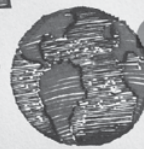


Smurfit Kappa in Colombia: socio-environmental impacts and human rights violations

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Photography: Maho Hidalgo
Misak child sitting on a tree, in the area protected by the Misak community. Pine trees with the bark removed at their base can be seen, so that in a few months, they will not be usable by the company, a peaceful act of resistance. Taken January 25th, 2022

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0. Summary

The transnational company Smurfit Kappa, a world leader in paper and cardboard production, has been operating in Colombia for several decades. In the department of Cauca, local communities have presented accusations about the impacts of its operations, which involve using huge monoculture forest projects with serious social and environmental impacts. The Indigenous peoples living in that region, particularly the Misak, claim the right to occupy lands controlled by this multinational as a way of recovering their territory and traditional ways of life.

This report, prepared jointly by the Observatory of Multinationals in Latin America, SumOfUs and the Latin America Solidarity Centre (LASC), systematises the lines of action and the main impacts caused by this transnational paper company in Colombia. In the case of Smurfit Kappa in Colombia, we can see how the company is managed with a combination of strategies based both on opacity (subsidiaries, contractors and land tenants make up a complex corporate structure) and multidimensionality (support from government institutions for the development of business; strengthening the discourse of progress, employment and well-being associated with foreign investment; legitimising strategy based on CSR policies and certifications, together with a strategy of coercion and criminalisation), adapting its corporate strategies depending on the situation with the aim of maximising profits.

The company has been expanding its operations by means of major land concessions that it has been completing with the purchase and rental of farms, as well as with joint venture agreements. This latter way of farming the land means that the company is not responsible for what happens on the plantation because it is not the owner, although the use and the conditions are managed by the firm. Financial capacity, proximity to governments and the ability to lobby for policy changes and fiscal incentives have been key factors in the company's expansion within the country. The Irish transnational has amassed political and economic power through its proximity to the states that are the source and destination of investments.

In Colombia, where it has received numerous public complaints about the socio-environmental impacts of its plantations, Smurfit Kappa says that it only occupies soil-degraded territories and that its forest crops help protect the environment. However, economic interest prevails over the conservation of ecosystems of major natural value, as the planting of pine and eucalyptus monocultures does not restore natural ecosystems and multiplies the negative environmental impacts on soil, water and biodiversity. Commercial monoculture forests disrupt the functioning of ecosystems and house a minimal part of the biodiversity tropical habitats.

In addition to the environmental dimension of the company's impacts, which are related to the pollution and destruction of ecosystems, there are impacts in at least three other dimensions: on an economic level, with the destruction of the local economy and the difficulty of access to common goods; in the political sphere, with the criminalisation and repression of social activists and human rights defenders; and on a sociocultural dimension, with the impact on the lifestyles and rights of Indigenous peoples. By observing the expansion of monoculture forests in a territory inhabited by Indigenous communities, the ethnic principle involves the analysis of social and environmental impacts.

Given the repeated accusations from farming and Indigenous organisations against the company due to its social and environmental impacts, Smurfit Kappa has launched a strategy of social re-legitimation that involves gaining social and environmental certificates. As the affected communities have not responded positively to the company's CSR projects and have upheld their complaints, a coercive strategy has also emerged. Coinciding with corporate interests, although in most cases without a direct link to the company, there has been an intensification of a repressive approach that criminalises the leaders who oppose the company's activities and which has even resulted in the use of violence.

In recent years, the government has prosecuted several leaders of the Misak people, especially following the increased social protests that have taken place in 2021 and 2022. It appears that the objective has been to curb their social action through accusations such as damage to public property, trespassing or terrorism. The communities reject this claim of being the instigators of conflicts. On the contrary, they identify themselves as people who take care of "territories, social processes, organisational autonomies and the non-extraction of natural resources".

The government's failures, the concentration and commercialisation of the territory by transnational corporations, and the socio-environmental impacts generated by them are part of the precedents that have led the Indigenous movement to promote the recovery of the ancestral domain and memory. The communities and peoples in resistance are convinced that recovering the land is an essential step towards ending the privileges of the few and advocating food sovereignty, education and the economies of the working class. For the Misak people, this is the way to build a dignified future for their communities.

(Some of) Smurfit Kappa's negative impacts in Colombia

Economic dimension

The change from agricultural food production to monocultures of pine and eucalyptus has had a negative impact on the social fabric of local communities. It alters the functioning of community markets and hinders collective work and support structures. It also modifies and even eliminates routes and means of transport.

Sociocultural dimension

The ancestral territory of the Misak people matches the territory in which the company is operating, which has forcibly displaced Indigenous communities.

The company has prevented families from accessing aqueducts.

Environmental dimension

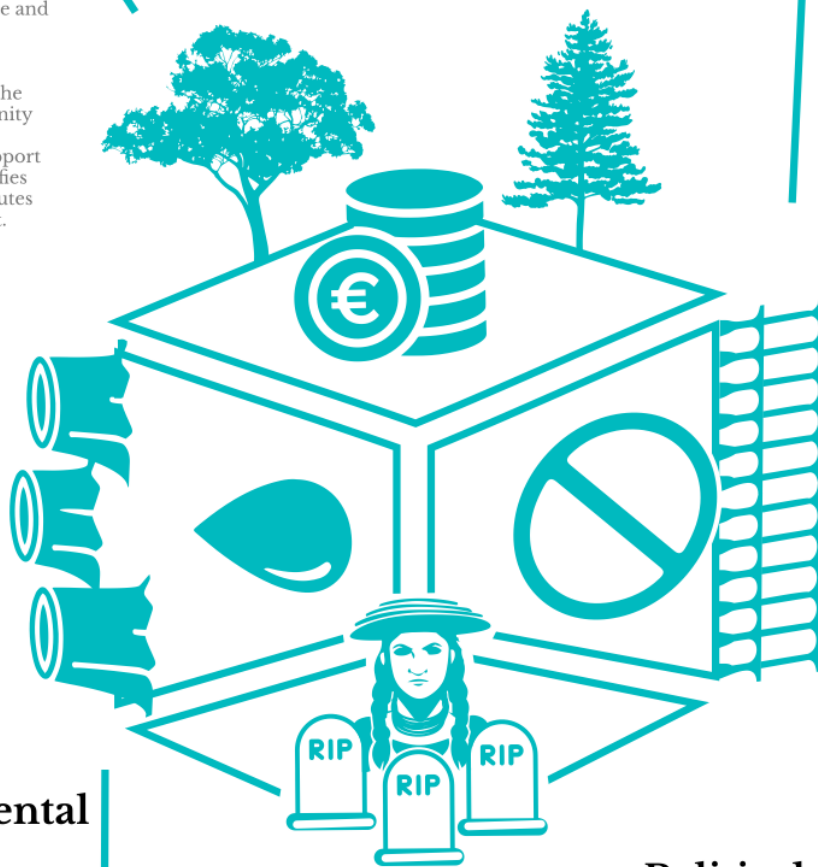
The rapid expansion of pine and eucalyptus monocultures has had negative effects on soil, water and biodiversity. Smurfit Kappa has contaminated water sources, dried up aqueducts and reduced the availability of water. The company has used the clear-cutting method to remove native trees, built roads and facilities for logging, and used large amounts of fertiliser and agrochemicals.

Political dimension

Criminalization of those opposing the company's activities.

Indigenous leaders and critics of the company murdered without the perpetrators being identified.

There is no evidence linking these incidents to the company or its workers. However, it is worth noting that all victims were social activists opposing Smurfit Kappa's operations and their deaths went unpunished since the perpetrators and masterminds of these crimes were never identified or prosecuted.



1. The company

What is now the transnational corporation Smurfit Kappa has its origins in a company founded in Ireland in 1934 to produce cardboard boxes. Four years later, that company was bought by Jefferson Smurfit, who used his name for the corporate brand and began a strategy of growth and international expansion in the following decades. In the mid-1980s, it purchased the Container Corporation of America, thereby doubling its operations in the United States and allowing it to expand throughout Europe and Latin America. With regard to Latin America, its businesses expanded to countries such as Venezuela, Colombia and Mexico. In the 1990s, its operations focused on Europe and, after successive acquisitions, it gained a significant market share in the paper and packaging industry in the United Kingdom, France, the Netherlands, Germany, Sweden and Poland.¹

In 1998, Jefferson Smurfit merged with the American firm Stone Container Corporation to form the Smurfit-Stone Container Corporation. In 2005, it merged with Kappa Packaging, the Dutch company that until then had been the largest European cardboard packaging company, giving rise to the transnational giant Smurfit Kappa. As of today, the company operates in twenty-three countries across Europe and thirteen in the Americas. Its dominant position in the global cardboard packaging market meant that Smurfit Kappa, whose parent company is located in Dublin, made a profit of €10.107 billion in 2021.²

Currently, although the Smurfit family continues to manage the company after several generations, its main owners are now financial institutions such as the American portfolio management company Cullen Capital Management and investment management companies such as Mackenzie Financial Corp., among others³. And its main lines of business are still the production of paper and cardboard, as well as corrugated cardboard packaging.

Smurfit Kappa started operating in Colombia as such in 1986, when it bought the Container Corporation, which was already present in the country thanks to its shareholding in the company Cartón de Colombia. Smurfit Kappa has since expanded its ownership percentage in its Colombian subsidiary to 99% of shares, with the remaining 1% in the hands of local companies such as Grupo Carvajal⁴. The head office of the transnational corporation in Colombia is located in Yumbo. Its factories are in Barranquilla, Bogotá, Cali, and Medellín, while its plantations are found in the departments of Caldas, Cauca, Risaralda,

1 Smurfit Kappa, "Our History": <https://www.smurfitkappa.com/es/about/our-history> [consulted: April 21, 2022].

2 Smurfit Kappa, *Annual Report*, 2021.
https://www.smurfitkappa.com/co/-/m/files/publications---global/financial-reports/smurfit_kappa_annual_report_2021.pdf

3 Shareholder information about Smurfit Kappa available on CNN Business:
<https://money.cnn.com/quote/shareholders/shareholders.html?symb=SMFKY&subView=institutional>

4 "Accionistas de Cartón de Colombia se reunirán nuevamente para cancelar sus acciones", *Semana*, January 21, 2021.
<https://www.semana.com/economia/capsulas/articulo/accionistas-de-carton-de-colombia-se-reuniran-nuevamente-para-cancelar-sus-acciones/202108/>

Quindío, Valle del Cauca, and Tolima. According to the company⁵, it controls about 67,000 hectares of land and owns pine and eucalyptus forest plantations covering 64% of this area, with there being natural forest in the rest⁶.

The company says that environmental sustainability is one of its priorities, with its CEO recently having been quoted as saying that "sustainability has always been part of our DNA but concerns about how we treat our planet, how we create a more inclusive world and support greater equality across our communities has never been so important."⁷ It so happens that the environmental impact of wood production and treatment, the conservation of water sources and the exacerbation of climate change are the most controversial aspects of its management in the eyes of Indigenous communities, farming organisations and environmental groups, which all condemn the negative effects of the company's operations.

To maintain its supply of paper in Colombia, the company needs to process more than 800,000 tons of wood per year⁸, a high level of production that can be profitable thanks to the climate conditions of the mountains of central and southwestern Colombia. Added to this are other factors such as low labour costs, tax incentives and the absence of adequate environmental controls by public institutions. Meanwhile, the company has managed to shirk its responsibility for the socio-environmental impacts of the pine and eucalyptus forests through a complex structure of subcontractors and suppliers.

In early 2022, the company announced that it was committed to reducing greenhouse gas emissions from its paper and cardboard manufacturing processes by 40%. This commitment has been endorsed by the Science Based Targets initiative, formed by organisations and institutions such as the CDP, the World Resources Institute, the WWF and the United Nations Global Compact. In addition, the company ensures that it implements sustainable forest management with the extension of forest crops to produce the pulp used to produce cardboard and paper⁹. Private certificates such as FSC and PEFC endorse its supply chain management to give confidence to consumers of its products in Europe and America.

However, these instruments have been questioned by more than one hundred organisations and individuals¹⁰: a letter sent to the FSC in 2006 called for the de-certification of Smurfit Kappa because of evidence of its negative impacts on water sources, native forests and agricultural production of local communities. Despite repeated complaints, this certification has still not been removed

5 Smurfit Kappa, "Silvicultura": <https://www.smurfitkappa.com/es/about/what-we-do/forestry> [consulted: April 21, 2022].

6 Smurfit Kappa, *Resumen Plan de Manejo Forestal 2021 – 2025*, 2020.

https://www.smurfitkappa.com/col-/m/files/publications---country/colombia/resumen-plan-de-manejo-forestal-2021_2025.pdf

7 Smurfit Kappa, "Smurfit Kappa establece nuevos objetivos en materia de sostenibilidad con Better Planet 2050", February 3, 2021.

<https://www.smurfitkappa.com/es/newsroom/2021/smurfit-kappa-sets-new-sustainability-targets-with-better-planet-2050>

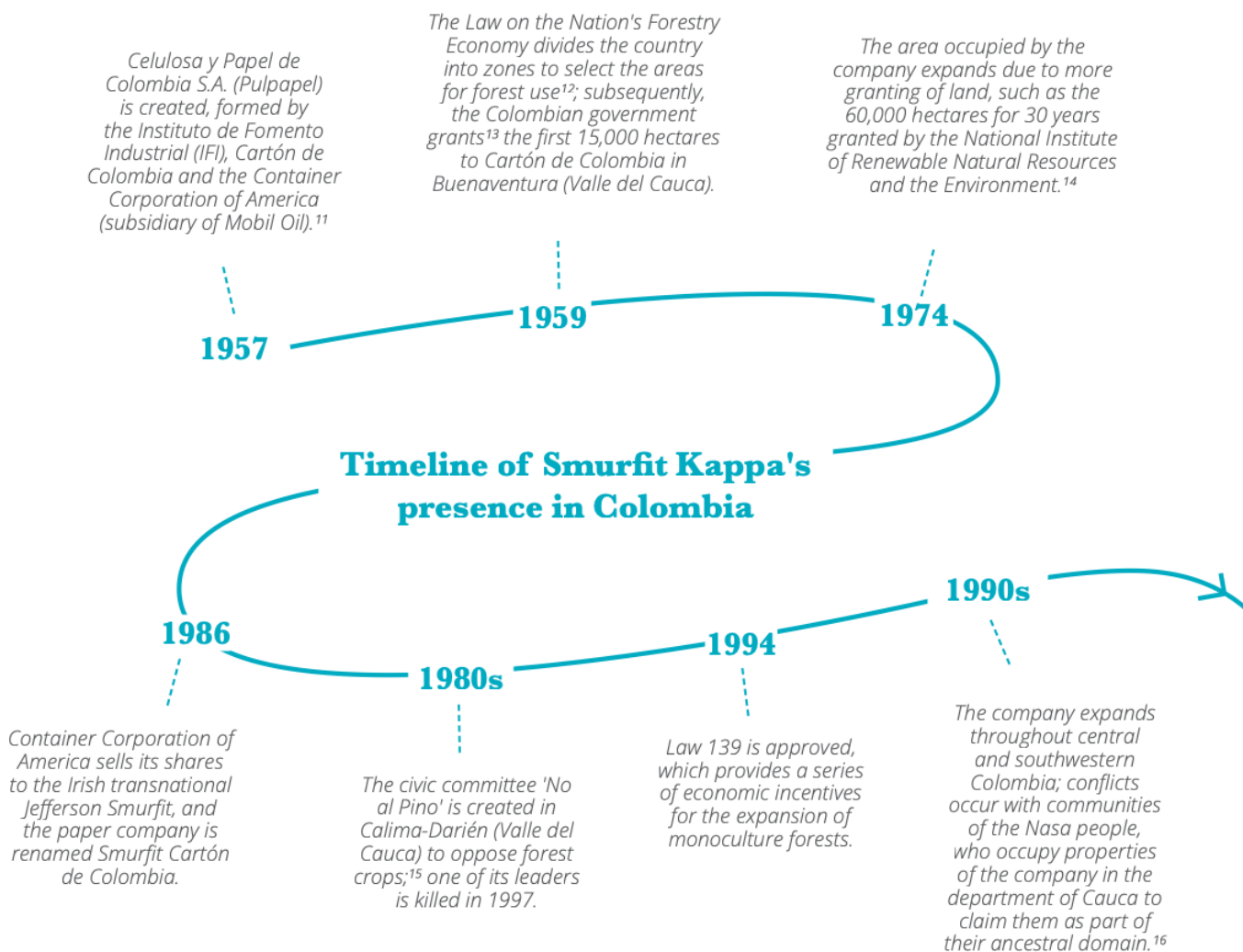
8 Camilo Alzate, "La papelera que devora Colombia", *Colombia Plural*, February 14, 2017.

<https://colombiaplural.com/carton-devora-colombia-smurfit-kappa/>

9 Smurfit Kappa, "Bosques": <https://www.smurfitkappa.com/es/sustainability-2021/priorities/forest> [consulted: April 21, 2022].

10 Chris Lang, "Smurfit Kappa is destroying Indigenous Peoples' land in Colombia while claiming to be 'sustainable'", *Redd-Monitor*, January 20, 2022. <https://redd-monitor.org/2022/01/20/smurfit-kappa-is-destroying-indigenous-peoples-land-in-colombia-while-claiming-to-be-sustainable-instead-of-supporting-indigenous-peoples-rights-wwf-and-fsc-are-helping-to-greenwash-the-dest/>

from the wood used by the company. There are also no public or community supervision mechanisms to verify the company's socio-environmental behaviour.



11 World Rainforest Movement, "Colombia: legislación 'a la medida' de Smurfit", February 10, 2001. <https://www.wrm.org.uy/es/articulos-del-boletin/colombia-legislacion-a-la-medida-de-smurfit>

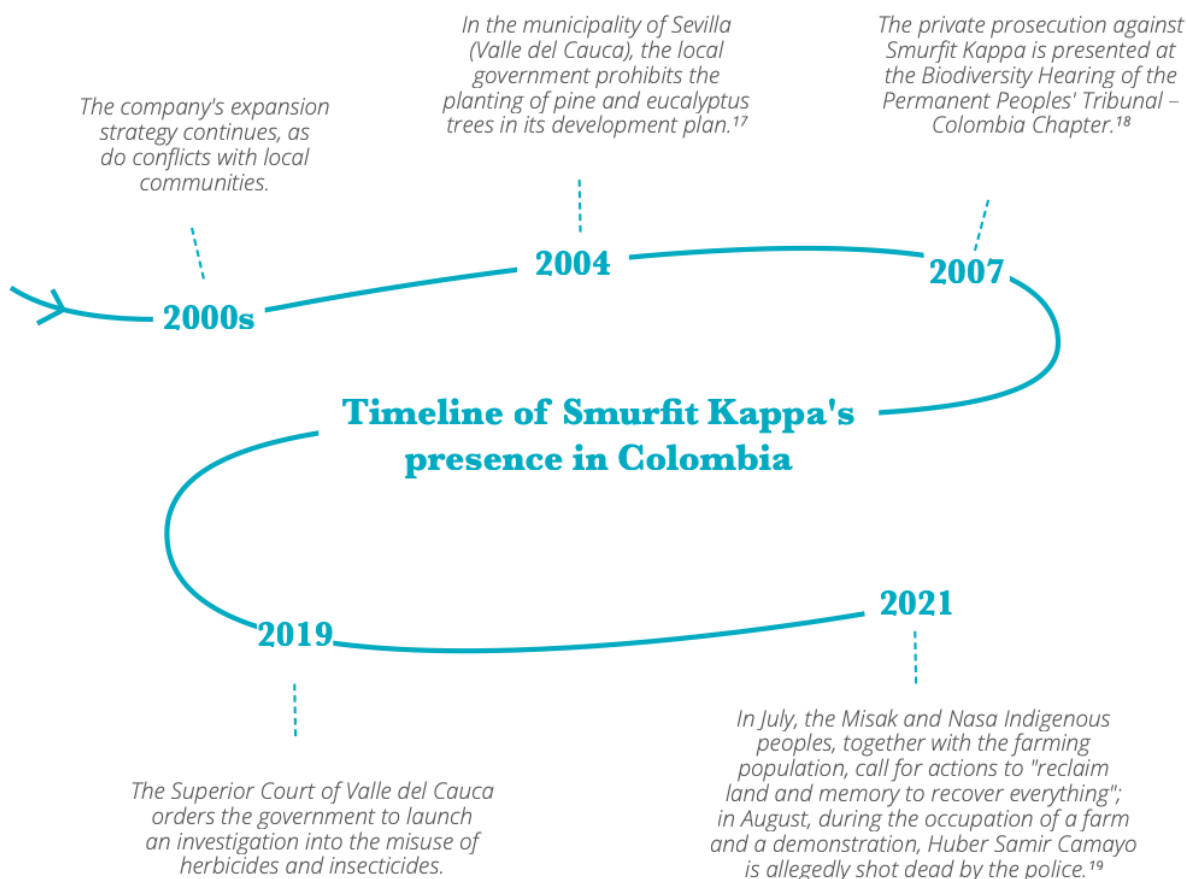
12 World Rainforest Movement, "Comunidades resistiendo la deforestación y las tácticas de maquillaje verde", *Boletín n° 248 del WRM*, January-February, 2020. https://www.wrm.org.uy/es/files/2020/03/Boletin-248_ES.pdf

13 The definition of a concession, according to Colombian regulations (number 4 of article 32 of Law 80 of 1993), refers to contracts for the construction and exploitation of works, the provision of a public service and the exploitation of a good destined to the public service "in exchange for a remuneration that may consist of rights, fees, rates, valuation, or in the participation granted in the exploitation of the asset", or in other forms of consideration agreed between the parties. The documentation used to prepare this report did not specify the consideration for the land grant.

14 Joe Broderick, *El imperio del cartón: impacto de una multinacional papelera en Colombia*, Bogotá, Planeta Colombiana, 1998.

15 Aceneth Perafán Cabrera y Jorge Enrique Elías Caro (comp.), *Conflictos ambientales en ecosistemas estratégicos. América Latina y el Caribe, Siglos XIX – XXI*, Cali, Universidad del Valle, 2017. https://www.academia.edu/34593797/Conflictos_ambientales_en_ecosistemas_estrategicos

16 Carlos Duarte (ed.), *Desencuentros territoriales: la emergencia de los conflictos interétnicos e interculturales en el departamento del Cauca*, Bogotá, Instituto Colombiano de Antropología e Historia, 2015. https://www.academia.edu/70940084/Desencuentros_Territoriales_Tomo_I_La_emergencia_de_los_conflictos_inter%C3%A9tnicos_e_interculturales_en_el_departamento_del_Cauca



Source: Compiled by authors.

“This is our land that Smurfit has. We, who have to harvest the land, are here to resist. [...] Smurfit’s cardboard has caused a lot of damage. The ecosystem is harmed. Now through our resistance, we are going to rebuild this land, it will be productive once again.”

Interview with a member of the Misak community, February 2022

17 CENSAT Agua Viva - Friends of the Earth Colombia, “Cabildo abierto por la vida... No a las plantaciones forestales”, November 21, 2009. <https://censat.org/es/actividades/cabildo-abierto-por-la-vida-no-a-las-plantaciones-forestales>

18 VVAA, *Acusación contra Smurfit Kappa Cartón de Colombia S.A.*, Bogotá, Tribunal Permanente de los Pueblos, 2007. <https://docplayer.es/11721964-Acusacion-contra-smurfit-kappa-carton-de-colombia-s-a.html>

19 Contagio Radio, “Fuerza pública habría asesinado a Huber Samir Camayo en Cajibío, Cauca”, August 3, 2021. <https://www.contagioradio.com/fuerza-publica-habria-asesinado-a-huber-samir-camayo-en-cajibio-cauca>



Photography: Maho Hidalgo
Urban art on El Morro de Tulcan pyramid, in Popayan.
Taken January 25th, 2022

2. Main impacts

The southwestern region of Colombia, where Smurfit Kappa's monoculture forests are located, has been characterised by a historical conflict related to land tenure. Peasant farmers, Indigenous peoples and Afro-descendants have been displaced for centuries to the mountainous and less productive areas of the Andes as a result of colonial practices. According to the communities, this is the result of a dispossession process which involves several factors: the absence of land titles, which facilitates the appropriation of territories by other people and entities; the economic power of national and international elites when it comes to purchasing land; and the facilities and land concessions granted by the government.²⁰

The unequal distribution of land is reflected in the concentration of large areas of land with higher productivity being owned by extensive landholders including Smurfit Kappa. The vast majority of peasant, Indigenous and Afro-Colombian communities own little land.²¹ The territorial tension between the Irish company and local communities is exemplified by Smurfit Kappa's attempt in 2006 to buy several private estates in the Guacarí and Buga (Valle del Cauca) municipalities just as peasant farming communities were requesting the same land from the Colombian Institute for Rural Development.²²

The impossibility of expanding community smallholdings and the presence of multidimensional poverty, which in rural areas of the region affects 41% of the registered population²³, often leads to conflict situations. Rural communities hoped that the situation would change somewhat with the Havana Peace Agreement, which included the need to promote comprehensive rural reform. The Land Fund associated with this reform could be used to compensate Indigenous peoples, Afro-descendants and peasant farmers in terms of land recovery. However, there has been a breach of the agreement: after five years, not even half of what was stipulated²⁴ has been carried out and, according to the Kroc Institute, 81% of the items related to ethnic groups in the agreement reflect minimal progress or none at all.²⁵

All this historical conflict over land is also taking place in a context of ever-growing structural violence. The talks and peace agreements promoted

20 According to information provided by a former Misak governor in an interview with OMAL in March, 2022.

21 Carlos Duarte (ed.), *Desencuentros territoriales: la emergencia de los conflictos interétnicos e interculturales en el departamento del Cauca*, Bogotá, Instituto Colombiano de Antropología e Historia, 2015. https://www.academia.edu/70940084/Desencuentros_Territoriales_Tomo_I_La_emergencia_de_los_conflictos_inter%C3%A9tnicos_e_interculturales_en_el_departamento_del_Cauca

22 Diego Alejandro Cardona, "Desiertos verdes del suroccidente colombiano", *Biodiversidad, sustento y culturas*, July 24, 2009. <https://grain.org/es/article/entries/1247-desiertos-verdes-del-suroccidente-colombiano>

23 Data from Colombia's National Administrative Department of Statistics (DANE): https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/anexo_dptal_pobreza_multidimensional_20.xls

24 Business & Human Rights Resources Centre, "Colombia: Pueblo Misak y organizaciones campesinas denuncian presunto acaparamiento de tierras por parte de Smurfit Kappa Cartón de Colombia", August 9, 2021. https://media.business-humanrights.org/media/documents/COMUNICADO_001_CAJIBIOCAUCA_COLOMBIA.pdf

25 Marina Sardiña, "Colombia: la lucha por la tierra de los pueblos indígenas pese a la violencia", *France 24*, November 23, 2021. <https://www.france24.com/es/américa-latina/20211123-colombia-lucha-tierra-pueblos-indigenas-violencia>

by the government have not stopped the systematic violations of human rights committed by legal and illegal armed groups for the control of drug trafficking routes and land grabbing for extractivism and licit and illicit crops. The combination of both factors leads to very high figures of attacks on social leaders in the region:²⁶ between August 2018 and June 2021, the north of Cauca saw the highest number of murders of social leaders (78) in the entire country.²⁷

The activities of transnational corporations are carried out in this context, with the consequent systematic violation of human rights.²⁸ In fact, as different organisations and research centres have been pointing out for decades, the steady increase in the profits of major corporations is sustained by the constant reproduction of social and environmental impacts. This was expressed in one of the advisory opinions issued by the Permanent Peoples' Tribunal: after various hearings analysing the impacts associated with the presence of about thirty European multinationals in Latin America, this international ethical court concluded that all these cases "should be considered not in isolation with their individual significance, but as an expression of a very wide spectrum of violations and responsibilities which, due to the systematic nature of the corresponding practices, result in a situation that clearly illustrates the true role of European transnationals and the EU and its Member States".²⁹

The impacts caused by megaprojects is described according to a frame of reference based on four categories, which in turn can be divided into other more specific subcategories that include the issues of class, gender and ethnicity/race (see Table 2).³⁰ As will be exemplified here with the case of Smurfit Kappa in Colombia, the economic dimension refers to the destruction of the local economy and the difficulty of access to common goods; the environmental dimension refers to the pollution and destruction of ecosystems; the political dimension refers to the criminalisation and repression of social activists and human rights defenders; and the sociocultural dimension refers to the impact on the lifestyles and rights of Indigenous peoples. When analysing the expansion of monoculture forests in a territory inhabited by Indigenous communities, the ethnic axis involves the analysis of social and environmental impacts.

26 Indepaz, *Cifras de la violencia en las regiones 2021*, Observatorio de derechos humanos y conflictividades, January 19, 2022. <https://indepaz.org.co/cifras-de-la-violencia-en-las-regiones-2021/>

27 Wayra Rojas y Nicole Bravo, "Los asesinatos de líderes en Cauca, en cinco escenas", *La Silla Vacía*, November 23, 2021. <https://www.lasillavacia.com/historias/silla-nacional/los-asesinatos-de-lideres-en-cauca-en-cinco-escenas/>

28 With the notion of human rights, reference is made to all civil and political, economic, social, cultural and environmental rights, collective rights, rights of indigenous peoples, women, etc. recognized in international legal instruments taking into account their universal, indivisible and interdependent nature.

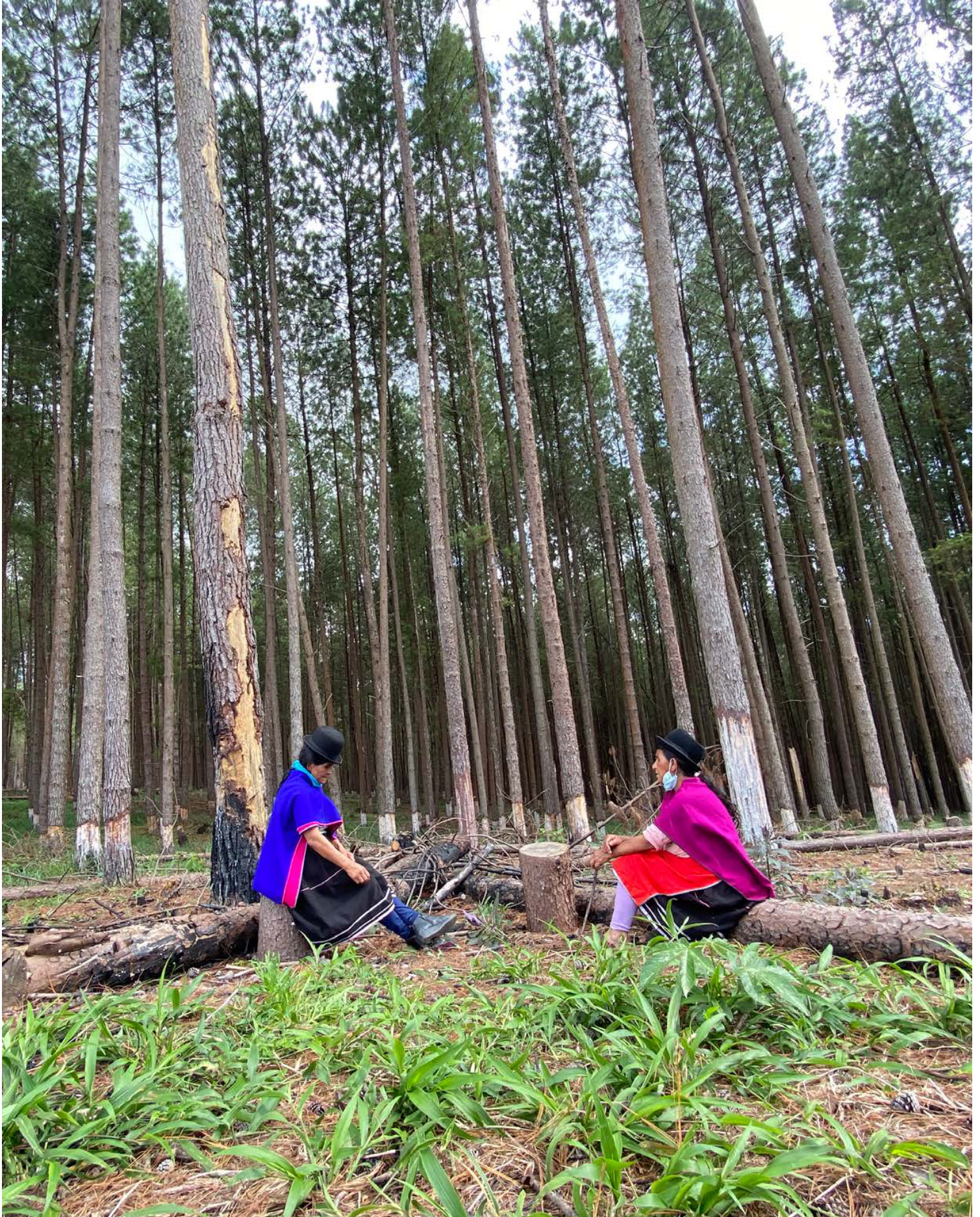
29 Tribunal Permanente de Los Pueblos, *La Unión Europea y las empresas transnacionales en América Latina: políticas, instrumentos y actores cómplices de las violaciones de los derechos de los pueblos*, Madrid, May 14-17, 2010.

30 For a detailed characterisation of the impacts of megaprojects, see: Gonzalo Fernández, Erika González, Juan Hernández y Pedro Ramiro, *Megaproyectos. Claves de análisis y resistencia en el capitalismo verde y digital*, OMAL, 2022.

Main impacts of megaprojects

Categories of analysis	Subcategories of analysis	Crossover approaches
Economic dimension	<p>Ownership and conditions of the good or service</p> <p>Impact on public funds</p> <p>Implications for the local economy</p> <p>Appropriation/dispossession of common goods</p> <p>Retrogressive work distribution dynamics</p>	<p>Gender</p> <p>Class</p> <p>Ethnicity/race</p>
Environmental dimension	<p>Impact of energy flow, materials, waste and emissions</p> <p>Appropriation of collective natural assets</p> <p>Pollution and ecosystem degradation</p> <p>Disaster risks</p>	
Political dimension	<p>Legal political initiatives protected by the legal architecture of impunity</p> <p>Illegal and violent initiatives protected by corporate impunity</p>	
Sociocultural dimension	<p>Sociological transformations in affected communities and peoples</p> <p>Advancement of regressive and exclusionary social practices</p> <p>Changes to customs and cultural practices of the affected peoples</p>	

Source: Compiled by authors.



Photography: Maho Hidalgo
Two Misak women in the Smurfit Kappa forest plantation. Trees with the bark cut off at the base can be seen, so that the humidity will render them useless for cardboard extraction.
Taken January 24th, 2022

Economic dimension: dispossession of common goods



Economic dimension

The change from agricultural food production to monocultures of pine and eucalyptus has had a negative impact on the social fabric of local communities. It alters the functioning of community markets and hinders collective work and support structures. It also modifies and even eliminates routes and means of transport.

Most of the employment is temporary, subcontracted and male: truck drivers, lumberjacks, agricultural laborers and cardboard collectors who recycle the materials. The company generates labour relations that deepen social and gender inequality. Men have precarious employment, while women are excluded from this system and become subordinated to men's wages.

Economic dimension: dispossession of common goods

Smurfit Kappa claims to act "for the well-being of the countries and communities in which we are privileged to operate". The company states that its fundamental principles include participation and collaboration "with the progress and improvement of the quality of life of the inhabitants of the areas where we have forest operations, complementing, but not replacing, the actions that correspond to the state".³¹ The transnational says that it promotes agricultural production initiatives in the municipality of Cajibío (Cauca), an area in which the impacts of its activities have been condemned. In addition, the company highlights its work of public road maintenance and peacebuilding projects hand in hand with the mayor's office and the governorate.

However, its operations break up peasant farming communities and disrupt both community life and the local economy. The shift from food-oriented agriculture to one that encourages the monoculture of pine and eucalyptus trees can only have a negative impact on the fabric of society, altering the functioning of local markets, obstructing collective work and hindering the pathways of support and community building. Routes and methods of transport are also modified and even eliminated.³²

Numerous litigation and complaint processes have been filed regarding the company's operations on the Indigenous ancestral and agricultural domain. In the 1990s, in the Alto Naya region, a Nasa Indigenous community claimed as part of its ancestral domain two plots of land owned by Smurfit Kappa, which were occupied for their recovery.³³ The same happened in the Los Naranjos rural estate (in Sotará, Cauca), where another Nasa community entered an agreement with landless peasant farmers to launch a process of liberation to recover an estate belonging to the multinational. In this process, in 2008, the leader of the Indigenous community and president of the Tierradentro Resettlement Association, Raúl Mendoza, was murdered without the perpetrators being identified.

The loss of access to natural assets generates an excessive workload among peasant, Indigenous and Afro-descendant women, who are primarily responsible for making sure that their households have access to food. All these difficulties force the rural, peasant, Indigenous and Afro-descendant population to migrate to the cities, thereby expanding the most impoverished urban sectors. This is the case, as shown in the accusation filed before the Permanent Peoples' Tribunal – Colombia Chapter, of the settlements of Fenicia

31 Smurfit Kappa, *Resumen Plan de Manejo Forestal 2021 – 2025*, 2020. https://www.smurfitkappa.com/co/-/m/files/publications---country/colombia/resumen-plan-de-manejo-forestal-2021_2025.pdf?rev=135ee891b6934ce695794412862ab708

32 Diego Alejandro Cardona, "Desiertos verdes del suroccidente colombiano", *Biodiversidad, sustento y culturas*, July 24, 2009. <https://grain.org/es/articulo/entries/1247-desiertos-verdes-del-suroccidente-colombiano>

33 This case and the other ones mentioned have been documented in Carlos Duarte (ed.), *Desencuentros territoriales: la emergencia de los conflictos interétnicos e interculturales en el departamento del Cauca*, Bogotá, Instituto Colombiano de Antropología e Historia, 2015. https://www.academia.edu/70940084/Desencuentros_Territoriales_Tomo_I_La-emergencia-de-los-conflictos-inter%C3%A9tnicos-e-interculturales-en-el-departamento-del-Cauca

in Riofrío and Tenjo in Palmira (Valle del Cauca), as well as in the Alto Corozal and Bajo Corozal subdivisions of Pereira (Risaralda).³⁴

One of the most frequent arguments to legitimise the activities of a transnational company, also in the case of Smurfit Kappa, is job creation. And this, as in other types of agro-industrial farms, has been questioned by the social organisations and communities affected, because most of the jobs are temporary, subcontracted and for men: truck drivers, lumberjacks, day labourers and cardboard collectors to recycle this material. This forms labour relations that exacerbate social and gender inequalities: while men have precarious jobs, women are excluded from this system and are subordinated to men's salaries.³⁵

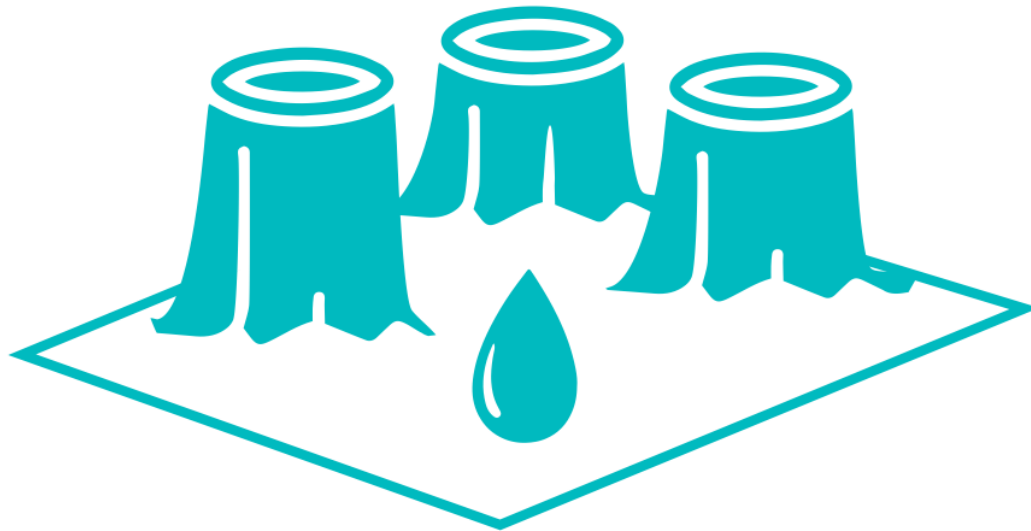
“For Smurfit Colombian Cardboard, native trees are a plague. They only need the pine trees, with their motors and machines, and the native trees are a plague for them. Because if the native trees grow, then the pine trees don’t grow, and for that reason, they always come and do away with the native trees.”

Interview with a member of the Misak community, February 2022

34 For more information of what has happened in the Cauca Valley and Risaralda, look at *Acusación contra Smurfit Kappa Cartón de Colombia* presented in 2007 in front of Permanent People's Tribunal - Colombia Chapter. <https://docplayer.es/11721964-Acusacion-contra-smurfit-kappa-carton-de-colombia-s-a.html>

35 Miriam García-Torres, *El Ibex-35 en guerra contra la vida*, Ecologistas en Acción, Calala y OMAL, 2018. <https://omal.info/spip.php?article8529>

Environmental dimension: loss of biodiversity



Environmental dimension

The rapid expansion of pine and eucalyptus monocultures has had negative effects on soil, water and biodiversity. Smurfit Kappa has contaminated water sources, dried up aqueducts and reduced the availability of water. The company has used the clear-cutting method to remove native trees, built roads and facilities for logging, and used large amounts of fertiliser and agrochemicals.

Environmental dimension: loss of biodiversity

In 1986 Smurfit Kappa acquired Cartón de Colombia, a company with a history of major environmental destruction and human rights violations.³⁶ And since the beginning of its activity in the country, it has been accused of eliminating forests in the elimination of forests in Bajo Calima (Valle del Cauca), in the upper basin of the River Cauca and in the forested areas of Cabildos de Tacuei, Jambaló and Guambia (Cauca). The 'clearcutting' technique was applied, which involved cutting down all the trees at ground level and then transporting the logs to the wood processing plant. This also involved the construction of roads and facilities for forest farming. The result is the widespread destruction of Andean and sub-Andean forests in the central and western mountain ranges of Colombia: native trees such as the trumpet tree, quinine, tree fern, chusquea, Angelica tree, encenillo, wax laurel, black alder, Spanish elm, painter's-palette, oak, prickly ash and balsa tree were eliminated.³⁷

As of 1992, with Smurfit Kappa as the principal shareholder of Cartón de Colombia, the use of clearcutting was discontinued to expand the monoculture of pine and eucalyptus trees. This had to do with increased environmental concern following the Rio de Janeiro Earth Summit and conflicts with affected communities. What happened, though, was that the logging of native forests was reduced but did not disappear. Instead, it was subcontracted. In the 1990s, the company paid for logs from these forests that were felled by lumberjacks who were not part of its workforce. During that time, Smurfit Cartón de Colombia claimed to buy timber from legal activities only through certificates and safe conducts, when actually the government itself acknowledged that there were no contractual mechanisms for the harvesting of legalised timber.³⁸

A document that shows the *modus operandi* of the company is Resolution 360 of 26 August, 1994, issued by the regional government of Quindío, which sanctioned a subsidiary of Smurfit Kappa for causing soil degradation, loss of protective vegetation and appropriation of the natural forest.³⁹ It was then recognised that the paper company had an impact on the original ecosystems, an issue that is still condemned today. As a result, the mayor of the municipality of Santa Rosa de Cabal (Risarcaldá) stated in 2018 that pine and eucalyptus monocultures "are displacing peasant farmers, and destroying the native flora and fauna"⁴⁰, when part of its territory is in the Los Nevados Nature Park. It also pointed out that the company was preventing thirty families from accessing the community aqueduct of San Bernardino and was surrounding the headwaters of the water source with crops.

36 All the information related to the complaints about Cartón de Colombia are developed and can be consulted in the book by Joe Broderick, *El imperio de cartón: impacto de una multinacional papelería en Colombia*, Bogotá, Planeta Colombiana, 1998.

37 VVAA, *Acusación contra Smurfit Kappa Cartón de Colombia S.A.*, Bogotá, Tribunal Permanente de los Pueblos, 2007. <https://docplayer.es/11721964-Acusacion-contra-smurfit-kappa-carton-de-colombia-s-a.html>

38 Joe Broderick, *El imperio de cartón: impacto de una multinacional papelería en Colombia*, Bogotá, Planeta Colombiana, 1998.

39 Diego Alejandro Cardona, "Desiertos verdes del suroccidente colombiano", *Biodiversidad, sustento y culturas*, July 24, 2009. <https://grain.org/es/article/entries/1247-desiertos-verdes-del-suroccidente-colombiano>

40 Rodrigo Toro, mayor of Santa Rosa de Cabal, expressed his "absolute rejection of the lies of the multinational Smurfit Kappa in Revista Semana" in a video posted on Facebook on August 2, 2018: https://www.facebook.com/rodrigotoromontes/videos/1676089355810943/UzpfSTE5NzlyNjI3O-Tk2NTgzODQ6Mjc5MTQzMjY3Nzc0MTU4OA?story_fbid=2791430677741588&id=1972262799658384 [consulted: April 21, 2022].

The rapid expansion of pine and eucalyptus monoculture has had negative effects on biodiversity and the soil, by having a lower amount of organic matter and with poorer quality, and by reducing the nutrients available to plants.⁴¹ These forests consume a lot of water, as attested by Ronald Vargas, Secretary of the Global Soil Partnership, Land and Water Officer at the FAO.⁴² And as they are monocultures operated to maximise their production and obtain as much wood as possible for pulp, they need a lot of fertiliser and agrochemicals for pest control.

In the departments of Quindío, Risaralda, Valle del Cauca, and Cauca, the communities have denounced the company's overuse of water, as it has dried up the streams and springs that provided them with this natural resource. This happened with the Cañas Gordas stream, which once supplied water to the aqueduct of Salento (Quindío) and dried up in 2016. According to the peasant farming population and environmental organisations, the pine tree plantation up to the bank of the streambed dried up the watercourse.⁴³ Although the distance between monoculture forests and waterways is regulated to prevent the degeneration of rivers and streams, the company, despite its 'green' discourse, does not have the minimum environmental criteria to prevent damage to ecosystems and communities.

A situation similar to the one in Salento has been reported in Corozal (Risaralda); in Ginebra, Yotoco and Vijes (Valle del Cauca); and in recent years also in Sotará (Cauca).⁴⁴ In 2021, a ruling by the Administrative Court of Cauca recognised that Smurfit Kappa was violating the measures that protect the collective rights of the Yanakona Indigenous people in the Río Blanco ancestral reserve, located in Sotará.⁴⁵ According to the court, the company hindered the "use of public space, the existence of an ecological balance and the management and rational use of natural resources to ensure their sustainable development".

In 2009, the State Council announced a series of measures that the company had to fulfil in order to respect the territory where the community lives. However, the impacts of monoculture forest continued and the aqueducts which they used for water dried up in 2016 and 2017. The first action of the affected communities to stop the damage was to turn to the institution supposedly in charge of environmental protection, the Cauca Regional Autonomous Corporation (CRC). But they did not get a response, even though the CRC and the company jointly visited the water sources and the waterways and found them to be in poor condition.

41 Gustavo Chacon-Vintimilla, Daniel Gagnon, David Paré y Dominique Proulx, "Impacto de la deforestación, pastizales, plantaciones de eucalipto y pino en suelos de bosque montano alto, en la Sierra Sur del Ecuador", *Revista de Investigaciones de la Universidad del Azuay*, 2003.

42 Marina Santini, "Experto en suelos de la FAO advierte sobre los riesgos del monocultivo en Uruguay", *La Diaria*, October 21, 2019. <https://ladiaria.com.uy/trabajo/articulo/2019/10/experto-en-suelos-de-la-fao-advierte-sobre-los-riesgos-del-monocultivo-en-uruguay/>

43 ORDEURCA, CIMA, ACADER, MCC, ATCC, *Informe Impactos de las plantaciones forestales en los municipios de Timbío, Cajibío y Sotará*, Comité Noruego de Solidaridad con América Latina, Comité por la Defensa del Agua, la Vida y el Territorio, 2018 https://www.latin-amerikagruppene.no/assets/documents/180902-Informe-sobre-plantaciones-forestales_compressed.pdf

44 VVAA, *Acusación contra Smurfit Kappa Cartón de Colombia S.A.*, Bogotá, Tribunal Permanente de los Pueblos, 2007. <https://docplayer.es/11721964-Acusacion-contra-smurfit-kappa-carton-de-colombia-s-a.html>

45 Newsroom, "Sancionan a la Compañía Smurfit Kappa Cartón de Colombia por daños a cuencas hidrográficas en Sotará – Cauca", *Ojo Público*, March 11, 2021. https://ojopublico.com.co/2021/03/11/sancionan-a-la-compania-smurfit-kappa-carton-de-colombia-por-danos-a-cuencas-hidrograficas-en-sotara-cauca/?fbclid=IwAR2mb9rO9cp8dIXSPQInGSU_MpDf8FkmfUSjCOBYq2fwnsmc7R9WOPu4zn0

The community continued with its accusations and obtained different reports from the CRC that the pine plantations were less than three metres from the River Presidente, that the area around the water sources had no plant protection of any kind, and that debris from the pine harvest had fallen into another water source that supplies the Indigenous community's aqueduct. All of this violated the Single Regulatory Decree of the Environment and Sustainable Development Sector, issued in 2015. The evidence and reports presented by the community resulted in the 2021 ruling to recognise the impacts of Smurfit Kappa. This resolution recognises and sanctions the collusion of the environmental authority with the company, because "it failed to open investigations or impose the sanctions included in the court order if the respondent (the company) were to commit a breach".

In addition to in the Cauca, in Valle del Cauca the complicity of institutions supposedly overseeing environmental regulations and the company has also been repeated. In the municipality of Sevilla, the local government pointed out that the company was overusing water, polluting water sources and causing erosion with the harvest of the monoculture. As a result, its 2004 Development Plan included a ban on the planting of pine and eucalyptus trees for the timber industry.⁴⁶ However, Smurfit Kappa continued its activity and the environmental authorities did not implement control mechanisms to put an end to these practices.

In addition, the company has been sentenced for contamination with agrochemicals. In Restrepo (Valle del Cauca), the monoculture of pine and eucalyptus trees spread, drying up water sources and causing contamination in the area. The lack of control by the environmental authority resulted in a class action lawsuit against Smurfit Kappa. The population collected all kinds of evidence and in 2019 succeeded in getting the Superior Court of the Valle del Cauca to order the government to launch an investigation into the misuse of herbicides and insecticides, and the company to comply with the protocols that the FSC certificate establishes.⁴⁷ The company was then forced to respect the minimum distance for applying agrochemicals in relation to water currents, as well as to minimise the use of these substances in water collection areas for aqueducts.

46 CENSAT Agua Viva - Friends of the Earth Colombia, "Cabildo abierto por la vida... No a las plantaciones forestales", November 21, 2009. <https://censat.org/es/actividades/cabildo-abierto-por-la-vida-no-a-las-plantaciones-forestales>

47 World Rainforest Movement, "Comunidades resistiendo la deforestación y las tácticas de maquillaje verde", *Boletín n° 248 del WRM*, January-February, 2020. https://www.wrm.org.uy/es/files/2020/03/Boletin-248_ES.pdf

Political dimension: repression of communities



Political dimension

Criminalization of those opposing the company's activities.

Indigenous leaders and critics of the company murdered without the perpetrators being identified.

There is no evidence linking these incidents to the company or its workers.

However, it is worth noting that all victims were social activists opposing Smurfit Kappa's operations and their deaths went unpunished since the perpetrators and masterminds of these crimes were never identified or prosecuted.

Political dimension: repression of communities

In a territory where there are serious conflicts over land claims between Indigenous communities, Afro-descendants and farmers, Smurfit Kappa's activities have only aggravated the clashes between these groups. This happened in the municipality of Buenos Aires (Cauca), as the company sold its own estates to an agroforestry company formed by peasants from the region, despite knowing that this land was claimed by Nasa Indigenous communities, which aggravated the conflict between some communities and others.⁴⁸

Given that Smurfit Kappa's social and environmental impacts have led to accusations and protests from affected communities, the company's strategies to mitigate the criticism of its activities and gain social legitimacy have been based on the implementation of corporate social responsibility (CSR) projects. On other occasions, criminalisation strategies have also been used. This was the case between 1993 and 1994 with Néstor Ocampo Giraldo, who reported the burning of plant remains by the transnational corporation and the consequent spread of fires, which affected native forests and fragile soils in the municipalities of Salento and Calarcá (Quindío).⁴⁹ This accusation was made to the environmental authority, the regional government of Quindío, and the result was the company's exoneration from any responsibility for the fires. Meanwhile, the company filed a lawsuit against Ocampo for libel and slander, which ultimately failed. What it did manage to do was to stop future accusations out of fear of the consequences that might follow.

The same strategy was used by Smurfit Kappa to discredit Joe Broderick's book 'The Cardboard Empire: Impact of a Paper Multinational in Colombia', published in 1998. This book includes a full systematisation of all the economic, political, social, environmental and cultural impacts generated by the company up to that time. In order to prevent the book from damaging their corporate image, company executives asked the Minister for the Environment to withdraw it from sale. However, the request was unsuccessful because it so happened that the book had been financed by a project supported by the Ministry itself.⁵⁰

In recent years, the government has prosecuted several leaders of the Misak people, especially following the increased social protests that took place in 2021 and 2022. The objective has been to curb their social action by accusing them of activities like damaging public property, trespassing or terrorism damage to public property, trespassing or terrorism. The communities reject this claim of being the cause of conflicts. On the contrary, they identify themselves as people who take care of "territories, social processes, organisational autonomies and the non-extraction of natural resources".⁵¹

48 World Rainforest Movement, "Comunidades resistiendo la deforestación y las tácticas de maquillaje verde", *Boletín n° 248 del WRM*, January-February, 2020. https://www.wrm.org.uy/es/files/2020/03/Boletin-248_ES.pdf

49 Camilo Alzate, "El ambientalista dueño de una papelería", *Anfibio*, Universidad Nacional de San Martín, September 12, 2016. <https://www.revistaanfibio.com/el-ambientalista-dueno-de-una-papeleria/>

50 VVAA, *Acusación contra Smurfit Kappa Cartón de Colombia S.A.*, Bogotá, Tribunal Permanente de los Pueblos, 2007. <https://docplayer.es/11721964-Acusacion-contra-smurfit-kappa-carton-de-colombia-s-a.html>

To date, twenty-eight acts of repression by the security forces have been recorded by Misak organisations. On 2 August, 2021, the El Retiro farm in the village of El Arado (District of Cajibío) was occupied and the road was blocked to highlight the popular demands.⁵² However, the protest was violently suppressed by the Mobile Anti-Riot Squadron, leaving numerous people injured and one dead from a shot allegedly fired by the police.⁵³ The government's inaction over the death of Huber Samir Camayo Fajardo increased social tension and there were clashes with the police and the mayor's office.

Government complicity has also resulted in various acts of violence going unpunished. In November 2021, a group of company workers attacked members of the Misak community with machetes, leaving eight people injured. The army, which was present, did not respond.⁵⁴ Meanwhile, Smurfit Kappa justified the army's reaction with the argument that it would put an end to the "invasion" led by "certain members" of Indigenous and peasant communities, the cutting down of its plantations, and its workforce's feeling of insecurity.⁵⁵

The armed conflict and political violence that is spreading throughout the country to shield economic superpowers, exercised by both legal and illegal groups, have led to a situation in which repression against people defending their land and human rights can even cost them their lives. The accusation and resistance processes against Smurfit Kappa are not exempt from this serious situation. In addition to the aforementioned Indigenous and community leaders, we should remember the case of Dila Calvo, leader of the municipality of Riofrío (Valle del Cauca), who opposed the plantations during her time on the municipal council and was assassinated in 1995. Or that of Roger Marín González, a lawyer and journalist who also actively protested against commercial reforestation and was killed in 2010 on his farm in the department of Risaralda.⁵⁶

The list could go on. For example, there is the case of Germán Mejía Gascón, Mayor of Calima-Darién (Valle del Cauca), who led the protests against the paper company promoted by the 'No al Pino' civic committee and managed to get all political sectors to reject the spread of monoculture forests. Mejía, who had already received threats and suffered an assassination attempt in 1988, was killed nine years later.⁵⁷

51 Marina Sardiña, "Colombia: la lucha por la tierra de los pueblos indígenas pese a la violencia", *France 24*, November 23, 2021. <https://www.france24.com/es/américa-latina/20211123-colombia-lucha-tierra-pueblos-indigenas-violencia>

52 Consejo Regional Indígena del Cauca (CRIC), "A quienes luchan contra las injusticias y la desigualdad: Campesinos, Misak y Nasa de Cajibío", August 12, 2021. <https://www.cric-colombia.org/portal/comunicado-a-quienes-luchan-contra-las-injusticias-y-la-desigualdad-campesinos-misak-y-nasa-cajibio/>

53 Contagio Radio, "Fuerza pública habría asesinado a Huber Samir Camayo en Cajibío, Cauca", August 3, 2021. <https://www.contagioradio.com/fuerza-publica-habria-asesinado-a-huber-samir-camayo-en-cajibio-cauca/>

54 Marina Sardiña, "Colombia: la lucha por la tierra de los pueblos indígenas pese a la violencia", *France 24*, November 23, 2021. <https://www.france24.com/es/américa-latina/20211123-colombia-lucha-tierra-pueblos-indigenas-violencia>

55 "Respuesta Smurfit Kappa Cartón de Colombia", Business and Human Rights, August 17, 2021. <https://www.business-humanrights.org/es/%C3%BAltimas-noticias/pronunciamento-smurfit-kappa-en-nuestra-actualizaci%C3%B3n-semanal-invita%C3%B3n-a-responder/>

56 Carlos Alfonso Victoria Mena, "Resistencia social ante las plantaciones forestales comerciales en el Suroccidente colombiano: el caso de Calima, El Darién, 1982 - 1997" en Aceneth Perafán Cabrera y Jorge Enrique Elías Caro (comp.), *Conflictos ambientales en ecosistemas estratégicos. América Latina y el Caribe, Siglos XIX - XXI*, Cali, Universidad del Valle, 2017. https://www.academia.edu/34593797/Conflictos_ambientales_en_ecosistemas_estrat%C3%A9gicos.pdf

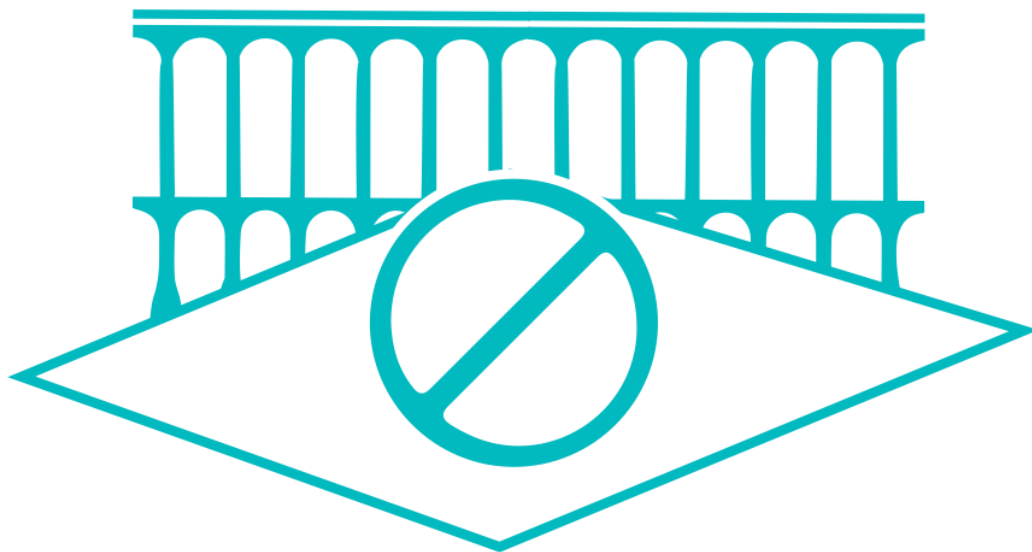
There is no evidence linking these incidents to the company or its employees. It is nevertheless notable that all the victims were social activists who were critical of Smurfit Kappa's operations and that the perpetrators have never been identified or prosecuted.

“We are united with our colleagues. Peasants, Nasa and Misak companions. Here we are resisting together. [...] We work united together.”

Interview with a member of the Misak community, February 2022

57 Carlos Alfonso Victoria Mena, “Resistencia social ante las plantaciones forestales comerciales en el Suroccidente colombiano: el caso de Calima, El Darién, 1982 – 1997” en Aceneth Perafán Cabrera y Jorge Enrique Elías Caro (comp.), *Conflictos ambientales en ecosistemas estratégicos. América Latina y el Caribe, Siglos XIX – XXI*, Cali, Universidad del Valle, 2017. https://www.academia.edu/34593797/Conflictos_ambientales_en_ecosistemas_estrat%C3%A9gicos_pdf

Sociocultural dimension: rights of the Misak people



Sociocultural dimension

The ancestral territory of the Misak people matches the territory in which the company is operating, which has forcibly displaced Indigenous communities.

The company has prevented families from accessing aqueducts.

Sociocultural dimension: rights of the Misak people

The Misak people have for years been in conflict over land with the transnational Smurfit Kappa. The ancestral domain of this Indigenous people is the Pubén Valley, located around Popayán (Cauca), whose inhabitants date back to a thousand years before colonisation, as stated by the National Indigenous Organisation of Colombia.⁵⁸ As confirmed by the former governor of the Misak people, the Misak people are the legitimate owners of this land, in terms of oral and written memory, archaeological remains and biographical history.⁵⁹ However, this Indigenous community has been displaced from its ancestral domain by the factors discussed above: they have no title deeds and the land has been granted to the company by the government or bought by extensive landholders.

The Misak people are concentrated in the Cauca, where 91.3 per cent of the population (19,244 people) live, followed by Valle del Cauca with 3.5 per cent and Huila with 3.3 per cent. These three departments account for 98% of the population. The Misak people have achieved the legalisation of twenty-two Indigenous territories recognised by the Colombian government, also known as *resguardos* (reserves).⁶⁰ Nine of these Misak Indigenous reserves are located in the department of Cauca. As they are unable to house the entire Misak population living in the department, communities living outside these reserves are asking for them to be extended. They are also trying to influence the government to recognise new reserves and legalise more territories as the collective property of the Misak people.

The current reserves represent only a small part of what was the ancestral domain of the Misak people. The problem is that there is very little room for extension: in the east, there are protected areas; in the north, there is sugarcane monoculture and the historical presence of Afro-descendant communities; in the west, the land borders Smurfit Kappa's monoculture forests.⁶¹ "The Misak have always populated these places", is how the loss of ancestral domain is explained by a Taita, the term for an elder in the Misak community: "The landowners took over our land. They got rid of us and pushed us towards the mountains".⁶² Indigenous peoples refer to this loss as a historical debt of the Colombian state for breaching its constitutional rights. And they hoped that there would be restitution, albeit partial, with the Land Fund, which - as we saw before - has barely been implemented.

58 Organización Nacional Indígena de Colombia (ONIC), "Pubense": <https://www.onic.org.co/pueblos/2221-pubense> [consulted: April 21, 2022].

59 Interview conducted by a Colombian activist, in February 2022, with members of a Misak community in resistance.

60 According to Decree 2164 of 1995 (Chapter 5: Legal nature of Indigenous reservations, management and administration), "Indigenous reservations are the collective property of the indigenous communities in favour of which they are constituted and in accordance with articles 63 and 329 of the Political Constitution, have the character of inalienable, imprescriptible and untouchable. They are therefore configured as a legal and sociopolitical institution of one or more indigenous communities, which have the collective property title of that territory and also control over its management and regulation autonomously.

61 Leonardo H. Salcedo García, *Construcción de territorialidades campesinas en Cajibío, Cauca*, Cali, Universidad Javeriana, 2017. <https://repository.javeriana.edu.co/bitstream/handle/10554/34159/SalcedoGarciaLeonardoHeladio2017.pdf>

62 Interview conducted by a Colombian activist, in February 2022, with members of a Misak community in resistance.

The municipality of Cajibío (Cauca) is an example of the major inequality in land tenure and the social and economic tensions that this generates. In this municipality, the Misak people are organised around the Kurak Chak council and their main demand is to create a legalised reserve in the districts of Capilla, Túnel and La Venta. In addition, demands for land plots not included in large estates sometimes create disputes between Indigenous, Afro-descendant and peasant populations. However, local communities are facing a conflict over the extension of Smurfit Kappa's agro-industry, mining and forest plantation businesses.⁶³

The multinational started Colombian operations more than twenty-five years ago by purchasing land near the Pan-American Highway to streamline the transport of harvested wood. In 2017, a total of 2,700 hectares of land were registered in its name.⁶⁴ One mechanism used by Smurfit Kappa to expand is the joint venture agreement, which the company describes as "productive partnerships". This is a very beneficial strategy for the company, as it gets wood at a low price and separates itself from any land conflicts in the area.

In addition to land grabbing, as shown in the description of the environmental dimension of the impacts, there is the social and environmental damage caused by the spread of pine and eucalyptus plantations. Commercial monoculture forests disrupt the functioning of ecosystems and house a minimal part of the biodiversity of tropical habitats. Therefore, the absence of birds is one of the key indicators of environmental health deterioration.

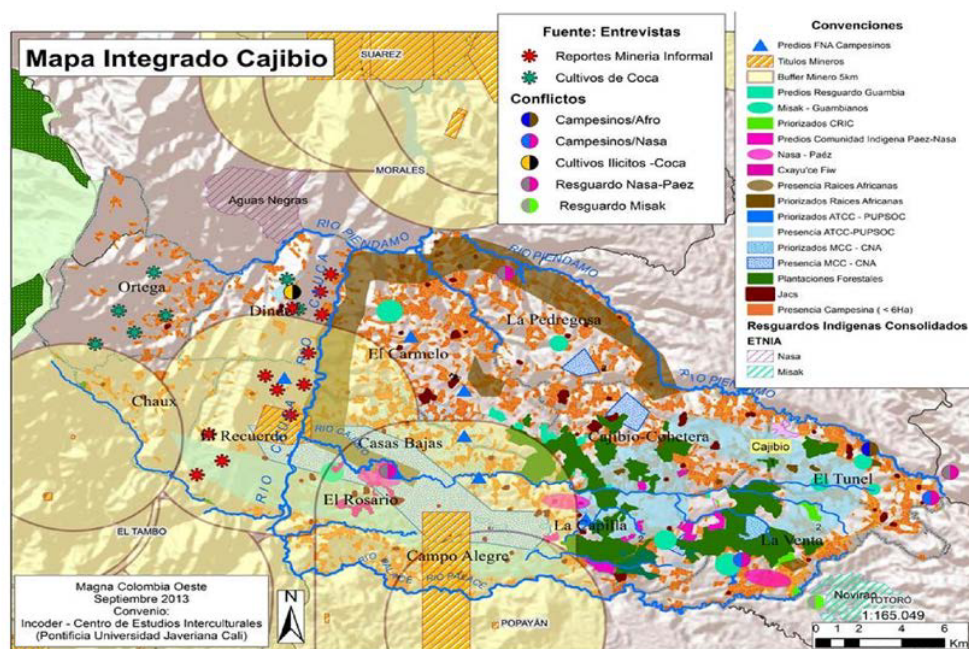
Along with this, the company has built pipelines to redirect water to its plantations, thereby reducing access to water for agricultural use by peasant, Indigenous and Afro-descendant populations.⁶⁵ Added to this is the decreasing availability of water, especially outside the rainy period, as well as the loss of soil fertility and its inability to sustain food-producing agriculture. These impacts are more severe in an area such as the subdivision of Cajibío, where about 70% of the productive land is used for pine and eucalyptus monoculture.⁶⁶

63 María José La Rota Aguilera y Leonardo Heladio Salcedo García, *Análisis de la estructura de la propiedad en el municipio de Cajibío (Cauca)*, Cali, Incoder – Centro de Estudios Interculturales, Universidad Javeriana, 2013. https://www2.javerianacali.edu.co/sites/ujc/files/node/field-documents/field_document_file/informefinal_analisis_de_estructura_de_la_propiedad_en_el_municipio_de_cajibio_nov20.pdf

64 Leonardo H. Salcedo García, *Construcción de territorialidades campesinas en Cajibío, Cauca*, Cali, Universidad Javeriana, 2017. <https://repository.javeriana.edu.co/bitstream/handle/10554/34159/SalcedoGarciaLeonardoHeladio2017.pdf>

65 Leonardo H. Salcedo García, *Construcción de territorialidades campesinas en Cajibío, Cauca*, Cali, Universidad Javeriana, 2017. <https://repository.javeriana.edu.co/bitstream/handle/10554/34159/SalcedoGarciaLeonardoHeladio2017.pdf>

66 Based on information provided by a former Misak governor interviewed by OMAL in March 2022.



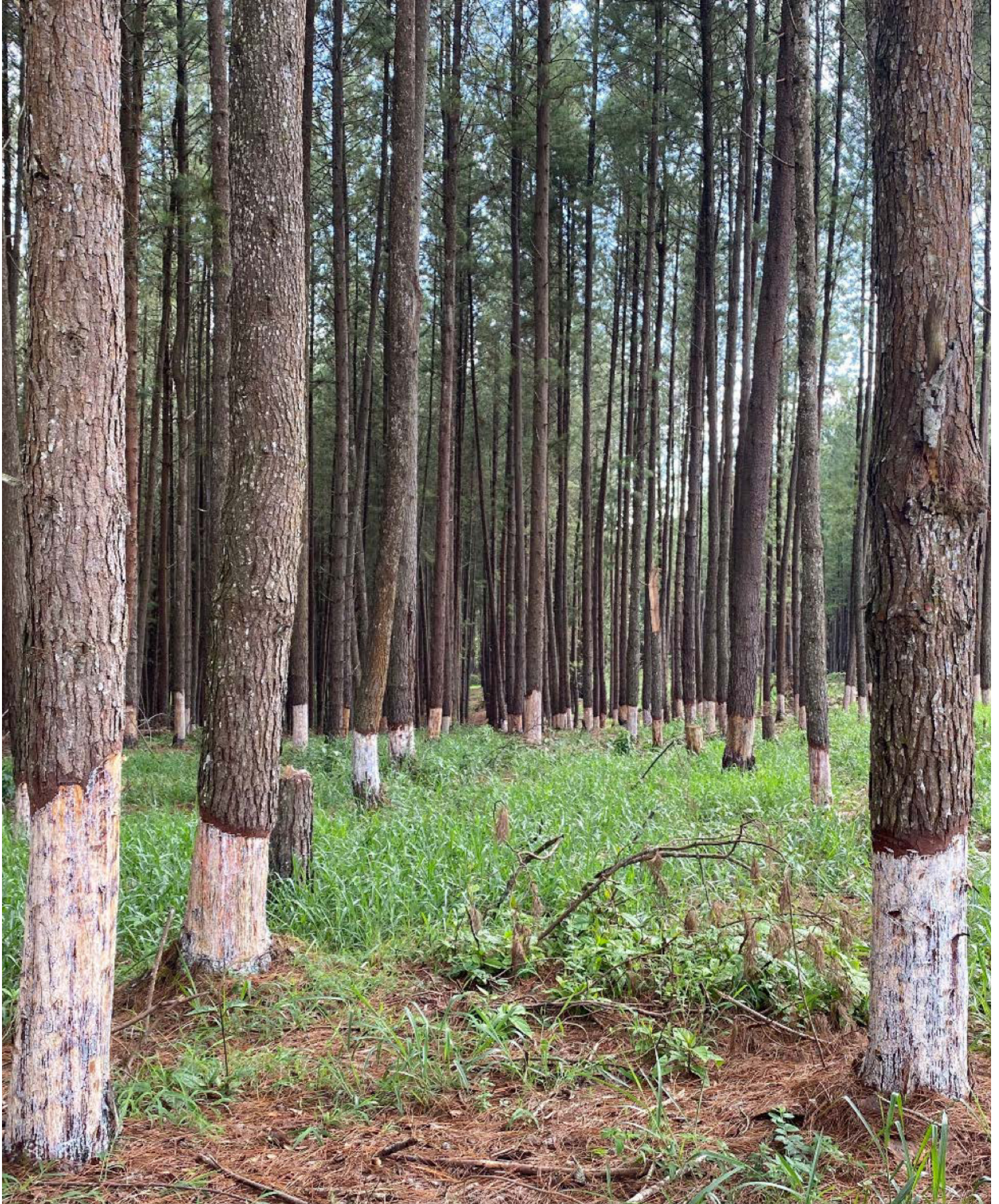
Source: María José La Rota Aguilera and Leonardo Heladio Salcedo García, Análisis de la estructura de la propiedad en el municipio de Cajibío (Cauca), Incoder – Centro de Estudios Interculturales, Universidad Javeriana, Cali, 2013.

The map represents the municipality of Cajibío delimited to the north by the Piendamó River and to the south by the Palace River. It displays abundant information on the territorial conflicts between economic interests for the control and exploitation of resources, farming and Indigenous communities trying to stop this exploitation and reclaim land, and the disputes between these same communities over the recognition of ancestral vs. farming territory.

The map shows how the Smurfit Kappa forest plantations (green patches) overlap with the territory used and prioritised by farming organisations (ATCC - PUPSOC, MCC - CNA) and how they are bordering with Misak and Nasa communities.

“During droughts, the pine tree and the eucalyptus drain everything. [...] During droughts, there’s nothing, not even the birds come out to sing. [...] We are working for them as well, so that there may be food for the birds.”

Interview with a member of the Misak community, February 2022



Photography: Maho Hidalgo
Hundreds of pine trees with their bark ripped at the base, symbol of the Misak community's resistance. This is done with machetes. It is a long and physically demanding process. Approximately 50 trees per day can be cut by one person. Taken January 24th, 2022

3. Popular resistance

The multitude of experiences of popular resistance against megaprojects, as well as the knowledge of the patterns and impacts that companies develop,⁶⁷ allow the characterisation of a series of elements for collective action. As part of its resistance to megaprojects, the Indigenous movement of Colombia promotes the recovery of ancestral territory and memory through different approaches: a proactive alternative narrative (recovery of memory and ancestral territory); the promotion of direct democracy (participation of the communities in the decision-making of social actions to protect the territory); and the development of an integral resistance (mobilisation, communication, institutional influence, agricultural production alternatives) that is also sustained over time and, therefore, flexible to be able to endure.

In order to strengthen their process of defending their territory and human rights, they have also generated security strategies for leaders, articulated through various agents present in the territory (Nasa people and farmers), as well as in coordination with other Indigenous communities and with international organisations to advocate at Smurfit Kappa headquarters.

In recent years, accusations of colonial thinking and oppression against Indigenous peoples have grown in particular, with the most notable protests seeing symbolic colonisation-related objects being torn down. In Cauca, this process was led by the Indigenous Authorities of the Southwest, the Association of Indigenous Councils of Northern Cauca and the Regional Indigenous Council of Cauca, together with various social organisations. In this context, the statue of the coloniser Sebastian de Belalcázar, located in the pyramid of Tulcán in Popayán, a sacred site for the Misak people, was torn down in 2020.

A year later, on 27 July, 2021, the Misak and Nasa Indigenous peoples in the Indigenous Authorities of the Southwest, together with the peasant farming population, called for actions with a view to "recover land and memory to recover everything". They set out to promote the autonomous and collective recovery of the ancestral domain of the Indigenous people by occupying estates belonging to the transnational Smurfit Kappa. The main land recovery process in the territory is located in the municipality of Cajibío, although it is also taking place in the rural area of the cities of Popayán and Tambo, all of them in the department of Cauca. The long-term goal is a legal transfer of territories currently owned by the Irish paper company to the Misak community. To this day, the occupation of Smurfit Kappa land in Cajibío is a space of resistance for the Misak people and peasant farming communities.

67 Gonzalo Fernández, *Alternativas al poder corporativo*, Icaria, Barcelona, 2016. https://omal.info/IMG/pdf/alternativas_al_poder_corporativo.pdf

The company has responded to protests chiefly via two channels: co-option and repression.⁶⁸ With the former, the intention appears to be to divide and undermine the protests. This involves land only being offered to the peasant farming population and in an area very close to land occupied by the Misak people. The latter has unfolded with the criminalisation of protests, officially reporting social leaders who are identified by means of technological devices such as drones. The company has also increased private security, damaging the roads that connect the resistance zone and meaning that the only way of communication is a footpath controlled by the army.⁶⁹

The Colombian government's support of this strategy of repression has proved fundamental. Although there are international guarantees for land claims by Indigenous peoples,⁷⁰ the public authorities prioritise the defence of private property and the company's interests. The social conflict is seen by the public authorities as a matter of national security, which is why "the security forces have been deployed to protect this privatised territory, ultimately acting as other types of company employees to provide security", as pointed out by the former Misak governor.⁷¹

However, the protest continues in Cajibío to maintain the Misak and peasant farming community's zone of resistance on land owned by the paper company. In order to garner international support to better protect the Misak protests, the SumOfUs community launched a signature campaign in 2022 titled "Smurfit Kappa: stop destroying Indigenous land in Colombia".⁷² As a result, more than 150,000 signatures have been collected in support of defending the Misak and Nasa territory against the Irish company's forestry business. Communities and peoples in resistance are convinced that recovering the land is an essential step towards ending the privileges of the few and advocating food sovereignty, education and the economies of the working class. For the Misak people, this means building a dignified future for their communities: "The life plan of ethnic peoples is planned out over several generations. Generations will flourish here in dignified conditions to recover the land of our ancestors".

68 Based on information provided by a former Misak governor interviewed by OMAL in March 2022.

69 Information on criminalisation and increased security comes from a former Governor Misak interviewed by OMAL in March 2022.

70 Collected in the Declaration on the Rights of Indigenous Peoples approved by the United Nations General Assembly on September 13, 2007. https://www.un.org/esa/socdev/unpfii/documents/DRIPS_es.pdf

71 Based on information provided by a former Misak governor interviewed by OMAL in March 2022.

72 SumOfUs, "Smurfit Kappa: stop destroying Indigenous land in Colombia": <https://actions.sumofus.org/a/smurfit-kappa-colombia-vete-del-cauca>



Photography: Maho Hidalgo
Falling trees warning, close to El Pital, every few kilometres along the road.
Taken January 24th, 2022

4. Lines of action

For greater context, the following section highlights how multinationals operate in the development of megaprojects and how Smurfit Kappa follows these same patterns of action with its operations in Colombia.

The systematic appropriation by transnational corporations of territories and natural assets, which takes place throughout the different phases of the value chain, is reflected in the spread of megaprojects around the world. Large-scale monoculture forests are one of the typical cases of megaprojects, as they reconfigure and produce space⁷³ through the corporate appropriation of territories and natural resources, with the aim of inserting them into dynamics of capital accumulation from local to global. In the case of Smurfit Kappa in Colombia, the size of the facilities and plantations for cardboard production, and the volume of investment needed by the company to carry out its operations, are other factors that help define its business activity as a megaproject.

Based on research carried out over the last two decades,⁷⁴ most megaprojects have the logic of capital accumulation as the main hallmark and share a series of common lines of action, as shown in the table below.



Photography: Maho Hidalgo
Panoramic land picture of cut pine trees close to Cajibío, Cauca.
Taken January 25th, 2022

⁷³ Edgar Talledos- Sánchez, "¿Qué es un megaproyecto?", en Aurora F. Zacauala et al., *Planes geoestratégicos, securitización y resistencia en las Américas*, Macapá, UNIFAP, 2018.

⁷⁴ Gonzalo Fernández, Erika González, Juan Hernández y Pedro Ramiro, *Megaproyectos. Claves de análisis y resistencia en el capitalismo verde y digital*, OMAL, 2022.

Table 1. Corporate patterns of megaprojects.

Opacity

Global chain of the megaproject: Corporate hydra made up of multiple and diverse companies under a specific but opaque operational control, which as a whole participates in and is responsible for the financing, guarantee, execution, contracting, subcontracting and development of the business initiative.

Development of political contention: public-private partnerships, lobbying, policy changes, co-option, corruption, aid at source (corporate internationalisation) and destination, support from international economic institutions, etc.

Official story: Strategy of masking possible impacts, within a story of progress and development that accompanies the initiative to legitimise its progress.

Multi-dimensionality

Legitimising strategy: A strategy that combines economic, cultural, communicative, political and legal actions, depending on the time and market climate. It implements an approach looking for social and political legitimacy based on corporate social responsibility (CSR) programmes, communication and marketing techniques, funding of associated research, etc.

Coercive strategy: Whether the legitimacy approach is insufficient, or whether used in a complementary way, a repressive and violent logic can unfold at the same time, which coincides with the social and legal criminalisation of leaders, the co-option and division of communities, non-compliance with current regulations, and even the use of violence (either directly or by influencing the repressive and militarised dynamics of the public authorities).

Adaptability

Flexible time-based approach: Its strategy, protected by its asymmetrical power, can be focused both on the short term with purely speculative goals and on the long term even with legal setbacks. This means that the company's actions are adapted to the ultimate goals of capital accumulation.

Source: Compiled by authors.

In line with the theoretical frameworks described above, in the case of Smurfit Kappa in Colombia, we can see how the company is managed with a combination of strategies based both on opacity (subsidiaries, contractors and land tenants make up a complex corporate structure) and on multidimensionality (support from government institutions for the development of business; strengthening the discourse of progress, employment and well-being associated with foreign investment; legitimising strategy based on CSR policies and certifications, together with a strategy of coercion and criminalisation within the social and armed conflict that has been taking place in Colombia for the past six decades), adapting its corporate strategies depending on the situation with the aim of maximising profits.

Opacity: complex corporate structure

The company has been expanding its operations by means of major land concessions that it has been completing with the purchase and rental of farms, as well as with joint venture agreements. This latter way of farming the land means that the company is not responsible for what happens on the plantation because it is not the owner, although the use and the conditions are managed by the firm.

In this mode of operation not based on the direct acquisition of land, the company draws up a contract with owners of small or medium plots for the production of pine and eucalyptus. They hand over the land to the corporation and Smurfit Kappa provides the supplies, machinery and manpower needed for production. As a result, one third of all the wood produced is kept by the owner and the rest goes to the company. What tends to happen, though, is that all the production goes to the paper company because it is easier for the farmer to sell their wood to the company, even at low prices, as they do not have to look for other buyers or transport it.⁷⁵

In addition, as it is in intensive use over many years (from eight to fifteen), the soil is not suitable for agricultural production because over-cultivation and high use of agrochemicals lead to very high levels of degradation. This means that the landowners may even end up selling their farm to the company at a lower price because the soil is of poor quality.⁷⁶

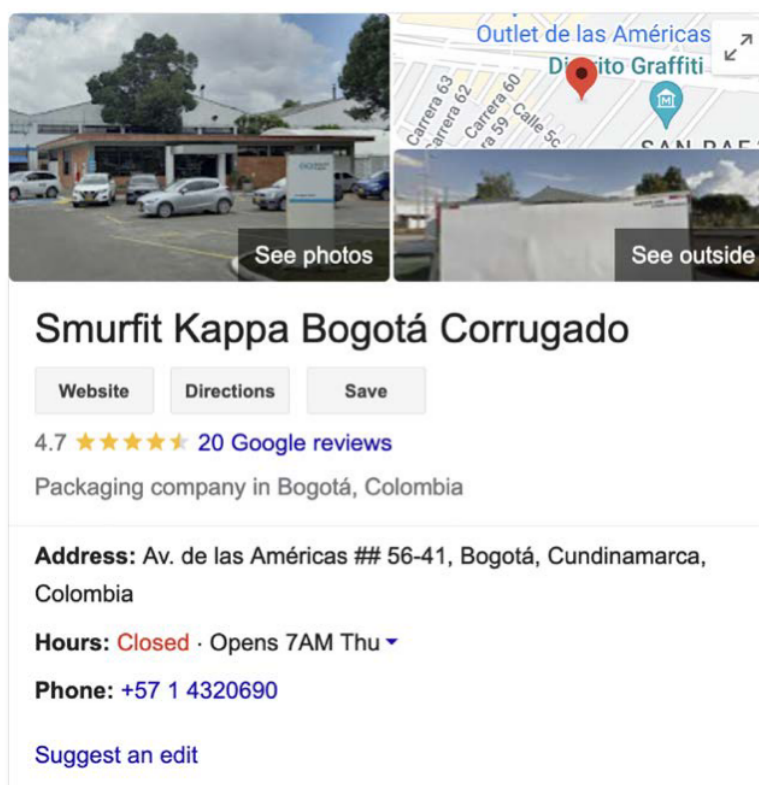
75 Leonardo H. Salcedo García, *Construcción de territorialidades campesinas en Cajibío, Cauca*, Cali, Universidad Javeriana, 2017. <https://repository.javeriana.edu.co/bitstream/handle/10554/34159/SalcedoGarciaLeonardoHeladio2017.pdf>

76 Diego Alejandro Cardona, "Desiertos verdes del suroccidente colombiano", *Biodiversidad, sustento y culturas*, July 24, 2009. <https://grain.org/es/articulo/entries/1247-desiertos-verdes-del-suroccidente-colombiano>

Multidimensionality: public-private partnership

Financial capacity, proximity to governments and the ability to lobby for policy changes and fiscal incentives have been key factors in the company's expansion within the country. The Irish transnational has amassed political and economic power by controlling the international cardboard market and through its proximity to the states that are the source of investments. Former Irish Prime Minister Albert Reynolds, who was also Minister for Finance, Minister for Industry and Energy, and Minister for Transport, was elected to the company's executive board in 1996.⁷⁷ This is just one example of the 'revolving doors' that interconnect the public and private spheres and are used to forge relations between governments and companies.

Today, the company continues with this same strategy of furthering its relations with governments. Its board of directors includes Ireland's former Permanent Representative to the United Nations and Mexico's former Minister for Foreign Affairs.⁷⁸ In the case of Colombia, the Irish consulate in Bogotá once shared an address with Smurfit Kappa's head office, and the email addresses of its diplomatic representatives contain the domain of the transnational company.⁷⁹



⁷⁷ "Reynolds joins Smurfit board", The Irish Times, February 3, 1996. <https://www.irishtimes.com/business/reynolds-joins-smurfit-board-1.28077>

⁷⁸ Smurfit Kappa, "Board of Directors": <https://www.smurfitkappa.com/about/corporate-governance/board-of-directors> [consultado: 21 de abril de 2022].

⁷⁹ The data of the Irish consulate in Bogotá was searched to find out the contact form, in case it was necessary to consult data or any information. The images (Annex 1) show the information provided by internet search engines on March 3, 2022. This information cannot currently be found on the web. The Google Maps screenshot, taken on April 19, 2022, shows that the address of Smurfit Kappa Bogotá Corrugado is the same as the Honorary Consul in Colombia, which can be found at <https://www.dfa.ie/es/embajada-de-irlanda/mexico/acercadenosotros/elequipoirlandaen-mexico/discoverytabbody2/>. This also shows that the email of the consul and the assistant belongs to the Smurfit Kappa domain.

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This public-private partnership is bolstered in Colombia through channels such as the lobbying that it exercised until the 2000s with the Colombian Association of Reforesters (now in liquidation) and now with the National Federation of Timber Companies. The company managed to get this pressure group to have a right to participate and vote in the National Environmental Council, a position that no other production company holds. It is also bolstered through the financing of the electoral campaigns of presidential candidates, including Juan Manuel Santos.⁸⁰ The links with Colombian governments are shown in the book published by the company on the fiftieth anniversary of its arrival in the country. For instance, the commemorative photographs in the book include government presidents, political representatives and senior military officials.^{81.82}

Either directly or by lobbying, the company has managed to have laws amended and approved to favour its business, even if they are detrimental to environmental and social protection.⁸³ This was the case with Forestry Incentive Certificates. Created in 1994, these are incentives to encourage the planting of commercial trees as "a recognition by the Colombian government of the positive external factors of reforestation in terms of the environmental and social benefits generated". With them, according to the former Minister for Agriculture Cecilia López Montaña, "the idea was to encourage reforestation in

80 Camilo Alzate, "La papelera que devora Colombia", *Colombia Plural*, February 14, 2017. <https://colombiaplural.com/carton-devora-colombia-smurfit-kappa/>

81 Hernán Cortés Botero, *Medio siglo sembrando el porvenir*, Smurfit Cartón de Colombia, 1995.

82 A copy of the book published by the company has been searched in different documentation centres, but it has not been possible to find a printed copy. The information about who appears in the book is from Camilo Alzate, "La papelera que devora Colombia", *Colombia Plural*, February 14, 2017. <https://colombiaplural.com/carton-devora-colombia-smurfit-kappa/>

83 Joe Broderick, *El imperio de cartón: impacto de una multinacional papelera en Colombia*, Planeta Colombiana, Bogotá, 1998. <https://www.ellibrototal.com/ltotal/?t=1&d=6921>

the country with the purpose of supplying the industry with timber products from cultivated forests".⁸⁴ This means that reforestation companies achieve a 40% to 50% reduction in the cost of tree planting.

Subsequently, these benefits for the conservation of natural and low-intervention forests have also been acknowledged. As a result, the government's policy of environmental incentives gives equal status to the functions that can be performed by species introduced for commercial purposes with those native to natural forests. The same logic is applied in the National Tax Statute, which includes an income tax exemption of up to 20% for investments into reforestation certified by public environmental authorities.

Multidimensionality: legitimacy and coercion

In Colombia, where it has received numerous public accusations about the socio-environmental impacts of its plantations, Smurfit Kappa says that it only occupies soil-degraded territories and that its forest crops help protect the environment.⁸⁵ However, economic interest prevails over the conservation of ecosystems of major natural value, as the planting of pine and eucalyptus monocultures does not recover natural ecosystems and multiplies the negative environmental impacts on soil, water and biodiversity.

The company also describes itself as an entity that contributes to the social well-being of the communities where it operates. Furthermore, it claims to have always acted in collaboration with the local population, contributing to the creation of decent jobs and the promotion of social programmes that are said to have benefited more than two thousand families. This claim is questioned by the Misak people, whose accusations were published by the Business and Human Rights Resources Centre in 2001 and 2002.⁸⁶ Local communities point out that the company engages in land grabbing through large estates, which exacerbates land conflicts with peasant, Indigenous and Afro-descendant populations. On an environmental level, the company is depleting water sources and making it impossible for the native forest to recover.

Alongside this strategy of social legitimacy, given that the affected communities and social organisations have not responded positively to Smurfit Kappa's CSR projects and have maintained and intensified their accusations, the emergence of a coercive strategy has also been observed. Coinciding with corporate interests, although in most cases without a direct link to the company, there has been an intensification of a repressive approach that criminalises the leaders

⁸⁴ Joe Broderick, *El imperio de cartón: impacto de una multinacional papelera en Colombia*, Planeta Colombiana, Bogotá, 1998. <https://www.ellibrototal.com/ltotal/?t=1&d=6921>

⁸⁵ Carta de respuesta de Smurfit Kappa al Business and Human Rights Resources Centre, August 17, 2021: https://media.business-humanrights.org/media/documents/Smurfit_Kappa_Comunicado_Invitacion_Human_Rights.pdf

⁸⁶ Press releases and news published by the Business and Human Rights Resources Center in relation to the impacts of Smurfit Kappa in Colombia can be consulted here: <https://www.business-humanrights.org/es/empresas/smurfit-kappa-cart%C3%B3n-de-colombia-part-of-smurfit-kappa/?-companies=759475>

who oppose the company's activities and which has even resulted in the use of violence. Colombia has the highest number of murders of environmental activists in the whole world.⁸⁷



Photography: Maho Hidalgo
Hundreds of felled trees and work zones with chainsaws
and workers can be seen along the road.
Taken January 24th, 2022

⁸⁷ According to Global Witness data, three-quarters of recorded lethal attacks against environmental and land activists in 2020 happened in Latin America. Some 165 people were killed in the region for defending their land and the planet, out of a total of 227 deadly attacks worldwide. Colombia was the most affected country in the world, with 65 murders recorded in 2020. For more information, see the Global Witness report, Última línea de defensa. Las industrias que causan la crisis climática y los ataques contra personas defensoras de la tierra y el medioambiente, 2021. <https://www.globalwitness.org/es/comunicados-de-prensa/global-witness-reports-227-land-and-environmental-activists-murdered-single-year-worst-figure-record-es/>

5. Conclusion and recommendations

This report has attempted to outline the main environmental and human rights violations committed by the Irish company Smurfit Kappa since it started its operations in Colombia, and more specifically the harms inflicted against the Misak people.

This report shows that in spite of its public ESG policies and Colombia's regulatory framework, the company fails to respect either. It is also clear that, despite the several attempts by the people impacted by the company actions and operations to halt such abuses, the Smurfit Kappa senior management seems to opt to operate in an abusive, exploitative and often illegal modus operandis.

Since September 2021, SumOfUs and the Latin America Solidarity Centre (LASC), have been campaigning alongside the Misak people in Colombia to expose the severity of the harm that Smurfit Kappa's operations inflict on their community, and wholeheartedly join their call to fight for justice.

SumOfUs, OMAL and LASC ask Smurfit Kappa to restore the territory and return the lands to the Misak, Nasa and peasant communities, in order to put an end to the negative environmental impacts of their operations and return ownership to the groups to which the lands belong.

We also demand that the Irish and Colombian authorities use all the mechanisms at their disposal to ensure that the company stops violating the rights of Indigenous peoples and causing further environmental damage.

Annex 1 - Tables

Table 3. Collective territories of legalised and requested Misak ownership.

Situation	Name	Registry	Date of request/ legalised	Department	Municipality
Legalised	Ambaló (shared with the Nasa people)	10165	12/11/1991	Cauca	Silvia
	Kizgo (shared with the Nasa people)	10184	18/12/1992	Cauca	Silvia
	Guambia	10174	09/02/1993	Cauca	Silvia
	Nam Misak	10428	17/08/2006	Cauca	Silvia
	La María	10193	03/10/1997	Cauca	Piendamó
	Misak Piscitau	10197	29/11/2012	Cauca	Piendamó
	La Bonanza	10166	17/08/2006	Cauca	Morales
	San Antonio	10161	28/08/2012	Cauca	Between Piendamó and Morales
	Novirao	10202	10/11/1992	Cauca	Totoro
	La Gaitana (shared with the Nasa people)	10423	21/06/1994	Huila	La Plata
	Nuevo Amanecer – La Meseta	10429	10/04/2003	Huila	Argentina
Legalisation request	Misak Ovejas de Siveria	10862	14/04/2011	Cauca	Caldono
	Kurak Chak	10857	25/04/2011	Cauca	Cajibío
	Extension of La María	10193	31/03/2017	Cauca	Piendamó
	Extension of Misak Piscitau	10197	08/07/2019	Cauca	Piendamó
	Extension of Ambaló	10165	28/05/2019	Cauca	Silvia
	Extension of Guambia	10174	24/08/2019	Cauca	Silvia

Source: Agustín Codazzi Geographical Institute.

Annex 2 - Tables

Table 4. Keys to popular resistance.

1. Proactive and intersectional alternative narrative	Expanding democracy Multidimensionality and resilience Sectoral and geographical organisation
2. Emphasis on research and communication	
3. Promotion of direct and participatory democracy	
4. All-embracing resistance	
5. Flexible resistance	
6. Security strategy for activists, advocates and communities	
7. Legal advocacy strategy	
8. Organisation of various actors in the domain	
9. Multi-scale organisation in sectoral networks	
10. International chain of the megaproject	

Source: Compiled by authors.



Erika González and Pedro Ramiro
April 2022

Photography: Maho Hidalgo
Close-up of the bark, cut and exposed to humidity, rendering it unusable as raw material.
Taken January 24th, 2022