

CHAPTER EIGHT

TRIGUEÑO INTERNATIONAL LAW

On (Most of) the World Being (Always, Somehow) Out of Place

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Trigueña or trigueño, depending on whether the person is female or male, is someone identified with three (tri)cultures. Namely, someone of Indigenous, African and Spanish heritage. It has been used in the Latino/Caribbean culture as a term of endearment, a compliment but also as a descriptive word when neither morena or blanca seem to completely describe the subject.

Urban Dictionary

Putting oneself “out of place” or “in place” are common methodological strategies in socio-legal research, as in the social sciences more generally. As a socio-legal researcher, you are invited, early on, to leave the library and go to unfamiliar places in order to see the world from new vantage points – with fresh eyes. Having performed this act of displacement – having become “out of place” – you are then asked to “emplace” yourself; to ground yourself in the norms and routines of your new place in order, for example, to find out how the law operates on “the streets” compared to in “the books.” These acts of transmutation and re-embodiment have characterized socio-legal writing and thinking for a long time. And regardless of how the assumption that “fieldwork” requires you to go to “exotic” places has been dismantled, such

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strategies continue to be used to make the familiar, including the familiar law, strange (Shklovsky 2016).

Many charges can be advanced against this dichotomic and static way of approaching the relationship between oneself and the place in which one exists and studies. “In,” then “out,” then “in” again – it’s just too simple! As Queer, Chicana, Mestiza social theorist, Gloria Anzaldúa (2009) would say, it is (destructively) too clean! Our gender identities, racial and ethnic backgrounds, and class positionalities mean we are always, and have always been, out of place somehow.

And if this were not enough, good-old globalization has further complicated things. The fact that multiple global realities cohabit and traverse every place today has also shattered, into a thousand pieces, the claim that we need to “go somewhere (else)” in order to find out something interesting about law or the world. Rosemary Coombe (1995) made this point powerfully back in the mid-1990s. Even if we are not studying explicitly global phenomena like migration or international trade, “the mobility of capital, investments, goods, imagery, and ideas” should compel us “to reconsider the ‘sites’ of our research” (791). “[E]ven if we remain in one ‘place,’ it is no longer possible to understand ‘place’ in static terms or from any singular vantage point” (828). As Eve Darian-Smith (2013) has put it, better than anyone else, today is a moment of “laws and societies in global contexts.”

In this text I want to push these reflections on the relationship between being “out of place” and “in place” a bit further. My primary preoccupation is with the disciplining function of such categories, and in particular with the implications of assuming that one can ever be “in place” – a stable “in-placeness” from which an “out-of-placeness” can be then judged. I am particularly concerned with this configuration because of its relation to my field of study, international law, and to my own experience of being always, somehow out of place.

As many international law scholars have pointed out in recent decades, one of the discipline’s main tasks, since its inception in the colonial period, has been to organize the world based on a sense of what is, and what should be, the correct place for humans and things. Eurocentric in its orientation and universal in its ambitions, when people or things are considered “out of place,” according to international law, it tries to bring them “into place,” whatever that place might be according to the cannon at the time: Christendom, civilization, modernity, the state, the international market, and so on. The

premise underpinning this exercise of what Anne Orford (2012) calls “constituting order” is that once people and their surroundings have been secured into their proper places, orderly transitions, development, sustainability, virtuous economic exchanges, and justice can be achieved.¹ This commitment to ordering does not take into account, however, how impossible it is for many communities, nonhuman animals and the natural environment to be “in place” on a planet in which the workings of the international legal order itself have generated, and continue to generate, so much “out-of-placeness.” My argument here, then, is that being out of place has become an endemic global condition, one that is *produced by* and *productive to* international law.² This condition can be grasped in its fullest in the Global South, a large and diverse geography that has been continually wrecked and disciplined by the international legal order.

My central question, in other words, is how can we start making sense of a world that is founded upon the act of making us out of place? And more to the point here, who can we approach, and how can we even exist when we become aware of this ubiquitous out-of-placeness?

Using a combination of auto-ethnographical reflections and historical analysis, in both cases centered on the constitutive role played by international law in the Global South – as well as in assumedly more Global North locales – I tackle these questions in three moments below.³

In the first of these moments, I explain my own sense of being always somehow out of place – not because of any realization about some innate element of my identity but because I was born in that complex geo-historical formation called the Global South.⁴ In this first part, I bring up the idea of what it means to be *trigueño* – the idea that people like me are part-Indigenous, part-African and part-Spanish – in order to convey some of the heterogeneous and unstable entanglements that define this part of the world. *Trigueñidad* is a component of many Latin

¹ For a general account of this constitutive approach to law, see especially, Brigham (2009) and Eslava (2017).

² On international law and the productive function of difference, see also, Knox (2016).

³ On autoethnography, as a practice of exploring the interconnections between the personal and broader historical and social forces, see for example, Ellis and Bochner (2000).

⁴ For an outline of this historical approach to questions of “identity,” see, Hobsbawm (1996).

Americans' popular imagery about themselves. It has also been endorsed as an official identity at certain points by many states – including Colombia, where I was born – to refer to the bulk of their citizens.⁵ The idea of being *trigueño* functions in my analysis, as a result, as a sort of “thinking portal.” It helps us to grasp the out-of-placeness underpinning life in the South and other locations. It speaks, at the same time, of attempts at generating cohesion in a world in which privileges continue to be maldistributed along the “color line” (with whiteness as its horizon).⁶ In the second moment, I engage more explicitly with international law and its constitutive role in making *and* managing out-of-placeness in the world. In the third, concluding moment, I suggest a type of global socio-legal approach more attuned to a time when the disorder of the South has – defying 500 years of assumptions – come to be the defining feature of “most of the world.”⁷ For this final task I borrow from a tradition of ethnographic thinking that is as ambitious as it is agonic. Reflecting from and with the South, it invites us to broaden our epistemological registers when being out of place has become both a global reality and the only ethical position left in a world in permanent convulsion. My effort to describe a *trigueño* international law is, in this context, a call for a different approach to the global order – one attentive to those interconnections, dislocations, and processes of disciplining and resistance that constantly cut-across our landscapes and bodies.⁸ But before we get there, let me begin from where I began

FROM THE SOUTH

I was born in the northeast of Colombia, right on the border with Venezuela. Humid and hot all year around, violent and economically

⁵ The category of “mestizo” plays a similar function in other parts of Latin America. See, for example, Eduardo Kingman (2002).

⁶ I have in mind here W. E. B. Du Bois's (1982) expansive understanding of “the color line.”

⁷ On the category of “most of the world,” see, Chatterjee (2004). On the South and its (dis)order as a global point of reference, see especially, Comaroff and Comaroff (2006, 2012).

⁸ As I describe below, my attention to the category of *trigueño* here aims to contribute to a line of analysis that has highlighted the unique and never passive position of (post)colonial/subaltern/Third World subjects in the functioning and making of international law. See, especially, Obregón (2006); Becker Lorca (2014); Parfitt (2011).

volatile, my hometown is one of those dots on maps that are so close to major points of reference – in this case an international border – that they blend themselves into those contiguous, more relevant phenomena. Depending on the size and quality of the map, my hometown is a defined dot or, more likely, it merges, like ink into water, with *la frontera*. In every sense, I was born in a “border town” – a chaotic money-making hive, a place of transit, a nest for all sorts of seedy activities and, above all, an incredibly exciting site in which to learn from the endless forms of (post)colonial disorder on which it thrives.

My city, home of around one million people today, lies just at the southern end of a massive jungle known, rather wonderfully, as Catatumbo. Technically a basin created by the end of the Andes as they branch out from Colombia into Venezuela and encase Lake Maracaibo, the region of Catatumbo – named after the river that flows into the lake – is both atmospherically unique and rich in natural resources. Because of the way the heat and condensation from the lake get trapped by the mountains, the jungle there is thick, green-as-green, and boggy. But perhaps most famously of all, the constellation of tropical forces in this place generates constant lightning activity; lightning so extreme, and so persistent, that it feels like the sky is trying to take revenge on the naughty, destructive humans below, electrocuting all with a messianic cacophony of thunders. Sadly, though perhaps predictably, global warming and recurrent droughts mean that this sublime choreography of lights and sounds may not be around for much longer.

Embracing the poetics of this unique site, scientists have attributed this eerily persistent lightning activity to Catatumbo’s location in what they call the Inter-Tropical Convergence Zone. Once well-known to sailors as “the doldrums” or “the calms” because of its monotonous, windless weather, the Inter-Tropical Convergence Zone encircles the globe where the northeast and southeast trade winds converge; where South and North meet. Running alongside the thermal equator, this is quite literally a highway of planetary renewal and the cradle of monsoons; in other words, it is the very spinal cord that connects us all. And in its bosom nestles that restless place called Catatumbo.

In *Tristes Tropiques* (1955), Claude Levi-Strauss famously described the doldrums as a sort of kabbalistic site, whose “oppressive atmosphere” is “more than just an obvious sign of the nearness of the equator” (74). The young Levi-Strauss had crossed this final leg of the very sea route that led Christopher Columbus to “discover”

Trinidad and the coast of Venezuela on his third trip (1498) many times in the 1930s, as he traveled to and from his post as French academic attaché to the recently inaugurated São Paulo University. The Inter-Tropical Convergence Zone was, for Levi-Strauss, a site in which men, “whose greed could no longer be satisfied by their own continent,” found their way to the “New World” (74). And, indeed, they did.

The Prussian naturalist and frenzied cataloguer Alexandre von Humboldt, who traveled as a botanical expeditioner across the Americas between 1799 and 1804, described Catatumbo as a place where lights could be seen from more than forty leagues away, as if explosions were taking place “in a throat of mountains” (von Humboldt and Bonpland 1826, 390). Not much later, Agustín Codazzi, an Italian army man, arrived on the continent in 1817, following the wars of independence led by Simón Bolívar (*el libertador!*). Responding to anxieties widely felt amongst early postcolonial leaders about the fictitiousness of their young nations, Codazzi was commissioned to map out Venezuela and Colombia from top to bottom (Appelbaum 2016). At the peak of his career, Codazzi also remarked on Catatumbo’s apocalyptic beauty. It always presented itself with “continuous lightning” which, “located almost on the meridian of the mouth of [the Lake of Maracaibo], directs the navigators as a lighthouse”: a lighthouse now serving as an entry point to that world that von Humboldt and Codazzi had – through their expeditions, and on the backs of unnamed Indigenous and African porters – made comensurable, comprehensible, and consumable (Codazzi 1841).

A complex archive of (post)colonial forms of plundering have thus followed Catatumbo’s mundane riches. First of all, of course, there was gold. Many Europeans from the mid-sixteenth to the mid-eighteenth century believed Catatumbo to be one of the places where *El Dorado* might be found. This attracted wave after wave of Spanish as well as German *conquistadores* and missionaries, in particular Capuchin Franciscans. The local Indigenous community, the Motilones Barí, as well as the Chitareros located south of my hometown, famously fought tooth and nail against the invaders. Eventually these communities were decimated by disease and war, and resettled in towns. Their resistance restarted when the Capuchin Franciscans were expelled from Colombia following their alliance with the Spanish Crown during the wars of independence. Yet from 1885, the Barí came to face two new monsters: large landowners or *latifundistas*, and then a new rush, this time for

“black” gold. In 1905 the Colombian government signed the first concession for the exploitation of oil in the region with a local general, Virgilio Barco Martínez. This opened the way for the return of the Capuchin Franciscans in 1910, inaugurating a period of formal resistance by the Barí. But with oil now firmly in the picture, in spectacular quantities around and beneath the Lake of Maracaibo, things changed forever.

During the 1920s, and even more so after 1931 when Barco’s concession was ceded to the US company Gulf Oil (today Chevron), the struggle of the Barí people reached new heights. The Chau-Folson contract, which sealed the relationship between the Colombian Government and Gulf Oil, included a clause obliging the government to protect the company from Indigenous aggressions. Over the next two decades, a combination of official violence and the widespread presence of Catholic and now also Evangelical missionaries brutality crushed Indigenous resistance.

As the world got caught up in the Second World War, and accepted its unquenchable thirst for oil, Colombia and, in particular, Venezuela saw oil exploitation skyrocket, bringing with it unthinkable wealth. Following on the heels of this wealth came new migrants from Italy, Portugal, and Spain. They also came from the Middle East, adding to the already existing population from that part of the world – after all, the Kingdom of Castile had “discovered” the Americas just as it completed the *reconquista* of the peninsula from the Arabs after seven centuries of intermingling.

One drop of this oil bonanza trickled down early on into my hometown at the end of the 1940s – a drop that, in the long run, and against this already complex landscape, turned out to be crucial for my family. In 1949, Gulf Oil, in association with its sister company, Colombian Petroleum, established a new neighborhood in my city. Designed according to US standards, and following the imperial tradition of veranda architecture and residential plantation compounds, the neighborhood first served as a sort of fenceless gated community for company workers. It had a church, a soccer field, a playground, a park dedicated to Simón Bolívar (with a massive statue of *El Libertador* on his beloved white horse, *Palomo*) and a plaza dedicated to the black gold, centered around a defunct pumpjack – one of those old-fashioned above-ground pistons designed to dredge up the bounty of oil wells. In 1970, however, Gulf Oil and Colombian Petroleum were brought under the operation of Ecopetrol, Colombia’s state-owned oil company (remember that

time of nationalizations in the Third World?). This opened the neighborhood to outsiders, losing with it its allure.

It was to this neighborhood, the result of a whole composite of out-of-place elements, that my mother's family came to live in 1971. My grandmother and grandfather – “*nona*” and “*nono*” I called them, in the Venezuelan–Italian tradition – were in themselves quite a bundle of out-of-placeness. My grandfather, almost two decades older than my grandmother, was from Colombia's coffee region, in the center of the country. A salesman who struggled to make ends meet by traveling across Colombia and Venezuela selling items ranging from keyrings and safe boxes to gravestones, was generous, loved *el Partido Liberal*, and had an amazing sense of humor. His mother was from direct Spanish descent (or at least that is how she is described in the family with a sense of pride), as was suggested by my grandfather's distinctive fair skin and light eyes. My grandmother's father, on the other hand, was from a small Venezuelan town nearby, and her mother was from my hometown. Her father was well known because he sold fabric in a shop owned by one of the *familias turcas* that had set up in town at the turn of the century.

My grandmother, darker in complexion, was a force of nature. *Nona* – a woman who never once went a day without walking; who conceded to and depended on no-one; who was (in her own way) political through and through – was ferociously clever and always ready to disrespect conventions. Both mystical and pragmatic, she navigated with all sorts of tricks the difficulties of bringing up five kids on her own while my grandfather traveled. She was doing this at a time when the longstanding war between Colombia's two traditional parties – *el Partido Conservador* and my grandfather's *Partido Liberal* – had momentarily stopped thanks to a power-sharing arrangement known as *el Frente Nacional* (1958–74); while the country started to implement an import substitution industrialization strategy, framed by the US-led anti-communist regional development program, *la Alianza para el Progreso*; and when guerrilla groups, in particular the Marxist-Leninist *Ejercito de Liberación Nacional* (ELN) and the Maoist *Ejercito Popular de Liberación* (EPL), were consolidating their presence in Catatumbo.

It was against this setting, that my grandmother won the lottery with a ticket she had obtained on credit. With the number 3336 (a lucky number in my family!) she secured the money to pay the deposit for the house in the former Gulf Oil neighborhood, next to the plaza with *el libertador* and *Palomo*.

I spent much of my childhood in that house. Packed with potted plants, birdcages, and a dog called Laika (in memory of the Soviet space dog), my memories of it include playing barefoot with my cousins and watching Hanna-Barbera cartoons on Venezuelan channels (only Venezuela had the money to pay for such luxuries back then, in the early 1980s). I also remember long conversations with my grandmother about the ability of various saints to appear in broad daylight, the witchcraft power of bird feathers, and the possibility of curing all sorts of ailments with local herbs. During these conversations, and in that house, I started to realize how difficult it was to make any kind of straightforward sense of the world. I experienced an intense confusion – fed each day by new rounds of competing explanations, both official and popular – about the place of Colombia, my hometown, and my own self within the broader schema of things. Here the assumed order fostered through the idea of being *trigueño* was as much part of the problem as a partial relief.

As in other parts of Central America and the Caribbean, one of Colombia's foundational myths is that the blood of almost all Colombians – after centuries of interracial relations – comes from three sources: Indigenous, African, and Spanish. We are, in short, *trigueños*. Deeply rooted in the national historiography and psyche, this apparently harmless, egalitarian idea is, however, ridden with problems. To start with, the *trigueño* idea has always had difficulties making sense of a country – and an entire continent – in which five centuries of colonial history have failed to homogenize racial differences, instead leaving a panoply of skin colors even within families. On a more substantive level, the idea of *trigueñidad* has silenced discussions of the uneven distribution of pain and power on a pigmentocratic basis, in which those on the white side end of the color spectrum continue to be favored (Vásquez-Padilla and Hernández-Reyes 2020). As such, it echoes uncomfortably the Spanish colonial *castas* system in assumingly postcolonial times (Obregón 2006).

The idea of Colombia as a largely *trigueño* country became entrenched through the inclusion of skin color on national identity cards, which were introduced initially for electoral purposes at the end of the 1920s and then as a compulsory document in 1962. *Trigueño* was the default option in many parts of the country that were not predominantly Black or Indigenous (like on the Atlantic or Pacific coasts or the Amazons), or predominantly white (as in the usually richer coffee-producing areas) (Forero et al. 2013). When skin color was removed as

a category in 1993, it left a profound mark on how the country understood itself in racial terms – a largely mixed society, with incidental small pockets of other skin colors on the margins, and with whiteness, of course, as a horizon.⁹

In families like mine, being *trigueño* was thus a common trope used to account for the paths taken to produce the family's color notation and to circumvent the impossibility of tracing our history very far back. This was particularly useful given my grandparents' different origins and skin shades. Some members of my family had light skin, clear eyes, and blond hair, while others had darker complexions. My grandmother, who saw herself and me in the middle of this color distribution, used to tell me that we two were the real *trigueños* in the family – *trigueños* in the sense of a traffic light at a busy intersection that connects everyone without knowing anyone's "real" points of origin or destination. An extra layer of enigma formed when my grandmother added that she had known immediately, as soon as I was born, that I would share her hue because newborn baby boys' testicles always reveal their future skin color. I was marked from the beginning (and in what a way!) to be of a color that is paradoxically of everywhere but also of nowhere – a residual index of our convoluted history, of the wiping out of Indigenous peoples, of the slave trade, of the European colonial project.

Many questions used to cross my mind back then: how much was I – or my grandmother – Indigenous, Spanish, or Black? And if we were all *trigueños* (if some more than others), how much Indigenous, Spanish, or Black blood did the other members of my family have? And what about other Colombians who were actually Indigenous or Black – were they also a bit *trigueños* too?

The curiosity bubbling beneath these questions, and the impossibility of finding any stable ground on which answers to them might be constructed, only increased as Catatumbo became an even more entangled mass of global flows and destructive forces. In the late 1980s and early 1990s, structural adjustment reforms kicked in hard across Latin America, and Colombia became embattled once again in civil war, this time fueled by other kinds of gold: marijuana first, and then cocaine and heroin. Guerrilla actions against multinational oil companies intensified too, followed by a brutal response from both official and

⁹ This idea of Colombia as a mixed society is equally present in other countries in the region and still informs governmental programs. On recent criminal identification techniques used in Mexico, see, for example, Delgado (2020).

paramilitary forces. Catatumbo became during these years a hotbed of drug production for the international market, a source of immense wealth and trouble that came to touch all segments of society and the natural environment. Wave after wave of aerially sprayed glyphosate (Monsanto's deadly pesticide, 'Roundup') was used to thwart the region's narcotization, while palm oil plantations became an accepted developmental counterinsurgency measure. Fighting evil with evil further fed the monster of paramilitarism and accelerated the destruction of peasant communities and Indigenous territories. And as if this were not enough, the Bolivarian Revolution that began in Venezuela in 1992 prompted the militarization of the border, which later intensified with Venezuela's economic collapse. Millions of displaced Venezuelans have left their country through Catatumbo, thousands staying in my hometown to start a new life. Millions of Colombians have themselves been internally displaced in the previous decades as a result of the only recently (and precariously) concluded civil war. Many of them, like Venezuelans, have also settled in *la frontera*.

Catatumbo, with its other-worldly lightning and mind-bending humidity, continues to be a prime theater for these tribulations. With such a place always in the back of one's mind, it is difficult to ignore how, regardless of all stabilizing efforts, being out of place is a perennial condition there as well as in many other similar parts of Colombia and the larger Global South. This out-of-placeness does not generate, however, free-floating cosmopolitan individuals. It is, instead, one that – emerging from haphazardly arranged historical forces – generates putative *trigueño* beings, subjects who spin like a tangled-up maze of infinite threads in a tropical throat of mountains. A few years ago, the Colombian cartoonist Vladdo captured this condition in a drawing about the endless reasons behind Catatumbo's constant state of crisis (see Figure 8.1). Like a frantic ball of wool with a thousand beginnings and uncertain ends, Catatumbo and its people are, like many others in the Global South, instantiations of infinitely convoluted global histories: ciphers of the ongoing genocide of Indigenous peoples, reverberations of the slave trade, uncomfortable reminders of the European colonial project. Late modernity gone wild in the tropics.

WHOLENESS AND INTERNATIONAL LAW

From my description above, I hope it is starting to become clear that being *trigueño* is not a hard fact. We can think about it instead as a

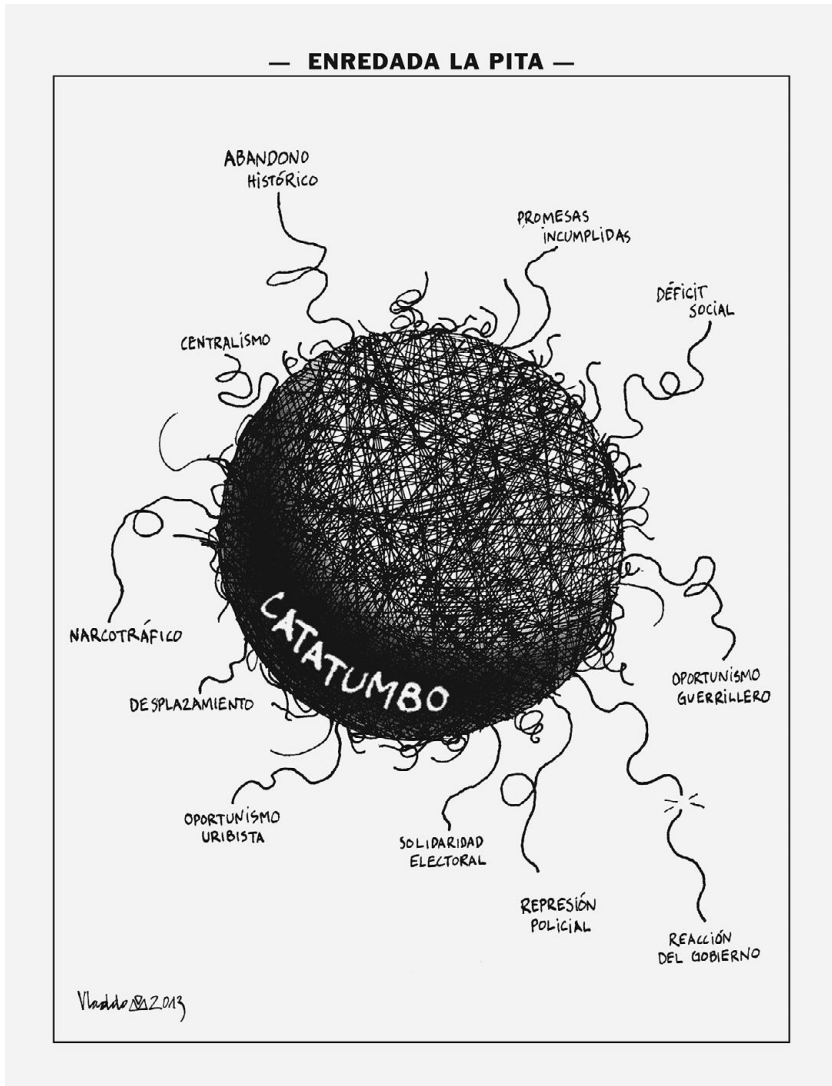


Figure 8.1 Enredada la pita, Vladdo, Revista Semana (2013)

superimposed racial rubric that attends state logics, as well as a shorthand that speaks of the near impossibility of giving an account of many people's rickety histories, of being ever 'in place' in a place like Colombia. In this second sense, it is an ontological condition of coming from everywhere and nowhere, of standing always on a moving ground.

But, again, as productive as it may be in its capacity to generate a degree of coherence – a momentary condition of “in-placeness” – the idea of *trigueñidad* still covers up ongoing asymmetrical distributions of privilege and suffering.

With whiteness still ultimately the site of privilege, progress, and history, and with, for example, African-descendent and Indigenous groups in Colombia still disproportionately bearing the effects of the country’s never-ending conflict and economic struggles, the *trigueño* category is a capacious middle-of-the-road marker that can signal who is losing, who is winning, and who is potentially in-between. This is a vital point given that in Colombia there has been a sustained effort to officially embrace the nation’s plurality via the recognition of Indigenous peoples’ and Afro-Colombian communities’ territorial and political rights in recent decades. The 1991 Colombian Constitution recognized importantly the ethnic diversity of the country and made a commitment to protecting it: “yes, largely *trigueño*, but also many other things” was the overall message.¹⁰ In the decades since the inauguration of this state model – which in other parts of Latin America has evolved into a more fully fleshed-out call for “pluri-nationalism” – Colombia’s political structure has transformed in significant ways (Acosta and Martínez 2009). Notwithstanding these advances, the allocation of resources across ethnicities in Colombia, as in the rest of Latin America, continues to be extremely unequal, in an already very unequal world.¹¹

It is due to this pigmentocracy – where whiteness continues to suggest more entitlements – that the idea of *trigueño* denotes, not a specific color but, above all, a nebulous predicament. Whiteness, after all, is also a condition, associated with color but, more than that, with an ability to reap the elusive benefits of the present order. This explains why someone like me – a true *trigueño*, according to my grandmother’s inspection – can be very privileged, because many things, including class affiliations, have allowed me to live in a white(r) way. And the same applies for a Black person with close proximity to white entitlements and structures of power. English rapper and political activist, Akala (2018, 306) made this point recently: “while I critique

¹⁰ See especially, Colombia Constitution (1991), arts. 1 and 7.

¹¹ See the cross-regional tracking of this situation by the United Nations Economic Commission of Latin American and the Caribbean (CEPAL/ECLAC): www.cepal.org/es/temas/pueblos-indigenas-afrodescendientes.

imperialism, I also acknowledge the contradiction of my own ‘Western’ privileges, brought about in part – ironically – by my proximity to whiteness.”

Trigueñidad, in Colombia and elsewhere, operates then as a marker that works, sometimes, through soft touches and small gestures. On other occasions, it functions as a hard statement of what someone does not have (Echeverría 2010). Being *trigueño* speaks of a multiplicity of untraceable histories, and on other occasions as a reminder and enforcer of privation, and with this a call to become white(r) each day. It is that mid-road crossing that needs to be crossed if you want to get there (and imagine if your gender or class also works against you!). The further you are from being Indigenous, Black, or *trigueño* (or female, LGTBQ, or lower class), the closer you are to being better off, better able to claim a proper place in history.

Enjoying being “in place,” or finding oneself “out of place” are thus not interchangeable states of being, or the result of discovering one’s true identity and real place in the world. They are instead specific socio-historical formations with profound disciplinary functions. From an international law point of view this is crucial, given the discipline’s traditional role of ensuring a particular kind of order in the world. The reading of global reality and social change that is the foundation of international law departs and ends with an assumption that global history and global life are, by design, organized into neat spaces and along a progressive temporal continuum. If some kind of disruption emerges – in the form of an armed conflict or a humanitarian or economic crisis, for example – it is understood that international legal mechanisms should be deployed in order to bring things back on track. The vagaries of reality, and even mistakes made on behalf of international law, are exceptions, which the international legal order can always readjust into its universal progress narrative. There is always the possibility to “cleanse law,” of imperial traces, racism, patriarchy or otherwise (Berman 1999).

A vivid encapsulation of international law’s universal progress narrative is contained in the opening lines of Malcom Shaw’s (2017, 1) popular textbook *International Law*. Its first chapter, “The Nature and Development of International Law,” begins in the following way:

In the long march of mankind from the cave to the computer a central role has always been played by the idea of law – the idea that order is necessary and chaos inimical to a just and stable existence . . . Progress,

with its inexplicable leaps and bounds, has always been based upon the group as men and women combine to pursue commonly accepted goals, whether these be hunting animals, growing food or simply making money. . . Law consists [in this sense] of a series of rules regulating behavior, and reflecting . . . the ideas and preoccupations of the society within which it functions . . . And so it is with what is termed international law with the important difference that the principal subjects of international law are nation-states.

For Shaw then at some point we had “the cave,” our original place, which as a species we eventually replaced with modern settlements. In this process, law has been diverse at some level, for example in certain aspects of municipal law, but in terms of its aggregated global function, it has put us on the path of civilization. Now, while a Hobbesian chaos has constantly threatened us, the combination of municipal and international law has allowed us to keep on evolving. The cave was replaced by national jurisdictions, which eventually came to be encompassed by the international order. These moves – from the cave to the nation-state to the international – have helped us make the most out of our innate drive to hunt, feed ourselves, or make money. In Shaw’s view, this has ensured that today we can collectively claim – across the world, in one go – to be living in the “computer” age. And although environmental degradation, global inequality, and the crystallization of a particular international division of labor that traps “developing” nations in ongoing circles of poverty and violence have also all been the outcomes of this process, these all remain outside the formal purview of law (Linarelli, Salomon, and Sornarajah 2018).

International law’s universal, progressive and, in many ways, strikingly optimistic approach to history also jumps out from the United Nations (UN) Charter. According to the Preamble, “we the people,” determined “to save succeeding generations from the scourge of war,” have left behind the violence that “twice [during the twentieth century] brought untold sorrow to mankind.” Reaffirming “faith in fundamental human rights,” we have committed ourselves, therefore, “to promote social progress and better standards of life in larger freedom,” and “to employ international machinery for the promotion of the economic and social advancement of all peoples.” Through the UN “we” have also pledged to endorse “the principle of equal rights and self-determination of peoples,” as well as, according to Article 2, to respect the principle of “sovereign equality” and refrain “from the threat or use of force against the territorial integrity or political

independence of any state.” In the case of a serious threat to these principles, the UN and its members are invested with the right to respond with accepted “enforcement measures.”

As we can see, the UN Charter presupposes and strives to realize a global wholeness, one in which each community has its natural place – or, in the language of international law, in which each society has its own state. Through respect for their self-determination – and equality – and via international legal instruments, each of these states safeguards its place in the global order, improving its standards of living through its own laws. The Charter makes no suggestion (any more than does Shaw), however, as to how the international legal order might be involved in undermining the objectives that the Charter tasks itself in upholding. For example, there is no hint of any lack of respect for, or any systematic undermining of the possibility of, some people’s self-determination – and thus their ability to be “in place” – as a result of the ongoing effects of the colonial project and its symbiotic relationship with international law (Anghie 2004). There is no trace of the collateral damage resulting, time and again, from international law’s explicit or implicit operation (Eslava 2017). There is no mention, as Knox (2016) has put it, of international law’s filial relationship to “the expansion of capital *through* racializing certain territories and societies” and “[i]n so doing . . . open[ing] them up for . . . their control and management” (112 [italics in the original]). The Charter’s universalism, chronological historicism, and pragmatic optimism invites us, instead, to see the international legal order as a homeostatic system in which being “in place” is the rule and “out of place” the exception.

In sharp contrast to the conditions of the majority of people in a place like Catatumbo, in particular those *trigueños* and others at the end of the equation, international law sees its subjects as usually living in a grounded and balanced normality. Connected to the global order, these subjects are seen as able to capitalize from their position in this computer age. In case of a crisis, especially one that domestic institutions cannot control, international law can always step forward and use its enforcement measures to ensure peace, progress, and in larger freedom (Charlesworth 2002).

I recently came across an uncanny rendition of this conceptualization of global life in Melbourne, Australia – a city that is in many ways diametrically opposite, geographically and socio-economically speaking, from my hometown, and that has become a global emblem of urban livability and economic prosperity over the last couple of


decades. At the entrance to one of the new residential high-rise towers that today dominate the inner city's skyline, a large poster welcomed residents and advertised their serviced apartments to others (see Figure 8.2). Placed within easy view of passing pedestrians, it featured a white couple in formal clothes, softly dancing against an urban landscape at nighttime. Accompanying the scene was a take-away message, "balanced global living," and underneath a further articulation of it: our company provides "a warm and stylish home, with many recreation and lifestyle activities," "because life is about living."

Revealing and to the point, the poster invited viewers to mull over the idea that normal global life is characterized by serenity, beauty, and an effortless ability to do well in today's global order.¹² Like countless similar marketing exercises widespread across the North and South, this poster was designed to interpellate, importantly, not just those who could afford to live in the building – who could find their new "place" in it – but to lay pedestrians who, more likely than not, could not afford such apartments (surprise, in Australia not everyone is rich!). For the few who could purchase these properties, its function was to reiterate their privilege. For those without the means, the message was subtler: in order to be successful in today's world one needs to let oneself be judged and transformed in ways that hardly correspond to who one is and what possibilities one actually has.


Underpinning this worldview of "balanced global living" was again the idea that life is, in its usual state, rounded, stable, prosperous, and harmonic. To ensure this state of affairs there should be a proactive municipal law that facilitates, like in Melbourne, the motions of the market through private and public law provisions for private building initiatives and individual consumption. According to this understanding, international law is seen as being at a distance given that everything is working according to plan: some people can make it; others not; tough luck. Keep dancing or keep dreaming to dance. Your turn will come.

As is the case for Shaw's textbook and the UN Charter, however, the international legal order is tightly enmeshed in this poster's existence and associated tensions. For a start, the apartments it is advertising are built on unceded Aboriginal land – the land of the Wurundjeri people. Legitimizing an act of illegal occupation sponsored by the international

¹² I have explored similar marketing exercises in Eslava (2014).



**Balanced
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Figure 8.2 Balanced global living
(L. Eslava, Melbourne, 2019)

legal order, then, the poster accelerates this erosion of sovereignty and its ongoing effects on Aboriginal peoples by seeking to multiply the claims over their land through the colonization now of vertical space (Liong et al. 2020). This is facilitated by a global legal order that, through domestic legislation, enables international investment, real-estate speculation, and a particular type of economic growth that has converted Melbourne into a ground zero of the global property bubble that started in the early 2000s and continues today. Meanwhile, this same global legal order takes a lenient approach to the domestic mistreatment of asylum seekers in Australia in order to facilitate a strictly regulated migration system based on economic power. To top all this off, the building, the white dreams this poster embodies, and the consumption signals it sends out bolster a type of “living style” that puts further pressure on the global environment, in particular the fragile Australian ecosystem. The combined background effects of international law silently framing this poster invites us to think about that type of *trigueñidad*, and that type of Southern out-of-placeness, that today runs from Catatumbo to Melbourne’s inner city and beyond.

A WORLD IN CONVULSION

The events I have described here in relation to my personal history and to international law’s more general role in generating and regulating out-of-placeness are the result of rhizomatic processes. They are multi-tentacular developments that run from the human to the divine, passing through the material to the ontological. They are, Michael Taussig (2001) would put it, instantiations of a “nervous system”; events that can be only understood in relation to the “general economy of the world,” using George Bataille’s (1991) language. This interconnected nature of global life, and the convulsion that has come to characterize it, is in this sense a widespread phenomenon. However, in some places – like Catatumbo and similar locations – it is so acute as to become an almost palpable experience, and even a lethal affair.

Let me illustrate this point by moving back to Colombia but this time to the Pacific coast. Historically these territories have been home to the highest concentration of Afro-Colombians in the country, and the lowest levels of income, welfare, and security. They first became the refuge of Afro-Colombians during the colonial period, as slaves escaping their masters crossed the dense jungles that separate the central part of the country to the Pacific coast. Victims of some of the same (post-)

colonial forces that shape life in Catatumbo, yet bearing the harshest effects of Colombia's pigmentocratic order, today these communities are still severed from the rest of the country by those jungles that once protected them. Some of these jungles have for centuries received some of the highest rates of rainfall on the globe, although (as in Catatumbo) the rains are becoming more erratic as the global climate crisis escalates. Existing in this unique environment, pressed by poverty and furious weather patterns, many of these communities have seen their young people jumping on the boat of illegal drug production and trafficking in recent years. And with the arrival of drugs since the late 1970s – especially the mighty quantities of *coca* that can be grown and produced in a land that is so environmentally well-endowed and still so remote – things changed forever, just as oil changed things in the throat of mountains where I come from.

Not surprisingly, the dynamics of drug production on the Pacific coast have been driven by global forces, transforming existing constraints into an unfettered calamity. The neoliberal structural adjustments, which started in the late 1980s in Colombia, have evolved in the past decades into a chronic illness, whose pernicious symptoms include high rates of un- and under-employment and the almost total de-industrialization of the economy. In consequence, more and more rural communities have found the production and traffic of cocaine – to the US via Central America or more recently to Europe through Venezuela and then North Africa and Spain – to be the only way they can survive. This situation has only intensified by the ongoing demand for cocaine in the Global North.

The flipside of cocaine's exquisitely "global" form of production and exchange has, of course, been the generation and circulation amongst communities in the Pacific of new global desires attached to the consumption of a very specific, constantly renewed set of "high-end" commodities. Branded sneakers and jeans; iPhones; gold chains; breasts and behinds of a particular size and shape – all absolutely incompatible with the economic possibilities of the average person. Drugs and beauty, and the beastly (symbolic and physical) violence that often result from their interactions, have become a part of the day to day in this part of Colombia, if not of the entire country.¹³

¹³ On the interaction and beauty and the beastly in Colombia, see especially, Michael Taussig (2012). On the racial dimension of the war on drugs, see especially, Koram (2019).

The result of this explosive cocktail of global forces comes in the form of recurrent waves of violence, each one gorier and more damaging than the last. These cycles of devastation have young people at their core – especially young people belonging to those groups which have always been the victims of historical forms of dispossession and displacement. Young Afro-Colombians and *trigueños* are the ones who have come to be trapped in this deadly economy, in particular young men aged between twelve and twenty-one, whose life expectancy in some areas does not exceed eighteen or nineteen years. These are kids and young adults who, pushed by need and a destructive economy of desires, engaged again and again, with a kamikaze spirit, in the production and transport of drugs in order to buy that crucial pair of sneakers or jeans that would give them a place in this cruel world.¹⁴

Interviewing some of these young men in the port town of Tumaco, I came to know firsthand about the self-destructive circularity that accompanies their lives.

Located on the southwestern corner of Colombia, near the border with Ecuador, Tumaco – really a very large and complex municipality – has a hot tropical climate that eases at nighttime with the breeze from the Pacific Ocean. Tumaco’s extensive territory is inhabited mainly by Afro-Colombians, as well as by Indigenous peoples and by proper *trigueños*, as my grandmother would say. The large part of the municipality is semi-rural, which then merges into the jungles that I described above. In one of my interviews in the actual town, a young rural *Tumaqueño* told me how frustrated he was with the “lack of identity” amongst his friends, and their lack of interest in reconstructing their personal histories, for example, their African roots, through cultural activities. He told me that his friends were obsessed with *tennis de marca* (branded sneakers) and explained to me that this obsession was fed both by social media and by the new fashion stores opening up in Tumaco’s town center (see Figure 8.3).

Tumaco’s unemployment rate is 70 percent and its per capita income is around 1,000 USD per year. A pair of Adidas or Nike shoes would easily cost a month’s salary. As this suggests, very few of its residents other than the *muchachos* who now earn their living through illegal drugs could afford such an item. In order to be part of the illegal drugs trade and with this being able to buy these desired shoes, young males

¹⁴ On the “cruel optimism” involved in this economy of desires, see especially, Berlant (2011).

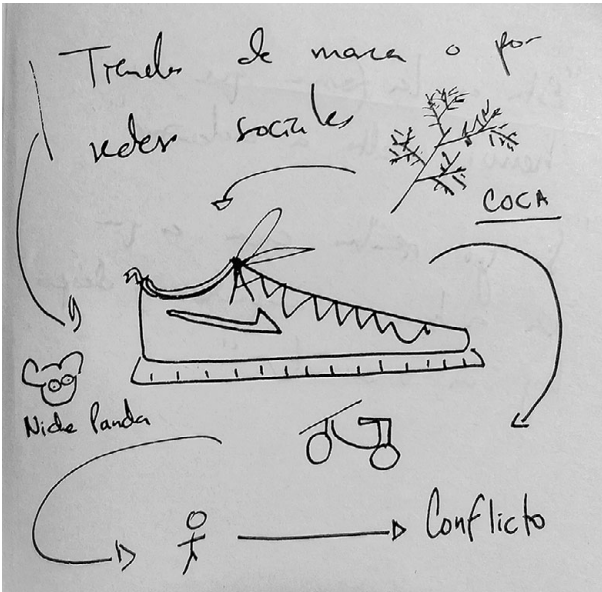


Figure 8.3 *Circuits of devastation*
(L. Eslava, fieldwork drawing, Tumaco, Colombia 2018)

commit themselves initially to perform meager tasks for local gang leaders. Once this first step has been taken, and consumption starts, they quickly tag their desires to bigger items, for example a motorbike, which take them further into the gangs' business and their wars – right into *el conflicto*, as my interviewee told me.

Tellingly, the often self-abrogated nickname given to this type of *muchachos*, now in the thick of these circuits of devastation, is *niche panda* – a label used today across the Caribbean and the Latino community in the US and beyond to refer to dark-skinned young males (*niches*) obsessed with Global North luxury items, for example, four-wheel drive BMWs, which, according to common belief, look like panda bears. Desiring the unaffordable, but committed to getting it nonetheless, *niche pandas* get down and dirty in the business of the cocaine trade, covering themselves and their dark bodies with the illegal white powder – a color combination that reinforces again the *niche panda* image. Dark, racially speaking, but trapped in a world of desires only available through white levels of wealth, my interviewee and his friends are similar to the *trigueños* in Catatumbo: subjects whose lives resemble frantic balls of wool, spinning like a tangled-up maze of infinite threads in the tropical South.

The lyrics of a song that serves as a sort of anthem for *niche pandas*, and that has several versions produced across Latin America, erringly conveys the volatile tumultuousness, and the patterns of destructive consumption, that profoundly mark the existence of these young *Tumaqueños* and many others in their same situation.¹⁵

*We send fast boats full of coke and marihuana
Gringos consume like pandas
Niches are packed now with money
The son of El Chapo people call me
I am asked for one thousand kilos of panda
I smuggle coca, ready, watish
I put it in Guadalajara
We have made the trip, and I get paid
In containers, it is taken down
Fast boat drivers wait for their money and chicks
They take them a wrap, and we go to Jardín Plaza¹⁶
We buy cool neck chains, then we go to town
In one go, in our den, we pop champagne*

It is possible to grasp in this – in many ways limited – translation of the lyrics of this version of *Niche Panda*, what Jordanna Matlon has characterized as the tight dance between global consumerism, commodification, and race today. According to Matlon, international brands and branding are currently “occult expressions of capitalist success” that have emerged as “alternatives to conventional success within the [rapidly disappearing formal] labor economy” (Matlon 2019). In this tragic milieu, dark marginalized individuals put their faiths on these brands while participating in an economy that fetishes them, usually as decadent figures, which enables further extractions of value (Knox 2014). In this process, importantly, darkness has ended up being widely desired, while at the same time rejected by a political economy that intentionally antagonizes with it. The result? “We – all” want to be somehow “Black” but only by proximity or look. “We all” want to be white because that’s where security and comfort stills resides. A perpetual *trigueñidad* then is the ethos of our times: white subjects wanting to look “dark,” occasionally; “dark” individuals desperately

¹⁵ Junior Jein, *Niche Panda (El Último Panda)*, 2016. Official video available at www.youtube.com/watch?v=W6yNv4OnLEM.

¹⁶ *Jardín Plaza* is an up-market shopping mall in the town of Yumbo, also located on the Colombian Pacific Coast.

struggling for “white” benefits to be shared equally; mix-subjects, pulling in both directions depending on the occasion. For young people in Tumaco this is a well-known story – one that is so real and intense that often kills them.

In recent decades there has been a sustained attempt to develop a repertoire of concepts with which to describe the position of these and similar types of racialized mixed subjects within the broader dynamics of international law. Paying particular attention to the Global South, the figure of “creole” legal actors, “mestizo” international lawyers, and “hybrid” figures have emerged in the literature as critical rubrics to describe the unique and never passive position of Southern subjects in the functioning and making of international law (Obregón 2006; Becker Lorca 2014; Parfitt 2011). What I have tried to do here is to continue advancing this series of conceptual frameworks, being attentive to the operation *and* constitutive function of international law across our asymmetrical global order, from the most macro to the most micro. As I hope to have shown, paying attention not necessarily to international personalities, elite groups, international lawyers, or other “key actors,” but instead to ordinary individuals facing *and* embodying a world in convulsion – a world created and regulated by international law – gives us a sense of the intense drama underpinning global life for “most of the world.” For these subjects being always somehow out of place is a constant. Their place is – evoking Gloria Anzaldúa (2009) again in this final section – *el mundo surdo*, a left-handed world of relational difference, rather than one dictated by right-handed cartesian assumptions about time, place, and the self.¹⁷ As a heuristic, as a thinking portal, the idea of *trigueño*, according to my exploration here, helps us to engage, at least momentarily, with the multiple histories of violent (post-)colonial encounters by which these subjects, and their futures, have already been so profoundly shaped. It brings the material and symbolic, the past and present, the public and most intimate, tightly together, at least momentarily (Hornborg 2020).

As questions of race cannot longer be silenced under the banners of post-racial assumptions. As the world warms or suddenly cools down making the tropics with all of its intensities an increasingly usual climatological feature across the planet. As global health crises remind us that we are all too human although separated by abysmal

¹⁷ Anzaldúa intentionally uses “s” instead of the formal “z” to highlight her south Texas, no *Ibérico*, Spanish pronunciation of “zurdo.”

inequalities. In these times *trigueñidad* appears less like a curiosity and more like a paradigm of our times. And with this, *trigueñidad*, with its out-of-placeness, is more and more an ethical position to think with.

If the argument that I have presented here makes sense, it becomes necessary to embrace a type of global socio-legal approach that gives an account of our entwined (international legal) present. This, our present, is not one in which being in place is the norm, and out of place the exception. Our today is one in which interconnectivity and profound dislocations run through and through our everyday *mélange*, in Catatumbo, Melbourne, Tumaco, here and there, and everywhere. We need to learn to pay respect to this immanent interconnectivity and dislocation, because they bring us all together, and they are simultaneously pulling us apart. As Kathryn Yussoff (2018) has put it, “[w]e are all, after all, involved in” global geo-sociological processes, “from the cosmic mineralogical constitution of our bodies to the practices and aesthetics that fuel our consumption” (101). Our desires, aims, and aspirations are “constituted in the underground, shaped in the mine and the dark seams of forgotten formations that one day we will become, that we are already becoming” (101). A *trigueño* international law – and a *trigueño* approach to researching and writing about the global legal order – should start with this impurity and brokenness, and it should aim to help us live, in the most ethical possible way, with the challenges to come. Donna Haraway (2016) has already charted some of the road ahead: “We – all in Terra – live in disturbing times, mixed up times, troubling times and turbid times.” So, what to do next? “[T]o become capable, with each other in all of our bumptious kinds, of response . . . The task is to make kind in lines of inventive connection as a practice of learning to live and die well with each other in a thick present” (1).

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