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Collective titling and the process of institution building: Common property regime in the Colombian Pacific

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Over the last decade the Colombian Government has assigned collective land titles, more than 5 million hectares, to Afro communities along the Pacific Coast. A total of 157 communities had received collective land titles in six departments of the country, benefiting more than 60.000 families. This process differs from a traditional agrarian reform because the redistribution of land has not been oriented toward private individuals but to communities with historical presence in those territories. Thus, community members do not have access to individual property rights but to the collective titles assigned to each community.

In this context, the collective titles could be classified as pure common property regimes, in which only members have rights of entry, withdrawal and also full rights of management and exclusion of nonmembers (1). This is different from an open access regime, where due to the absence of well-defined property rights, any person can potentially access and withdraw the resources (2).

The collective titles in the Afro-Colombian communities include four of the five possible rights: access, withdrawal, management and exclusion (3). Afro-Colombian communities do not have the right of alienation, which implies that the collective titles cannot be sold or bought in the national land market.

Well defined property rights, even if collective and without the alienation rights, should create an incentive for community members to guard against the encroachment by external intruders and to make investment in the resources (4). However, these de jure rights do not guarantee the conservation or sustainable use of the resources unless internal appropriation and management rules effectively regulate internal users (5). Whether a community can actually accomplish this task is an open question.

We examine the change in the property right regime in rural Afro Colombians Communities of the Pacific Coast. In particular, we explore the institutional and managerial developments that have occurred in the Afro communities of rural Buenaventura, Department of Valle del Cauca. We conduct an institutional analysis where we do not analyze the causes or evolution for the new property right regime but its consequences for the management of natural resources and the territory.

In our analysis we include Afro communities that have received collective titles and Afro communities that are currently applying for the title. We survey community leaders to understand if the communities have -- or have not -- evolved rules and procedures to manage the collective land after the change in the property right regime (Ley 70). We interviewed a total of 50 leaders from titled communities and 24 leaders from non-titled communities. The titled communities in Buenaventura represent 18% of the total titled communities at the national level with almost 340,000 hectares beneficiating more than 6.000 families.

This paper illustrates how the collective titling has changed the region's political landscape and the local environmental

governance in the Afro Colombian Communities. The formal collective title did not replace informal individual property rights (within the collective title) and those rights are still respected and supported by customary laws (e.g. the individual right of alienation for farm land). Thus, the new system implies a complex regime in which different layers of property rights coexist within the new formal title.

The formal property rights created the incentives and legal tools to guard against the encroachment by external intruders and promoted the definition of new rules and procedures to manage the resources. Here, we focus on the rules and procedures developed for the management of timber exploitation.

In 64 % of titled communities both leaders claim that the Council Board has defined one or more rules to manage timber exploitation. The most common reported rules are size requirements, prohibition of particular species for commercialization, explicitly banned the exploitation done by outsiders or complete ban of timber exploitation done by any person -insider or outsider. A striking result is that non-titled communities have also defined new rules for timber exploitation. In 69% of non-titled communities both leaders claim that the Council Board has defined one or more rules to manage timber exploitation. Thus, not only the legal right (the title per se) but also the process of titling and more importantly the formation of the Community Council and Community Board have promoted new rules to manage the forest.

The process of titling seems to have fostered a process of empowerment that, among other things, has brought to the attention of local leaders the importance of managing the territory. New rules have been also designed for other activities such as fishing, mollusk-harvesting, mining and hunting in both titled and not titled communities. However, the formalization of rules does not translate yet in a formal sanctioning and monitoring system. The consolidation of a local participatory government implies a social and cultural process based on empowerment, training and community organization that won't occur immediately. The role of the external state environmental authority is crucial in this process and in order to succeed in the effort to decentralize natural resource management the joint management strategies need to be clarified (6).



The role of external forces such as armed groups and the expansion of illicit activities are also affecting the process of community building. Communities haven't been able to control for the spread of illicit activities. Titled Communities have the legal instrument to fight the intrusion of legal companies with legal businesses. As a consequence of this,

communities can now more easily exclude outsiders. However, a legal title is not enough to fight illegal activities that have other logics and means to drive their business.

The design of new rules and procedures to manage the commons is an ongoing process. What we found today may rapidly change next year. Thus, the analysis of the effect of titling on the new institutions should also be a dynamic process. Our results are crucial to the understating of titling and should be taken as the benchmark or base line for future research.

María Alejandra Vélez is a Colombian Economist. Her research project was supervised by Dr. Dale Whittington, University of North Carolina at Chapel Hill (USA) and the Manchester Business School (UK).

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