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# Negotiating Collective Land Rights in the Andes: Insights from contrasting trajectories on the Bolivian-Chilean altiplano, 1880s–1930s

## Aushandlung kollektiver Landrechte in den Anden: Erkenntnisse aus divergierenden Entwicklungsprozessen auf dem bolivianisch-chilenischen Altiplano in den 1880er–1930er Jahren

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**Abstract:** This article develops a historicising and comparative perspective on the transformation, formalisation, and negotiation of collective land rights in the Andean Highlands. It discusses and compares the trajectories of two highland areas situated across the Bolivian-Chilean border within the context of globally and nationally shifting frontiers of market and state integration since the late 19<sup>th</sup> century. The case studies demonstrate a striking divergence in the context of the breakthrough of liberal land legislation in Latin America. Communities in the Bolivian province of Carangas were able to resist privatising pressures, while communities of the Arica highlands, once annexed and incorporated in Chile after the War of the Pacific, adjusted to a more homogeneous regime that left little room for communal land relations. Despite the stark contrasts, this article questions simplistic dichotomic framings of the unchallenged “survival” of communal land rights in Bolivia versus complete “disappearance” of communal arrangements in Chile. Empirical archival and ethnographic data point to the social reconfigurations and creative strategies

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through which the community as a collective legal entity and daily practice transformed. The article sheds light on the causes and longer-term implications of these regional trajectories within the context of a globalising land regime.

**Keywords:** Andes, Collective Land Rights, Liberal Land Reform, Bolivia, Chile

**Zusammenfassung:** Dieser Artikel entwickelt eine historisierende und vergleichende Perspektive auf Wandel, Formalisierung und Neuerfindung kollektiver Landrechte im Hochland der Anden. Er vergleicht die Entwicklung von zwei Hochlandgebieten an der bolivianisch-chilenischen Grenze im Kontext sich ändernder globaler und nationaler Grenzen der Integration von Märkten und Staaten seit dem späten 19. Jahrhundert. Die Fallstudien zeigen eine auffällige Divergenz beim Durchbruch der liberalen Landgesetzgebung in Lateinamerika. Die Gemeinden in der bolivianischen Provinz Carangas konnten dem Privatisierungsdruck widerstehen, während sich die Gemeinden im Hochland von Arica, das nach dem Pazifikkrieg von Chile annektiert und inkorporiert wurde, sich an ein homogeneres System anpassten, das wenig Raum für kommunale Landbeziehungen ließ. Trotz der starken Kontraste stellt dieser Artikel vereinfachende dichotomische Darstellungen des unangefochtenen „Überlebens“ kommunaler Landrechte in Bolivien und des vollständigen „Verschwindens“ kommunaler Vereinbarungen in Chile in Frage. Empirische archivalische und ethnografische Daten weisen auf die sozialen Umgestaltungen und kreativen Strategien hin, durch die sich die Gemeinschaft als kollektive Rechtspersönlichkeit und die tägliche Praxis verändert haben. Der Artikel beleuchtet die Ursachen und längerfristigen Auswirkungen dieser regionalen Entwicklungen im Kontext eines globalisierten Landregimes.

**Stichworte:** Anden, kollektive Landrechte, liberale Landreform, Bolivien, Chile

## Diverging land rights histories in a shared pastoralist landscape

Entirely situated at an altitude of over 3500 meters, the wide-open plains of the Central Andean *altiplano* or high plateau offer a stunning view that leaves travellers (literally) gasping for breath. This challenging semi-arid landscape is a key habitat for Andean camelids such as llamas, alpacas, and vicuñas, and has allowed Indigenous (mainly Aymara) communities to thrive for centuries. Today, land serves mainly for grazing, combined with minimal subsistence farming, as well as conservation management, tourism and mining activities. These conditions make it an

unlikely starting point to reflect on globalisation processes in terms of land ownership and the spread of modern land regimes.

Indeed, the continuing dominance of a pastoralist economy and Indigenous culture has nurtured essentialist imaginaries that resonate strongly with ahistorical notions of collective land systems as fossilised remnants of a pre-modern past. At first sight, low human population density, and the continuation of Indigenous and pastoralist practices suggests that these lands simply have been overlooked by the dramatic historical changes that have shaped our contemporary, globalised land regime. Yet today, the way in which pastoralist livelihoods overlap and interact with national conservation policies, regional markets and an international border regime hints at much more complex reconfigurations of collective land rights systems.

This article offers concrete insights into the complexities that arise in the context of legal reforms of collective land management systems. Thereto, it will examine two empirical case studies situated in the Lauca River basin from a transnational perspective.<sup>1</sup> Today, this region unites the Bolivian and Chilean highlands and relies on a long-shared history under common ethnic, cultural and socio-economic markers. Despite – or rather thanks to – the international border, local rural communities continue to articulate strong cross-border connections (Guizardi 2018) through kinship, commercial ties, migration patterns, and cultural festivities. However, the contemporary organisation of land rights at either side of the border demonstrates a stark divergence, with collective land titles comprising most of the land at the Bolivian side in contrast to the prevalence of private, individual titles at the Chilean side. Today, conservation officers in the protected areas at both sides of the border confirm that the diverging ways in which property relations have developed within national land regimes have practical implications for regional landscape management.<sup>2</sup>

In this article, I bring the land rights histories of Bolivia and Chilean highland communities in dialogue in order to understand and compare the causes and longer-term implications of this divergence. The observed divergence offers a productive terrain to examine and develop a better understanding of how Indigenous communities across the Andes have negotiated the imposition of liberal land legislations that sought to privatise collective lands through diverse strategies and with contrasting outcomes. Interrogating Bolivian communities' "continuity" and

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<sup>2</sup> Seminar "Territorios hidrosociales y de la conservación en frontera: tensiones y conflictos". Universidad Nacional Arturo Prat, Iquique, 28 November 2023.

Chilean communities' "disappearance", I also question simplistic dichotomic framings of legal land trajectories. These trajectories need to be understood in light of the global breakthrough of new legal notions around land and the consequent formation of liberal land regimes. Adopting a historicising, trans-Atlantic and critical rights perspective, this article examines how this global shift started to take hold – with contradictory local effects – in the Andes towards the late 19<sup>th</sup> century.

In the following, I will first briefly present the global theoretical framework of this research. I will then discuss the two case studies in detail, starting with an introduction to the region and its relevance within wider land rights historiographies. I provide a *longue durée* assessment of how transnational shifts in legal notions regarding collective land rights translated in the central-south altiplano, and elaborate on the antecedents to the late 19<sup>th</sup> century scenario at the heart of the comparative study. Subsequently, I discuss the two case studies separately, focusing on one of the most dramatic episodes of the region's history towards the end of the 19<sup>th</sup> century. The case studies are followed by a comparative discussion. The article closes with final reflections on the local dynamics and contradictions within a globalising land rights system.

## **Shifting land relations in the Andes: a historicising, trans-Atlantic and critical rights perspective**

Through a multi-sited and multi-scalar analysis, this article will provide new insights into how local actors have interpreted and disputed transnational developments in the emergence of a global land rights regime. In other words, in adopting a transnational perspective, I do not simply aim to compare dynamics across national borders in the Andes, but to trace the trans-Atlantic connection through which modern notions of land and property have been implemented, appropriated or rejected in highland communities. Following the French Revolution, new ideas about land travelled between Europe and Spanish America. Through that connection, local communities and their collective lands have been gradually drawn within a globalising regime marked by a binary logic that pits "absolute" property against "immobile" tenure forms; the latter deemed incompatible with economic development (Cottyn 2023, Rajagopal & De Schutter 2020). However, far from a straightforward transmission of European ideas, this was a negotiated process in which seemingly universal liberal aspirations translated into national legislations with a differentiated regional reach, crystallising in a varying room for common owner-

ship in land (Levaggi 2010, Vivier et al. 2016). A more in-depth historical assessment of local dynamics is key to understand the contradictions and divergences texturing this global picture, particularly in peripheral regions that tend to serve stereotypical narratives of cultural and environmental pristineness.

In line with the “glocal” perspective on the commons as proposed by Haller et al. (2019), this article seeks to integrate a focus on local developments in collective land management with a global perspective on changing land rights in the context of capitalist expansion. This endeavour draws from interdisciplinary theorisations across social and political sciences, anthropology, and legal sciences, particularly the fields of postcolonial property rights theories and critical Indigenous Rights studies. Brenna Bhandar has demonstrated how the installation of standardized, state-sanctioned land regimes involved colonial and settler modes of appropriation of Indigenous land, resulting in “racial regimes of ownership” (2018). At the same time, Balakrishnan Rajagopal and Olivier De Schutter (2020) point out how these hegemonic notions of property continue to be challenged and reformulated “from below” by daily processes of resistance and experimentation with alternatives. In the same vein, critical Indigenous Rights studies particularly interrogate the function and potential of the law in Indigenous struggles (Corradi et al. 2019). Far from reproducing idealised approaches, it seeks to understand how Indigenous identities are dynamically mobilised in relation to shifting state policies, such as land reforms. It reorients the common focus on the “implementation gap” regarding Indigenous rights towards the unanticipated, partial, and contradictory effects of their implementation, which is highly relevant to the regional Bolivian and Chilean trajectories discussed in this article.

Historical research has made important contributions to this critical legal scholarship. Andro Linklater’s work highlights how land reforms became a strategic tool in the globalization of one particular type of property relation that reduced the room for collective land rights (2015). This process started with the 18<sup>th</sup>-century circulation of new agrarianist ideas, particularly in England and France, that questioned the heterogeneity of existing land regimes. Within a global imperialist context, customary systems became a central subject of debate and reform, informed by what Rosa Congost has called “the myth of perfect property” (2000). This myth fuelled this globalising process under 19<sup>th</sup>-century privatising land reforms and continued to nurture 20<sup>th</sup>-century developmentalist policies. Since the second half of the 20<sup>th</sup> century, collective land rights experienced a gradual recovery of their legal recognition within national and supra-national governance schemes. Still, the overall trajectory seems to point to a convergence of land regimes over the long term. A historicising perspective reveals how the liberal paradigm of perfect property nonetheless remained a historical construct that scatters when put into practice. As research on Bolivia and northern Chile has demonstrated, and as the

case studies in this article will further elaborate, liberal policies resulted in stark regional contrasts between the swift privatisation and the resilient safeguarding of collective rights (Barragán 2012, González & Ruz 2017).

## A comparative look at collective land rights across the Bolivian-Chilean *altiplano*

The comparative case study at the heart of this article zooms in on how Aymara communities of the central-south *altiplano* responded to different privatising land titling processes at each side of the border during the breakthrough of liberal legislation in the late 19<sup>th</sup> century. Under Chilean legislation, local families adjusted to the forcefully imposed obsolescence of their communal domain titles. In Bolivia, communities successfully extorted exemptions from the new legislation by invoking colonial conventions that protected their communal lands against privatisation. These contrasting trajectories relate to developments starting in the 1880s, the decade in which Bolivia began implementing a liberal land reform and when Chile became the new ruler over highland communities recently seized from Peru. The case studies run up to the 1930s, when both regions entered a new phase of state incorporation.

Both case areas are marked by a distinctive regional trajectory within national historiographies on land and land reform. These historiographies tend to be driven by an interest in dramatic changes, while processes of continuity usually don't receive the same scrutiny. As a consequence, research on post-independence Bolivia has focused mostly on the La Paz and Cochabamba regions, both marked by powerful processes of usurpation and privatisation (and partial recovery) of community lands since the late 19<sup>th</sup> century. Yet, there is a growing body of literature drawing attention to regional differentiation, dynamics of negotiation, and communal continuities in land control systems (Barragán 2012, Cottyn 2015, Soliz 2021). At the Chilean side, the substantial changes that came with *altiplano* communities' integration under Chilean rule have motivated a series of publications on the repercussions for collective land control, of which several have been compiled by anthropologist Héctor González and historian Rodrigo Ruz (2017). Importantly, this collection and subsequent research reflect more explicitly on (understudied) processes of continuity through which "the community" did not simply disappear but transformed (González et al. 2014: 239).

While research on land rights, and particularly collective rights and practices, in both countries has become richer in regional coverage and more nuanced in assessing historical change and continuity, comparative research across this transnational highland region is still lacking. This article develops a comparative assess-



**Figure 1:** Contemporary map of the research area (elaborated by Hans Blomme).

ment of the transformation, formalisation, and negotiation of collective land rights across the Bolivian and Chilean (previously Peruvian) Andean Highlands in the context of globally and nationally shifting frontiers of market and state integration. Thereto, it combines an ethnohistorical literature review and empirical data collected in Bolivian and Chilean archives.

At the Bolivian side, I focus on Carangas, an area covering roughly the size of Belgium, which was incorporated as a provincial unit under Spanish colonial rule and would remain a single provincial unit after its integration in the newly independent state of Bolivia and until the middle of the 20<sup>th</sup> century. Since the 1980s, these communities have reunited within the Indigenous federation or *suyu* of Jach'a



Karangas (see Figure 1). Over 90 per cent of the region's current population identifies as Aymara, Bolivia's second largest ethnic group, next to a historically nearly disappeared minority of Urus.

What makes the case of Carangas noteworthy is how its communities managed to remain outside the reach of 19<sup>th</sup> century privatising reforms. Except for housing areas in the villages and mining concessions, rural land was never fully opened to the land market, although scattered private plots have started to appear more recently. Large land estates (*haciendas*) never materialised. Internally, lands are distributed through different individual and collective use rights among all community members, whose degree of land access varied according to different fiscal categories until into the 20<sup>th</sup> century. These communities still own most rural land in the region under communal land titles, which have been incorporated and adjusted under Bolivia's successive land reforms since the second half of the 20<sup>th</sup> century. Today, Indigenous authorities, which are posts taken up by community members on a rotational basis, continue to play a key role in operating this land system, including in the joint management of the Sajama National Park.

At the Chilean side, I focus on the *Altos de Arica* – the highland districts of the former Arica Department, which was part of the Peruvian Tacna Province, until its occupation by Chile during the War of the Pacific (1879–1883). The region remained under Chilean control until the signing of the Lima agreement in 1929, when the Arica Department was formally transferred to Chile (including as a southern strip of the Tacna Department, which was transferred back to Peru). The Arica Department was integrated in the Tarapacá Province (today the Region of Tarapacá), and split again in 2007 to become the Region of Arica and Parinacota.<sup>3</sup> I particularly study developments within the *Subdelegación* of Putre, an administrative subdivision created in 1885 by the Chilean state that integrated the districts of Putre and Socoroma on the lower slopes of the Andes, and the districts of Parinacota and Caquena on the altiplano (Pizarro 2019). Today, the former Subdelegación of Putre is integrated in the Parinacota Province (see Figure 1). I will also comment on some cases in the former Subdelegaciones of General Lagos and Belén, respectively north and south from Putre, currently within the same Parinacota Province. Further south, I will also refer to localities in the Subdelegación Camiña, in Tarapacá, the region that was officially transferred from Peru to Chile in 1883 under the Ancón agreement. Today, this highland area is part of the Comuna Colchane within the Province of Tamarugal in the Region of Tarapacá.

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<sup>3</sup> For the sake of clarity, the map in Figure 1 does not include all territorial changes in terms of international borders and internal subdivisions between 1879 and 1929.



Currently, these highland districts are even less densely populated compared to the Bolivian side, due to high levels of urban migration. Culturally and ethnically, inhabitants of the most northern Chilean altiplano share their Indigenous Aymara identity with their Bolivian neighbours, although cultural practices, legal recognition and levels of self-identification are strikingly weaker. A particular contrast, affecting the extent to which communitarian practices are being upheld, emerges from the Chilean land legislation. Historically, these altiplano lands were managed by communities, with no presence of *haciendas*, similar to Carangas. However, since their incorporation in Chile, collective structures have been swiftly replaced by individual private property titles. The loss of communal ties to the land has eased the process of out-migration and has concrete consequences for the management of protected areas. Most of the land contained by the Lauca Biosphere Reserve (covering large part of the Parinacota Province) and the Volcán Isluga National Park (in the Colchane Commune) is owned by Indigenous families under private property titles obtained long before the park was established (González & Gundermann 2022). Although these families form collective associations, weak communitarian representation and depopulation has made it less evident to develop a strong participatory management in the area.

## Colonial continuities, transnational connections, and liberal ruptures

Although the contemporary international border that divides both case areas has constituted a liminal space between different administrative entities for centuries, these lands are bound by a strong shared cultural and socio-economic history. Until today, commercial circuits, multiple residence patterns, labour migration, and cultural heritage facilitate the reproduction of longstanding interregional connections. Through these networks, local families, especially in Bolivia, continue to organise their lives at both sides of the border. In precolonial times, political control was centred in the highlands, from where Aymara lordships managed discontinuous territories through the control over land and labour, and exchange relations across diverse ecologies. One of these highland groups was the Carangas, whose territorial control under the Inca Empire reached into the eastern valleys and towards the coasts of the Pacific (Pauwels 1983: 90–91, Rivièrè 1982: 18, Medinacelli 2010: 138). This strategy to ensure control over the whole range of ecological levels of the Andean vertical transect towards the Pacific coast reflects what anthropologist John Murra has defined as a “vertical archipelagos” model (Durstun & Hidalgo 1997, Murra 1972).

## Colonial pacts

Under Spanish rule, this land control system, and its underlying logic of complementarity and reciprocity, started to erode. The western Andean mountain range became the borderland between the bishoprics of La Plata (situated in contemporary Bolivia's interior) and Arequipa (situated in contemporary southern Peru). The Carangas were integrated within the *corregimiento* of Charcas in La Plata, while the Arica highlands, which used to be partially controlled by the Carangas, now pertained to the *corregimiento* of Arica in the latter bishopric. While this territorial division was possibly inherited from Inca times (Pease 1992, Rostworowski 1986), the Spanish administrative reorganisations started to affect precolonial territorial logics, meanwhile incorporating these communities within a wider economic zone of circulation (González et al. 2014: 234).

The real colonial rupture ensued from the 1570s onwards under viceroy Toledo's resettlement programme, which concentrated the dispersed Indigenous population in a limited number of communities in order to optimise evangelisation, and labour and tax extraction. Each community was obliged to purchase land titles from the Spanish crown for the lands they occupied. This established a fiscal relation between the Indigenous communities and the colonial state that was to be constantly renewed through labour service in the Potosí mines and the payment of the *tributo* or head tax. In return for tax payment the Spanish Crown guaranteed the protection of collective community land and use rights. This formed the basis for a mutually enforcing, if profoundly unequal, relationship, which Tristan Platt coined as a state-community "pact" (1982: 100).

In terms of territorial control, the reforms pushed Indigenous families further into the highlands, where pre-reform settlement and mobility practices probably continued. Within an emerging, hybrid Indigenous-Spanish system, relations to the land continued to be mediated by the community or *ayllu* – comprising a complex combination of individual and collective rights – yet this control only entailed usufruct rights received by the colonial state as the ultimate owner of all the land (Levaggi 2010). Overall, the early colonial reforms constituted both one of the most un-settling moments as well as a formative step in the creation of Andean communal organisation and land control (Mumford 2012). They initiated a gradual transition from shared, multiethnic, flexible, discontinuous and porous territories towards discrete, continuous "established" territories with fixed limits (González et al. 2014: 236). This slow process allowed for the coexistence of diverse systems that generated "heterogeneous" land claims, rather than a simple replacement of commons by individual property (Puente Luna 2021).

Colonial arrangements did not undergo substantial changes until the late 18<sup>th</sup> century. Under Bourbon rule, particularly from the 1770s on, there was an urgent

need to generate larger fiscal revenue. This led to measures including the approval to sell *tierras sobrantes* or excessive community lands to individuals (González et al. 2014: footnote 18). Moreover, in the wake of the Indigenous revolution led by Tupac Amaru and Tupac Katari in the early 1780s, several measures sought to fragment communal solidarities and representation to weaken Indigenous autonomy (González et al. 2014: 237). However, the Spanish Crown never attempted to take the “protoliberal” reforms applied to collective properties in Spain (1750–1790) to the Andes, given the treasury’s enormous dependency on communal fiscal loyalty and to avoid more rural unrest (Jacobsen 1997). In the meantime, the French Revolution helped to spread new ideas around land and property, particularly those of the physiocrats regarding the under- or misuse of communal lands (Vardi 2012). In Spain, these ideas translated into the 1813 decree of the *Cortes de Cádiz* (the Spanish Assembly during French occupation), which ordered to reduce all vacant and crown lands to private property. This seemed to announce the end of the colonial pact in the Andes, yet was revoked upon the return of Fernando VII in 1814 (Levaggi 2010).

## Republican aspirations

The institutionalisation and implementation of these new ideas happened mostly under republican rule, yet it would take several decades after independence before the right conditions were in place. Upon independence in 1821, Peru abolished the *tributo* – the colonial tax upon which the state-community “pact” rested – and shortly after Bolívar’s decrees of 1823 and 1824 ordered to subdivide and distribute community lands. These decrees were replicated in several of Latin America’s new republics, but provoked very strong resistance on the part of Indigenous communities and unveiled the fragile national economies’ vital dependence on the revenues from communal fiscal contributions (Levaggi 2010, Piel 1975). Peru eventually restored the colonial head tax in 1826. Bolivia followed this neocolonial restoration, abolishing the decrees quite soon after their adoption.

These attempts to dismantle the colonial pact and replace it with a liberal land system based on private property were only resumed in the second half of the 19<sup>th</sup> century. The export boom in raw materials undermined Indigenous communities’ fiscal bargaining power. Thanks to new revenues from extractive industries, national governments no longer had to rely on the *tributo* as a key source of revenue and loyalty. In Peru, the guano boom (1847–1873) produced a quintupling of state revenues (Bonilla 1984), allowing for a drastic fiscal reform in 1854, including the abolition of the Indigenous head tax and of collective forms of representation. In Bolivia, it was the new mining boom that allowed the Treasury to abolish the

*tributo*, and hence communal land control, in the form of the so-called *Ley de Exvinculación* or “Alienation Act” of 1874.

In rural communities of the Bolivian and Peruvian (and subsequently Chilean) Andes, the concrete implementation of these new policies only materialised after the War of the Pacific through which Peru lost Arica and Tarapacá, and Bolivia lost Antofagasta (and hence its maritime connection) to Chile. The war initiated a process of “national reconstruction” in Peru, through which the rural Andes gained prominence in terms of attracting international investment and in fostering a unifying national imagination (Puente 2023: 25). In Bolivia, the implementation of the new legislation was only regulated in 1881. Under pressure of nationally mobilised Indigenous leaders, a new law in 1883 slightly amended the reform by providing exemption from privatisation to those communities that could prove their possession of colonial land titles purchased from the Spanish crown. In Chile, meanwhile, the Civil Code of 1857 had abolished corporations, based on earlier decrees. However, the issue of collective property reemerged in 1866 when new legislation assigned collective property rights to the Indigenous Mapuche people, as a means to confine their territory and expand new frontiers for land colonisation and forestry in southern Chile (González & Ruz 2017, Vergara & Mellado 2018). However, upon annexation of the Andean highlands in the north, Indigenous communities populating these new territories were excluded from such exemption and from any other means to claim collective rights.

In each of these countries, Andean communities were confronted with a state that chose to unilaterally break the colonial pact that had, while imposing burdensome fiscal obligations, guaranteed their collective control over land. Chilean annexation and the land reforms in Bolivia and Peru announced the symbolic destruction of an old, colonial order, to be replaced by a new, liberal order. Still, the rhythms, modalities and outcomes of this process in each country are starkly different and contradictory. Zooming in on the case study areas, the Arica highlands witnessed a remarkably rapid integration within the Chilean land title system, with limited evidence of collective resistance. In Bolivia, the reform was far from a quick and clear-cut moment of rupture, but initiated a slow, conflictive, and irregular reorganisation. In the following sections, I discuss how, in both cases, communities found themselves in a new context that seriously undercut their resilience.

## Carangas: Latent changes despite communal land preservation

In Bolivia, the abolition of communal land rights had the contradictory effect of dramatically expanding private property in most of the highlands, yet without the emergence of a smallholder class. Rather, a vast proportion of Indigenous land and labour ended up in the hands of a small number of *haciendas*. As Rossana Baragán (2012) has argued, economic constraints, inter-elite struggle and Indigenous resistance “floored” the new policy’s liberal ambitions and enabled a continuation of the old order. The community-hacienda power balance that more or less had been preserved throughout the 19<sup>th</sup> century shifted radically, provoking Indigenous migration, growing intra- and inter-community inequality, and a violent cycle of (il) legal land dispossession and rural protest (Klein 1993, Larson 2004).

In highland areas most distant from major urban centres, such as Carangas, the local Indigenous population maintained its demographic dominance and developed a coordinated response against privatisation pressures. While seriously weakened, communities in these regions, marked by pastoralism, community organisation, communal ethics, and marginal market integration, were more likely to safeguard collective land control (Guillet 1981: 145–146). This continuation is usually interpreted as a result of neglect because regions like Carangas lacked commercially interesting lands. However, a closer look at the dynamics in the province reveals that the threat of a state intervention to privatise all community lands was permanently looming, and communities were forced to actively deploy fiscal, legal and political tactics to fence off the pressures to subdivide collective lands.

### “Communities (...) so powerful that they could consolidate their lands”

Already in the years before the *Exvinculación* legislation, when president Melgar-ajo re-launched early-republican liberal plans in the form of a radical but short-lived reform in 1866, Carangas was one of the few provinces in the country that managed to protect its communal rights. The reform declared the state as absolute landowner, thereby ending Indigenous communities’ leasehold status, and obliging them to pay for full property rights within the established term of 60 days. As a result, many communities lost their land (Irurozqui 1999, Ovando-Sanz 1985). In Carangas, however, “it was said that the communities of the region were so powerful that they could consolidate their lands with regard to the exigencies of the tyrant” (Mendieta 2010: 388). Their power was in their fiscal importance, as the

communal taxpayers of the entire province were able to “purchase” their exemption from the law by paying an extraordinary tax. This arrangement was provided by the new legislation under the little-known figure of a *compensativo* (compensation) payment with which communities could obtain exemption.<sup>4</sup> Faced with a vital threat to their collective lands, these communities made a remarkable economic effort of topping their common *tributo* payment with an additional amount, slightly lower than their annual tax burden (Cottyn 2014: 282–288). Moreover, they managed to do so in the midst of epidemic-induced demographic pressures.

Following the abolition of the Melgarejo decree in 1868, fiscal power continued to play a key role in negotiating the new *Exvinculación* legislation. Its declaration caused unrest in Carangas, particularly because of the announcement of a general land inspection known as the *Revisita*. This survey operation used to be regularly executed (with intervals of three to ten years) to update Indigenous taxpayer lists, but was now repurposed in function of the subdivision of communal lands. The awareness that “very soon the repartition of the community terrains must take place”<sup>5</sup> led to increasing inter- and intra-community conflicts. Tensions mounted especially from 1881 onwards, when the guidelines for the *Revisita General* were set out (Barragán 2012: 25–26, Irurozqui 1999: 732–735, Klein 1993: 135–136, Ovando-Sanz 1985: 279–300). At the national level, a network of Indigenous leaders actively lobbied for concessions, insisting on the compliance of colonially inherited guarantees. They had a first success with the 1883 law, which stated that communities in possession of colonial land titles could be exempted from the land reform (Barragán 2012, Rivera 1991).

Nevertheless, the *Revisita* remained an imminent threat, inciting local rebellions and a coordinated negotiation strategy on the part of Carangas’ Indigenous authorities (Cottyn 2015). Through archival visits and letters to government instances, they collected evidence and reminded the state of the exceptional *compensativo* payment they had made and of the preservation of their colonial titles.<sup>6</sup> In 1884, a surveyor was sent a first time to Carangas, yet fierce local protest prevented him from implementing the land division. Upon his return in 1894, his insistence on the implementation of a new, individual tax system provoked a violent insurrection that ended with the death of the surveyor and his son.<sup>7</sup>

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<sup>4</sup> This deal was first alluded to by Grieshaber and Langer (Langer 2009: 547). Evidence was later found in correspondence between the Prefect of the Oruro Department and the Ministry of Internal Affairs. National Archive of Bolivia, Ministry of the Interior, 1867, volume 188, No. 56, ‘Prefectura Oruro’, 2 April 1867.

<sup>5</sup> Judicial Archive of Corque, 1875, no. 1421; 1876, no. 1476.

<sup>6</sup> Historical Juridical Archive of Oruro, Bolivia. Volume 210–1, no. 67, 1899, ‘Repartición de tierras. Provincia Carangas. Pueblo de Totora’.

<sup>7</sup> National Archive of Bolivia, Ministry of the Interior, 1895–1896. Volume 286, no. 53. *Prefectura y comand. Gral. de Oruro*, fs. 2v–3.

## Renewed pacts and ambiguous alliances

No further attempts at privatising the Carangas communities were made in the following decades. Relying on their fiscal bargaining power and local alliances, these communities managed to keep things that way. Fiscally, the regional government remained vitally dependent upon the revenues from Indigenous taxes, hence tolerating the preservation of communal land control in return (Cottyn 2014). Tristan Platt has pointed out how this regional interdependence allowed the colonial state-community pact to be renovated at the sub-national level in several places (Platt 1982: 134–135). At the local level, a part of the provincial non-Indigenous elites also tended to side with the communities. Known as *vecinos*, they represented a tiny but powerful minority that monopolised the province's connections to the state and the market (Cottyn 2012). Faced with an enduring communal control over rural lands, many of these white and mixed families sought to consolidate their economic power by gaining access to community land by registering as Indigenous taxpayers in one of Carangas' communities, often through fraudulent procedures. Consequently, they had a stake in the communal struggle to ward off a land survey that could expose their dubious encroachment upon the Indigenous community. In the late 19<sup>th</sup> and early 20<sup>th</sup> century, several members of these non-Indigenous started acting as community attorneys, simultaneously defending the communities' demands and securing their own direct access to the most abundant communal resource – land.

So, while communal control was maintained, underlying negotiation dynamics reveal an internal hierarchisation of community structures that benefited provincial elites. While lands remained within the community, these socio-economic reconfigurations allowed those elites to usurp control over part of the community and its resources, suggesting a form of internal *hacienda* formation (Irurizqui 1999: 717, Platt 1982, Pauwels 1983). In the aftermath of the Chaco War (1932–1935), which led to growing demands for national reform, and eventually to the 1952 National Revolution and the 1953 Agrarian Reform, the *vecinos*' monopolisation over the community would slowly unravel, giving rise to a new, now Indigenous elite.

## **Altos de Arica: Subtle continuities despite drastic land privatisation**

Just like in Bolivia, the implementation of liberal reforms in Peru only really took off after the War of the Pacific. During the war, the regions Tacna, Arica and Tarapacá had been annexed by Chile (while Antofagasta was taken from Bolivia), sanctioned



by the Treaty of Ancón (1883), and to be followed by a referendum over the fate of occupied Tacna and Arica. After recurrent postponement of the referendum, the Treaty of Lima decided eventually in 1929 over the reintegration of the Tacna Department in Peru and the definitive incorporation of the Arica Department in Chile. By the time of the war, Chile had already implemented the liberal reforms entailed by the already mentioned decrees of Simon Bolívar (1823–1824). In Bolivia and Peru, in contrast, the decrees' proposal to replace community land control by a land market of individual proprietors had been undermined by intense resistance. Now, Chile sought to integrate its new territories as quickly as possible within its national structures; a top-down process of attempted acculturation known as “chilenisation”.

### “Chilenising” land in the Arica highlands

Property in land became a prominent terrain to advance the “chilenisation” of the Arica highlands (Pizarro & Soto 2020). All agrarian plots of land had to be legalised as Chilean land by inscribing them within the national real estate registration system, known as the *Registros Conservatorios de la Propiedad* (Conservatory Property Registries). This registration operation was initiated already four years after the end of the war, in 1887, in other words, decades before the Treaty of Lima would formally resolve the sovereignty question over Arica with Peru. Once inscribed, these plots of land started circulating in the private land market, at least those plots subject to individual use, and were categorised and delimited as “private” (González et al. 2014: 238). Lands considered for collective use were categorised as “fiscal” (state) land, and locals wanting to continue using these lands had to apply for, and pay a yearly usufruct rent to access these formerly communal lands.

The first inscriptions of properties in the newly incorporated (or occupied) territories are recorded as early as 1887, and the operation ran until 1935. Historians Rodrigo Ruz and Alberto Díaz identify a peak in inscriptions of land property in the Andean foothills and highlands between 1900 and 1910, followed by a period of “consolidation” during 1911–1921 (2011: 174–175). The operation ended in 1935, when the Chilean state organised a global inscription of all lands that were still not registered as private property, although the process was open to reclamations or opposition by people who claimed these lands as their individual property. The feat of titling nearly all lands over the course of a few decades reflects the broader context of violent chilenisation. Particularly from 1900 onwards, the Chilean state intensified its efforts to discipline nationalist feelings and expressions among the population of Arica and Tacna in anticipation of the planned (but never executed) plebiscite (Zarzuri 2023).

In the specific case of pastoralist communities of the altiplano, registration started in the 20<sup>th</sup> century, with the first property in the district of Parinacota inscribed in 1907 (González & Gundermann 2009: 58). The local population was made aware of the process through posters that stated a 30 day deadline for any third party who intended to oppose registered properties. Despite the barriers of having to deal with Spanish documents and to travel to distant urban centres, the local Aymara pastoralist population of the Tacna-Arica highlands participated actively, resulting in the registration of 147 properties, and only 29 properties remaining unregistered (González & Gundermann 2009: 58).

The registration of property in land was an obligatory procedure, and deprived communities from one of its major historical functions, to secure and regulate access to land among its members. It led to a fragmentation of land, at a particularly fast rate in the valleys and areas close to urban, mining or commercial centres, while herding families in the altiplano continued to rely more strongly on communal structures (González et al. 2014: 239). Still, historical documentation suggests an effective loss of control over formerly collective lands for these altiplano communities as well. Pastoralists could still request access to lands they had grazed or foraged freely for generations in nearby mountains, but they were now subject to Chilean authorities' authorisation over there re-categorised "fiscal" lands, and obliged to pay rent to the Chilean treasury (González & Gundermann 2009: 59, 61). In Putre, those lands had provided pastoralists with vital additional grazing land and with fuel sources such as *yareta* or *queñua* trees, which were key to local economies' articulation with regional livestock markets and the demand for charcoal and other combustibles along the La Paz-Arica railway.

## Long-term communal erosion with hints of collective responses

Notwithstanding the drastic implications of the Chilean land regime for Andean communities, Ruz and Díaz identify an absence of strong communal resistance against this operation (2011: 176). This may be explained, they argue, partly by a lack of collective capacity on the part of communities, as well as by strong Chilean nationalist pressures that tempered any potential resistance (2011: 187). When local families attempted to resist the process or failed to register their property, those lands remained undocumented and were absorbed by the state as "fiscal" land (Pizarro & Soto 2020: 82). In the requests to obtain access to these (now fiscal) lands, Ruz and Díaz detect subtle continuities in how highland families attempted to keep these lands in active use while accepting the individualising premises of the new land rights system (2011). The archive of the *Subdelegación de Putre* (His-

torical Archive Vicente Dagnino, Arica) records an abundance of such requests for access to fiscal altiplano lands. These requests were economically motivated, oriented towards the exploitation of three types of highland resources: pasture lands, fuel sources such as *yareta* or *queñua* trees, and mining resources.<sup>8</sup> The prescribed individual nature of these requests starkly contrast with the requests the same families had previously presented under Peruvian rule, which were aimed at blocking individual claims over communal resources (Ruz & González 2014). Still, these new requests do hint at a limited attempt to secure the continuation of local practices in formerly communal lands.

Aside from the long list of individual requests, some communities did file collective requests, yet these were isolated cases and were either firmly contested by Chilean authorities, and hence unsuccessful, or simply never received a response from the government. One application was filed in 1909–1910 by 24 *comuneros* (community members) in Putre, titled “Juan de Dios Aranda and others”, concerning the pasturelands of Ubinas and Cupilarani, belonging to the district of Putre, within the Subdelegación of the same name (Ruz & Díaz 2011: 183–184). However, as these properties had already been inscribed individually in previous moments, this claim sought to establish a form of co-property between individual landowners, rather than to restore collective practices (similar to what José Miguel Lana describes for Spain in this issue). Other examples are the lands in Huaylas, also within the Putre district, which were requested in 1914, but provoked harsh, and even violent opposition by Chilean authorities for being already registered as fiscal land (Ruz & Díaz 2011: 180–181). Further north, in Ancomarca and Tacora (in the current General Lagos commune), and to the south, in Isluga (the current Colchane commune), other cases have been identified in which communities inscribed their properties collectively (González & Ruz 2017). Yet, also here, families were obliged to opt for the figure of a *comunidad de particulares* (a collective of individual owners) as the Chilean legislation excludes corporative properties such as Indigenous communities, except in the already mentioned case of the Mapuche (González & Gundermann 2009: 56–57).

All in all, highland communities in the Arica (and Tarapacá) highlands seemed to accommodate to the new land titling scheme and its underlying privatising logic. The rather receptive response to the registration process indicates that this apparent rupture was probably less abrupt than it seems. Archival data from Peruvian times suggests that this new episode can be inscribed as a phase of intensification

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<sup>8</sup> Requests are registered from 1910 onwards and continue appearing into the 1920s. Particularly grazing and foraging rights were frequently claimed by members of nearby communities. Historical Archive Vicente Dagnino, Collection Subdelegación de Putre, Volume 12-B (1911) and Volume 13 (1910). See also Ruz and Díaz, 2011.

and formalisation within a longer process of communal erosion. The fiscal registers created under Peruvian rule for the Tarapacá and Arica regions indicate how previous republican measures had already produced a gradual disappearance of the community as a land-based institution and of a weakening of Indigenous self-identification (that is, as “Indio”) among the population throughout the 19<sup>th</sup> century (González & Gundermann 2009). These Peruvian antecedents demonstrate how Indigenous pastoralists gained relevant experience with new legislation and property procedures and interacted with government institutions and external claimants before their more forceful confrontation with Chilean institutions and regulations (Ruz & González 2014: 58).

Still, some fragmented cases hint nonetheless at communal responses that sought to find a way around the imposition of individual and private imperatives – a process the Chilean state considered closed by 1935. The community, as a unit for collective action, including around land, did not simply disappear but acquired a new meaning and performance. Its safeguards were forcibly replaced by individual titles and practices, which some families managed to re-unite within a co-property. Highland communities experimented with the new legal framework and customary land practices, from which social mechanisms emerged that enabled them to give continuity to certain collective arrangements and to restrict access to property for foreign actors who sought to seize upon these newly available lands (Samit et al. 2014: 142). To some extent, this local articulation of new and old rights hampered the fruition of a land market as envisioned by the Chilean state.

## **A negotiated transition towards constrained margins for collective control**

Communities at both sides of the current Chilean-Bolivian border have each coped with dramatic alterations in their relation to land since the 19<sup>th</sup> century. How, why and with what effects has the Indigenous community as a landholding and representative entity been replaced by, or resisted individual, free (circulating) property relations in these territories? Overall, the breakthrough of liberal legislation eroded Indigenous communal land control across the Andes, although this transformation had locally different rhythms, modalities and consequences. The trajectories of the communities of Carangas and the Arica highlands demonstrate striking contrasts. In this section I discuss the main findings from both cases in a comparative perspective, interrogating commonalities underlying their stark divergence.

In Bolivia and Chile, similar liberal inspirations and legislative templates gave rise to different land regimes. While the Chilean legal framework effectively

enforced a quite homogeneous regime, completely geared towards individual private property, Bolivian reforms produced a regional diversification that preserved room for collective land control in certain regions. In its newly annexed territories, Chile left no room for collective, communal land claims, thereby intensifying and consolidating longer-term processes of communal erosion in the Arica highlands. Carangas was not immune to new property ideas and practices that dealt with community land as an asset one could dispose of individually (Cottyn 2014: 326–327), yet overall, the performance of land relations in Carangas continued to demonstrate a clear discrepancy with land relations envisioned by the state (Rivière 1982: 257–258). This discrepancy gave rise to a diverse negotiation strategy to safeguard a vital margin for communal autonomy. Despite a rather weak state, neither the altiplano's less attractive agrarian lands nor its communities' exemption from the reform under the 1883 law took away the imminent threat of a state intervention to subdivide their communal lands. Communities successfully deployed their fiscal leverage and colonial arrangements – relying on the departmental fiscal dependence upon the continuation of the colonial community-state pact – as well as inter-community and inter-ethnic alliances, and violent uprising. Across the border in Arica, the fast dissolution (or renunciation) of collective control over resources suggests that collective resistance was abandoned in the face of aggressive Chilean policing of national sentiment and land relations, and priority was given to commercial interests, especially linked to the international railway.

Still, the quick and apparently smooth pace of the titling process in the Chilean extreme north cannot be reduced to a top-down elimination, but suggests a pragmatic transformation of communal structures and practices. In the same vein, the continuation of communal organisation and control in Carangas cannot be reduced to a tale of passive survival, but hints at a reconfiguration of the community. These communal reorganisations nuance dichotomous interpretations of communal abolition versus persistence. Guided by the proposed critical (Indigenous) rights perspective, we can observe common dynamics that point to a pluralistic logic in the organisation of Andean land relations and in the strategies to defend these.

*Resisting the duality of modern land systems:* Across this transnational highland region, different land systems have coexisted since colonial times, allowing for negotiation and degrees of appropriation (Puente Luna 2021). Rather than performing some idealised notion of the commons, Andean families have been exerting individual and collective claims over the same land coterminously. However, under the rise of liberal land legislation, this coexistence was increasingly discredited and reframed in terms of incompatible logics. This generated a context of confusion and conflict in which communities adopted a pragmatic resistance strategy that would enable them to keep articulating diverse land relations, whether formally (as the Bolivian regime allowed) or informally, in Chile.

*Faith in (colonial) paper:* In their attempt to safeguard modalities that allowed them to pragmatically articulate diverse, seemingly contradictory logics, Andean communities in both Bolivia and Chile gave colonial concepts and documents an important role in their negotiation strategies over liberal land legislation. In Bolivia, the national network of Indigenous representatives successfully invoked the guarantees granted under colonial land titles. In the Andean highlands under Peruvian rule, both communities and non-Indigenous actors kept communal control in the highlands in place by relying on a “colonial legacy” that framed societal structures in polarised terms (Jacobsen 1993). Although the bargaining power of colonial arrangements quickly evaporated under Chilean rule, the highland population demonstrated a continuing confidence in the role of official documentation in the forging of (new) state-community relations, what has been labelled as *fe en el papel* or “faith in paper” (González & Ruz 2015, Cleland 2011). The way in which they appropriated new state-sanctioned protocols appears to confirm the importance they gave to obtaining possession of a title deed, even though in many cases those titles would be assigned to already deceased ancestors (González & Gundermann, 2022).

Over time, the families populating both research areas have navigated and shaped successive cycles of reform affecting their relation to the land. Through long and gradual processes of change, with episodes of fast and violent modifications, this materialised in a diverging picture at both sides of the border in terms of adopted strategies and outcomes of communal negotiation over collective control over land. The result of these dynamics is neither a complete disappearance nor an unchallenged continuation of the community as a collective entity and practice, but its transformation. In Bolivia, internal communal arrangements adjusted to socio-economic and ethnic reconfigurations that ultimately allowed communal land rights to persist. In Chile, the community was formally abolished, but communal practices moved to the family level and were reproduced in the form of co-property.

## Final reflections: Local contrasts within a converging global land regime

Though seemingly very remote from the centres of international decision-making, regionally diverging trajectories in the Andean highlands offer an insightful vantage point to reassess the longer history of today’s globalised land regime. A historical and comparative analysis of local dynamics highlights how this regime emerged from a historically and spatially uneven and deeply contested transition.

On paper, liberal land reforms subjected land to the law of value, demanding the individualisation of communal land property, but in practice, local circumstances conditioned by governmental constraints and local creative responses thwarted that ambition.

The outcome of this episode has decisively influenced later developments in local property relations and resonates today in policy approaches to Indigenous Peoples and landscape management. Over the last decades, public concern over sustainable development, Indigenous rights, and environmental change has pushed community lands back on the global development agenda, building on decades of communitarian struggle (Veit 2019). These recent openings are the result of complex interactions between national and international pressures. Bolivia offers probably one of the clearest examples of how the modern, globalised land regime continues to intersect and coexist with other, locally grounded land relations. The margin for communal autonomy granted by 19<sup>th</sup> century Bolivian legislation ultimately allowed communal land rights in the highlands to be recovered (where they had been absorbed by *haciendas*). While legally strengthened within a gradually more pluralistic national land regime over the 20<sup>th</sup> and 21<sup>st</sup> century, local land practices nonetheless suggest the gradual proliferation of a more individualised logic. In Chile, the abrupt and strict abolishment of communal land systems, and the legacy of the Pinochet dictatorship has led to their stigmatisation and exclusion with limited room for recovery, even within a favourable international context.

By bringing together local histories of changing pastoralist societies, this article reveals an intensely contested and creatively negotiated trajectory through which rural communities constantly reappropriated, reimagined and accommodated new legal notions around land. Recent environmental and political ecology research stresses the need for such historical insight in the changes, continuities and conflicts underlying contemporary land management in this seemingly homogeneous highland landscape (García et al. 2020, Yager et al. 2019, Villarroel et al. 2014). These historical transformations and divergences in property relations can inform more inclusive, participatory governance practices to address environmental challenges proper to the Andean altiplano within a globalising modern property regime.

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