain to me how they had received a permit for timber extraction from MARENA in a situation where the law prohibits the commercial extraction of timber if the landowner does not have a legal title to the land.

32. Author's interview, 18 April 1997.

Alejandro said in a tremulous voice. Doña Sara was exhausted and distressed.³³ Her two children were playing in the dust while the eldest one was helping her at the store. "If I had just been at home," she said bursting into tears, "but I was visiting my parents in Nueva Guinea. . . . They're just waiting that I'll leave and then they'll seize our farm. But no matter who dies, I'm not leaving," she said firmly. Looking at Sara's tearful eyes and listening to her broken voice, I understood some of the jarring experiences these people had endured on this frontier, together with heated disputes over resources and harsh violations of human rights.

Alejandro's murder caused much anxiety among the villagers and there were many rumors of "who and why." What was alarming was the way in which many state authorities interpreted the event. Several of them doubted Alejandro's innocence by raising a question: "Who knows what he may have owed them?" The police's slowness in investigating this crime only confirmed the local people's opinion that the government is uninterested in dealing with offenses against the poor. The only persons who tried to actively investigate this violent assassination were two voluntary human rights activists, who worked at the risk of their own lives. Roger, one of the activists, explained to me how difficult the task was because "anything smacking of human rights had to be done quietly. People first cooperate well, but when they should give an official testimony, they panic and prefer to keep their mouths shut."³⁴

This comment by Roger implicitly reveals how the laws and legal practices easily create images of legal subjects as abstract individuals. As pointed out by Sally Engle Merry (1998, 2000) in her studies on domestic violence, if the law is to help victims of violence, they must behave as "good victims" and "good witnesses." By defining everyone as equal in terms of individual rights, the laws easily ignore those areas of inequality which lie outside the law, such as uneven power relations and the role of threats and violence in structuring and restructuring property rights. Because of the fear of revenge and a lack of faith in the juridical system, the inhabitants of Río San Juan rarely bring acts of violence to the attention of the police or act as witnesses in the courts. This is a matter which is seldom considered in the legislation and policies concerning the regulation of properties on forest frontiers.

Structural inequality together with ambiguous agrarian development policies are two of the key factors at the root of rural violence in Nicaragua, as elsewhere in Latin America (Kay 2001; Pinheiro 1999). Nothing will change the existing climate of terror in Río San Juan as long as broader economic and social policies continue to ignore the region's current levels of poverty and social marginalization. The reduction of

33. Author's interview, 2 March 1998.

34. Author's interview, 28 February 1998.

violence also depends on the successful institutionalization of democratic legal and political channels through which aggrieved social groups can pursue their claims. At the same time, policies concerning the management of natural resources have to become more inclusionary in order to promote participatory involvement of local inhabitants in the sustainable management of local natural resources.

Struggles over Protection and Production

The policies of nature protection are another issue promoting heated debate over the control of resources in Río San Juan.³⁵ As mentioned earlier, in 1990 the Nicaraguan government established the protected area of Indio-Maíz in the eastern part of Río San Juan. This biological reserve, covering 2,640 km of land, belongs within the category of strictly protected areas; the only activities permitted inside the reserve are scientific research and wilderness protection (IRENA 1992).³⁶ The reserve has acquired an international recognition as one of the most outstanding protected areas in Central America. It belongs to the Mesoamerican Biological Corridor, extending from Guatemala to Panama, and aims to protect some of the world's most diverse ecosystems.

The establishment of the reserve has many implications for the livelihood opportunities of the surrounding settlements. According to the territorial agreement of 1991, land use in the reserve's buffer zone is regulated by INRA and the preferred production systems are based on subsistence agriculture, agroforestry, and reforestation, while no extensive cattle raising or commercial timber exploitation from natural forests are permitted. In order to reach these goals, many development projects have been initiated in the buffer zone. In 1994–98, thirty projects were underway in Río San Juan with a total budget of U.S.\$21 million. With financing from various international aid agencies and NGOs, the projects included agricultural diversification, community forestry, environmental education, non-timber forest products, and women in development. Most of them were implemented by Nicaraguan state institutions and/or NGOs (Vegacruz 1995).

All this attention has turned Río San Juan into a site of intensive development efforts and an arena of conservation conflicts. The majority of the conservation authorities working in Río San Juan considered the reserve of Indio-Maíz as an irreplaceable sanctuary of biodiversity and

35. For a more detailed analysis of these struggles over protection and production in Río San Juan, see Nygren (2000).

36. Originally, the reserve was established as a part of the "peace through parks" program, known as *Sí-a-paz* ("Yes-to-Peace"), comprising several nature reserves and wildlife refuges in the transborder region between Nicaragua and Costa Rica (IRENA 1992).

natural scenery. This justification, which satisfied national and global environmental agendas, was criticized by local inhabitants, according to whom the protection of nature cannot be separated from the local requirements for livelihood. According to conservation authorities, it was the task of the state to control the national heritage of *Indio-Mañiz* through improved vigilance and by making people respect the law. Many of them supported the forced eviction of the squatters from the reserve, and they also had plans to use a “green army,” composed of military forces, to patrol the reserve. All this was justified by claims of a local “culture of violence,” in which the only recognized law was seen to be the “law of the jungle.”³⁷

Many of the conservation officials also stressed the need to enforce strict control of resource use in the reserve’s buffer zone. They argued for increasing restrictions on local people’s access to forest products and for severe sanctions on the unauthorized clearing of forests. According to them, local inhabitants exploit the forests in order to make profits, rather than because of a lack of alternatives to meet their basic needs. From this point of view, local settlers were seen as disruptive forces on the fringe of the protected area. They appeared as reprehensible invaders of a majestic wilderness and as anarchist resource encroachers, in need of law and order.³⁸ Such was the view of one of the conservation experts working in the region:

Educating these people for conservation requires much patience because few of them show more than a shallow concern for deforestation. In these forests you’re

37. Governmental attempts to expel the squatters from the reserve by military repression have been unsuccessful. In 1998, the plans for eviction provoked a series of assassinations and arsons in the region, all of which made the government reduce the reserve area by excluding 31,000 hectares of land under invasion (*La Gaceta*, 18 June 1999). This loophole did not, however, solve the structural problems underlying the invasion, and the conflict still remains unresolved.

38. Of course, it would be unfair to claim that all conservationists had such a monolithic view of protected area management, and that all of them had been insensitive to local resource rights. Many conservationists presented strong grassroots orientation during our initial interviews. They spoke with self-assured tones about their projects as “pilot projects of sustainability.” In daily conversations, their voices became more tentative, and they showed more awareness of the complexity of the situation. They also expressed great frustration eventually, and, thus, their views became more condemnatory. Part of this frustration stemmed from the country’s sociopolitical conditions, where the perpetual polarization makes the environment-development agents work very difficult. Even where local empowerment is encouraged, well-intentioned agendas are easily transformed. To my surprise, the outcomes of individual conservation projects did not considerably differ whether the project was implemented by a governmental or non-governmental organization. This was partly because both governmental conservation institutions and national environmental NGOs had strong links to strictly protectionist transnational ENGOs, and the fervent competition over the funding made the organizations’ agendas coalesce.

more likely to hear the knocking of an ax than the squawk of a parakeet. These colonists seize a tract of forest to clear it for three harvests of corn, then they sell the plot, and go with their machetes to demolish another patch of forest. It's very difficult that these people, with a vicious cycle of destruction, would show any interest in protecting the forest.³⁹

The authorities of INRA defined the task of the government in Río San Juan to be its stabilization. According to them, the primary need in this zone of "spontaneous colonization" was to rationalize chaotic land-use patterns by ordering the disordered and registering all the settlers and farmlands in the institution's archives. Many regional planning officials characterized the peasants of Río San Juan as rebellious colonists with no respect for the law and as cunning *campesinos* prone to violence. The key to stimulating resource-conserving land-use strategies was seen as land titling, together with the adoption of modern legal and judicial systems based on statutory law. Given the existing complexity of land tenure, there was little indication, however, that INRA's ambiguous land titling programs would state explicitly which rights were secured for whom.

Most of the development advocates and NGO representatives working in Río San Juan challenged the state's coercive conservation policies by pointing out that nature protection has no future if the livelihood requirements of the local inhabitants are not taken into account. By emphasizing the role of human beings in establishing what is natural and what counts as nature, they attempted to transcend the strict categorizations between "primeval" and "human-shaped" landscapes. Many NGOs contested the view of Indio-Maíz as a natural habitat irretrievable for science and attacked the image of the reserve as a pristine sanctuary for recreation as an elitist Western concept. According to them, there was an enormous gap between the Northern "wilderness" agenda and the Southern "survival" agenda, as most of the Southern people live at the margins of the environmental discourse of the North.

In the agendas of these organizations, environmental education was given a high priority. In workshops organized by rural advisers to local people, impressive posters were used to contrast the beauty of a standing rain forest with the desolate portrayal of the forest-edge colonies. Tree planting and nature protection were invoked as symbols of birth and life, while forest clearing was enshrouded in metaphors of violence and death. According to these advisers, local inhabitants were imbued with an enormous capacity for conservation, if correctly inspired. Thus, the ongoing development projects were portrayed as unprecedented opportunities to improve the local livelihoods and environmental morality. At the same time, little attention was paid to these people's vulnerable positions in relation to current policies of structural adjustment.

39. Author's interview, 4 March 1998.

These NGOs also believed that it was time for the state to agree to the key role of NGOs as significant promoters of development because of their better methods to empower rural people as active partners in conservation. In reality, many of these NGOs demonstrated the same lack of attention to local development needs as the government projects. By defining themselves as facilitators of change, most of them seemed convinced that their task was to plan for rural people. The majority of their projects were dedicated to conventional issues, such as agricultural diversification and environmental education, with little attention paid to the unequal distribution of resources. Many of these NGOs, which consisted of educated middle-class members, ran the risk of becoming profit-making organizations and thereby losing their legitimacy as civil society actors in the eyes of rural populations.

According to local smallholders, the conservationists' idea of preserving large habitats as areas of wilderness had no justification if it was separated from the existing asymmetries in the control of resources. Many of them doubted whether the benefits to be derived from the protection of Indio-Maíz would ever be directed to local communities. The resource regulation policies were seen as hindrances to their ways of life, prohibiting them from practicing slash-and-burn agriculture, ordering them to live in registered settlements, and forcing them to apply for permits to undertake any resource extraction whatever. For these peasants, the idea that the forest frontier with its abundant resources could be possessed, "putting the jungle into production," was still a powerful image. When asked about the significance of Indio-Maíz, people first told me about its importance as a "source of water, pure air to breathe, shade from the blazing sun, and protection for poor animals who do not have any place to live due to the barbarous deforestation" (author interviews, 11 November 1996; 11 March 1997). Most of this rhetoric they had heard on the local radio *Voz del Trópico Húmedo*. After repeating this litany, they usually presented an alternative interpretation of the reserve as *reserva de la tierra* to be later distributed for farming to their children and grandchildren.

The source of this conception lay in the deeper meanings of forest and nature in these settlers' environmental perceptions. Central to self-identity of local inhabitants was their involvement in taming the jungle through hard work. Pioneering was constructed as a project of assiduous people who want to show the fruits of their labor. These settlers accepted the toils and limitations of their lives because they believed that a frontier offers a challenge; a future of much effort and struggle, but also a possibility for building a farm and raising a family. "We came to this jungle to brave failure in order to make a home in this wilderness," people often said with considerable pride (author interviews, 9 October 1996; 8 March 1997). By these comments, they wanted to point out that nature is not something to be separated from their social exigencies.

The main preoccupation among local inhabitants in regard to natural resource management concerned the rights of access to productive resources. They were worried about their difficulties in getting a permit to fell the forest, securing their land ownership, getting credit, and marketing their products. The conservationists' conception of protected areas as untouched areas of nature preservation did not correspond to the view of local inhabitants. Many of them felt that the conservation authorities were favoring the rights of flora and fauna at the expense of human rights, and they wondered why the rules of conservation are not made more responsive to social realities. Such was the view of Estéban:

I don't understand much about conservation, protection, all that stuff. For me, just to feed my family, it's a struggle. It's very difficult to get any loan if you don't have a title to the land, and now, MARENA even prohibits me to utilize the timber I have at my farm. Rather than helping us, they are making our life more difficult.⁴⁰

People also told me about the difficulties they encountered in making their homes as colonists in "this hostile jungle, with jaguars and snakes wandering in the pathways and supernatural beings attacking forest travelers." In their perceptions, the forest was a symbol of the wildness of nature, which causes rains, storms, and other natural and supernatural hazards in human communities. Nature was something to be mastered by human forces. This perception was largely misunderstood by conservation authorities, who attributed the settlers' forest-clearing activities to their primordial "land hunger" or cultural "forest phobia," with no references to the wider contextual factors—such as agrarian policies, land tenure regimes, and market forces—that have reinforced a pattern of forest conversion in Río San Juan for decades. Little recognition was given to peasants' difficulties to meet the daily requirements for livelihood and of their marginal positions in relation to a far-reaching global economy.

These experiences have provoked a series of grassroots movements in Río San Juan, as elsewhere in Nicaragua, challenging the amount of funds spent by dozens of development programs with few tangible benefits to local communities (Babb 2001). In Río San Juan these movements are still fragile, although they are beginning to gain more influence. This is partly because the loose forms of organization make these movements invisible, but also because, as newcomers, most of the inhabitants in Río San Juan have little identification with their locality. The majority of them have come to the region from other parts of Nicaragua, and their life is characterized by mobility and displacement. The social landscape is composed of multiple actors with diverse backgrounds and ambiguous

40. Author's interview 14 April 1997.

intentions. The villages are politically polarized into Sandinistas *versus* Liberals (or ex-Sandinistas *versus* ex-Contras) and religiously into Catholics *versus* fundamentalist Protestants. These political and religious differences sometimes make working together on communal affairs difficult.

What is at stake in these emerging struggles of resistance is the local people's increasing preoccupation with their widespread marginalization from benefits promised by the democratic state, including security for life, land, and livelihoods. These movements challenge the state's legitimacy and the official claim to a rule of law by criticizing the inability and unwillingness of the state legal system to protect marginalized peoples' rights and to provide them the basic benefits of citizenship. In Río San Juan, these struggles challenge state attempts to control the local territory through coercive resource regulation and the development agents' attempts to change the local environmental morality, while neglecting the local rights of access to productive resources. While conservation authorities see the local settlers' forest-clearing activities as a sign of their lawlessness, the local residents themselves emphasize their actions as justified in a situation where the top-down, environment-development programs offer few alternatives for local livelihoods. Unless this contradiction is resolved, it will be difficult for the conservation projects underway in the region to promote any degree of long-term commitment to nature protection among the local people.

CONCLUSION

This essay analyzes the competing claims made on productive resources on Nicaraguan forest frontiers. It draws on an illustrative case study from Río San Juan to shed light on wide-ranging issues of control and authority in conflicts over resource access on tropical frontiers. Above all, the study emphasizes the multidimensional character of resource-tenure disputes in the everyday context of legal pluralism. The struggles over rights to Río San Juan's natural resources involve different actors, each attempting to legitimate its authority, but for different reasons and with often-contradictory purposes. Such conflicts are best understood as multifaceted processes of control and power, pursued within asymmetrical relationships.

Within the framework of legal pluralism, the research emphasizes the politically charged and socially contested character of diverse resource regulating mechanisms operating on tropical forest frontiers. There are multiple and mutually exclusive ways of justifying claims to resources on tropical frontiers, all of which makes for delicate and conceptually fine distinctions between formality and informality, and between legitimacy and illegitimacy. Differences between, and inconstancies within, the coexisting legal orders and normative rules provoke multifaceted

processes of negotiation, disagreement, and manipulation between multiple stakeholders. In this process, resource-poor peasants are easily marginalized, as the authorities fail to recognize that the existing complexity of resource tenure provides no guarantee of a democratic implementation of an abstract rule of law. The failure to recognize the plurality of resource-regulating mechanisms, and the unequal power relations interwoven with them, contributes to social marginalization, rural violence, and the failure of well-intentioned environmental and development programs implemented on tropical frontiers.

Although the details may vary between specific cases, the resource conflicts presented in this essay are characteristic of many Latin American forest frontiers. As the situation in Río San Juan demonstrates, these conflicts reveal fundamental and complex political and economic issues that must be addressed in any attempt to promote democracy and social justice. Land questions continue to have a potentially explosive nature, especially in countries such as Guatemala, Nicaragua, and El Salvador which have experienced difficult political and social processes of postwar transitions. For the rule of law to have any meaning for the majority of populations, governments must have the political will and the means to alleviate existing conditions of poverty and social exclusion, as well as the associated problems of violence and injustice (Pinheiro 1999). The state's efforts to manage land tenure crises by developing coercive policies of resource regulation on forest frontiers as protected-area buffer zones have little chance of being successful in the long-term. They may temporarily halt land invasion and forest clearing, but because of not dealing with the underlying structural causes, violent disputes over resources will soon occur again (Wilshusen et al. 2002).

To conclude, in the social practice of forest frontiers, a plethora of mutually competing rules and normative orders govern the control and management of natural resources. Ethnographic cases studies on the "law as process," such as that of Río San Juan, offer important insights into the everyday struggles over resources. This is especially evident when we take into account the observation by Masaji Chiba (1998, 231) that without empirical data of the multiple legal rules and of the possible contradictions between the coexisting regulatory orders, the discussion on legal pluralism would end up constituting an empty theory.

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