



**The World Bank
and Colombia's
Territorial Development
Policy Financing:
*Whose land is it, anyway?***

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AUTHOR:

Carolina Juaneda

ADDITIONAL RESEARCH DONE BY:

Mayra Johana Tenjo and Vanessa Torres (Asociación Ambiente y Sociedad).

EDITING TEAM:

Ladd Connell and Margaret Federici

PEER REVIEWERS:

Petra Kjell

Jonathan Fox

Mariana Cepeda

Stephanie Burgos

Christian Donaldson

Andrés Fuentes Posadas

DESIGN:

Pictorial representation: Juliana Serrano

Photos: Asociación Ambiente y Sociedad

Graphic design: Shannon Thomas

For further information on the issues raised in this report, please contact Bank Information Center at:

1023 15th St. NW, 10th Floor,
Washington, DC 20005

Tel.: (202) 737-7752

Email: info@bankinformationcenter.org

www.bankinformationcenter.org

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Executive Summary

Colombia emerged in 2017 from an internal conflict with the Revolutionary Armed Forces of Colombia (FARC) that had lasted over half a century. The conflict has constrained Colombia’s development and left it vulnerable in political, socio-economic and environmental terms. Land use and land tenure were at the heart of some of the most complex social and environmental problems linked to the conflict. In late 2016, only weeks after the signing of the peace agreement, the World Bank approved a new loan¹ to Colombia through its Development Policy Finance (DPF) mechanism for US\$800 million. The development policy loan was made to support the country’s commitment to deal with longstanding issues around territorial planning², a key element of the peace agreement between the Colombian government and the FARC.

This report seeks to better understand the implications of some of the institutional reforms promoted by the Territorial DPF and elevate the main concerns of the indigenous and Afro-Colombian peoples around these issues. Also, it intends to contribute to a larger body of evidence that has highlighted problems with DPF. The report focuses mainly on these two ethnic groups as they represent two significant minorities that are historically marginalized. Although ethnic estimates vary widely, according to the 2005 census, the Afro-Colombian population accounted for 10.5% percent of the national population and the indigenous population, for 3.4% percent.³

The Territorial DPF documents do not address or mention any potential impacts on indigenous and Afro-Colombian communities in particular. This was a main motivation for this report, as the institutional reforms supported by the Territorial DPL seek to impact territorial governance, land rights and use, which will have significant downstream

consequences on these communities and their territories when implemented. Access to land for campesino communities and individual titling, particularly for women, are also critically important land rights issues.⁴

This investigation focuses on three of the eight required prior actions determined by the Territorial DPF in Colombia:

Prior Action 1: The Government has approved a comprehensive **property cadastre**⁵ policy, which: i) Redefines the roles and responsibilities of institutions and levels of government to separate regulatory and implementation responsibilities; ii) Defines standards and methodologies for surveying, recording, and valuation of properties to transform the fiscal cadastre into a multiple-purpose one; and iii) Mandates the updating of cadastral information of all the land parcels in Colombia.

Prior Action 2: The Government has established the institutional framework to, inter alia: i) implement access-to-land programs for rural productivity and equity, and ii) support the process for rural land formalization, through the creation of the National Land Agency (ANT).⁶

Prior Action 3: The Government has strengthened the institutional framework for rural development through the creation of the Rural Development Agency (Agencia de Desarrollo Rural) (ADR), which will plan, structure, co-finance, and implement rural development projects.

The analysis centers on these prior actions as they represent the major concerns in terms of potential implications of the policy reforms impacting land use and tenure for ethnic communities. The fourth prior action is less important from the ethnic perspective⁷ and the other four prior actions relate to budget and fiscal management.⁸

Café del mundo:

RECOMENDACIONES

PARA LOS ACTORES



FIGURE N1:

Recommendations from the workshop “Analysis of the impacts of World Bank lending for territorial development policy in Colombia” Bogotá, Colombia | February 20, 2018

Summary of Findings

DEVELOPMENT POLICY FINANCE

- In Development Policy Finance, impacts of the policy reforms occur after the money is fully disbursed and impacts depend on how reforms are implemented.
- World Bank operational policy (OP 8.60) fails to ensure mitigation of social and environmental impacts, especially those resulting “downstream,” i.e. as a consequence of the implementation of DPL-mandated laws or policies.

COLOMBIAN TERRITORIAL DPF

- The Territorial DPF did not establish mechanisms or provide information to ensure ethnic communities’ proper participation in the new institutional arrangements supported by the Territorial DPF.
- Lack of inter-institutional organization and coordination in the Government of Colombia (GoC) is exacerbating transparency and accountability issues.
- The CONPES 3859, which was a principal basis for the Territorial Governance DPF, does not include strong institutional mechanisms to address the predictable conflict between the protection of ethnic lands and the promotion of private land markets.

- CONPES 3859 is a plan to guide the ‘Ley de Estatuto Catastral’ that would govern a ten-year implementation process. This is mismatched with the timing of the disbursement of the DPF.
- The Territorial DPF document does not assess evidence regarding who was consulted, how and about what.
- Ethnic communities haven’t experienced improvements or particular benefits regarding collective land titling process and securing land tenure.
- There is a lack of consistent official data on land titling requests and the number of official *resguardos* and collective territories officially recognized.
- While addressing collective territories is critical, it is actually one illustration of a broader problem, which also applies to land for peasants who have individual plots, particularly women. Another is that much of the expansion of the extractive economic model that this DPF facilitates is most likely to occur in the Altillanura, Colombia’s rich, biodiverse savannah, the gateway to the Amazon on which the Amazonian biome depends.



Summary of Recommendations

WORLD BANK

- 1. Revise and strengthen DPF governing policies by harmonizing and aligning them with the new WB safeguard policy framework.**
- 2. Recognize the significant risks of land conflict in the Colombia Multipurpose Cadaster Project (P162594) and reflect these in Bank documents, including the Safeguards Data Sheet.**
- 3. Ensure robust environmental and social assessments for DPFs:** Guidance on DPF design should provide clear, mandatory criteria for assessing social and environmental risk and a country's institutional capacity to manage that risk.
- 4. Improve DPF transparency and disclosure:** To better understand the specific reforms and government actions supported by the World Bank's DPF operations, and the associated potential social and environmental risks, the DPF program document should disclose:
 - i. all DPF-supported laws and measures; and
 - ii. all current and planned investment projects related to the DPF operation.
- 5. Incorporate social and environmental governance in DPF reforms:** DPFs need to ensure that countries have adequate governance capacity to develop, implement, and enforce regulations and incentives for sound social and environmental management.
- 6. Hold, report, and act on inclusive consultation** to ensure legitimacy and likely achievement of DPF prior actions and triggers.
- 7. Provide for comprehensive forest protection:** The World Bank must ensure ex-ante DPF assessment of potential risks and impacts of land use change, including direct and indirect impacts to forests.
- 8. Provide additional financing to address the limitations in GoC institutional arrangements and capacity to implement community rights, both for indigenous and Afro-Colombian communities.** This includes addressing financial and technical limitations of the national and subnational government agencies with responsibility in this area. The \$100 million Multipurpose Cadaster Project loan could be designed to fill this need, evidenced by the shortfalls in Colombia's land reforms to date under the DPF.

GOVERNMENT OF COLOMBIA

The recommendations to the Government of Colombia are a result of the discussions that representatives of Ethnic Communities and civil society organizations had during the workshop that was hosted in Bogotá in February 2018.

- 1. Strengthen Institutions:** As this World Bank DPF has a main goal the institutional strengthening of the Territorial Policy in Colombia, the ethnic communities have two specific demands: i) an Ethnic Agency or Unit to monitor and advise on the multi-purpose cadastre law; and ii) an Ethnic Commission to ensure prompt and fair resolution of ethnic issues in the ANT and the Territorial Renewal Agency (ART).
- 2. Provide for participation of ethnic peoples in the processes of territorial governance to achieve a comprehensive vision.**
- 3. Collect information on the indigenous reserves and Afro-Colombian territories a) already granted and b) requested/in process to integrate into the cadastral system and map them.**
- 4. Recognize and apply collective land tenure as a mechanism to mitigate potential negative implications that CONPES 3859 could produce for Ethnic Communities.**
- 5. Address the requests that were submitted by the ethnic communities to ensure titling of the indigenous resguardos and collective territories for Afro-Colombian communities.**
- 6. Support ethnic communities with technical assistance and training.**
- 7. Improve the quality of information available for decision-making,** especially with regards to land use planning.
- 8. Strengthen local authorities and foster local participation in environmental management,** especially for Indigenous and Afro-Colombian communities that inhabit much of the country's forested areas.
- 9. Strengthen collective titling and protect the special characteristics of collective territories (inalienable, indefeasible, and non-marketable) in the implementation of the policies supported by the territorial DPF.**

I. General Background

HOW THIS REPORT WAS PREPARED

Because of time and budget limitations, this study does not pretend to be an exhaustive and rigorous research on the impacts of the DPF on ethnic communities and it is not based on a comprehensive, representative sample of the ethnic population. The information and analysis is a result of: a) desk review of secondary sources such as academic and legal documents and grey literature and a technical juridical analysis of the prior actions done in partnership with the Colombian NGO Asociación Ambiente y Sociedad (AAS), b) explorative field work done during the advocacy process for the inclusion of the Ethnic chapter and construction of criteria of the Framework Plan for the Implementation of the peace agreements, led by ethnic communities, c) interviews with ethnic leaders⁹, and d) workshop in held in Bogotá, Colombia¹⁰.

COLOMBIA'S PEACE AGREEMENT

In November 2016, after more than four years of intense negotiations, the Colombian government signed a peace agreement with FARC, ending the internal conflict that started in the mid-1960s.

The main historical causes, as well as the drivers of the longstanding internal conflict, were rooted in economic and social inequalities and the concentration of land in the hands of a small minority. How land has been occupied, defined, and utilized has also aggravated environmental damage, especially in the conflict areas¹¹. Moreover, since the state presence was limited in conflict zones, armed groups, as well as drug cartels and paramilitary groups controlled the use of land and production practices. As a result, the conflict generated unbalanced growth between rural and urban areas, which increased internal migration and forced displacement. Information about victims and victims of displacement also vary widely. According to official data, it is estimated that approximately 7,3 million people have been forcibly displaced¹² and at least eight million hectares of land abandoned or forcibly appropriated due to the conflict.¹³

The peace agreement contains six main chapters that target some of the core development problems in Colombia:

1. The Comprehensive Rural Reform which seeks to set the ground for “the transformation of rural Colombia” addressing the unbalanced economic and social development between rural and urban areas;
2. Political participation to “strengthen pluralism and citizen participation”;
3. End of conflict “to ensure the final termination of hostilities”;
4. Solution of the problem of illicit drugs “to give a definite solution to the problem of drugs”;
5. Agreement regarding victims of the conflict to put in place a “comprehensive system for truth, justice, reparation and non-repetition” and;
6. The implementation and verification mechanisms to “guarantee, monitor and verify compliance with agreements and establish mechanisms for its proper implementation”.¹⁴



Initially, all of civil society was excluded from the formal peace negotiations, which were limited to the government of Colombia and the FARC. Only after intensive pressure, victims were heard, and later women's organizations. At the very end of the process, Ethnic organizations got a foot in the door, leading to the 'Ethnic Chapter' in the peace agreement. The Ethnic Chapter was the result of a concerted process of agreement led by the indigenous and afro-Colombian people to articulate their main demands in the 'Mesa Permanente de Concertación', a political space that is currently vital for the communities to monitor compliance with the agreements. Ethnic groups organized themselves into an Ethnic Commission constituted by the National Afro-Colombian Peace Council (CONPA), the National Indigenous Organization of Colombia (ONIC) and the High Government of Indigenous Authorities, which succeeded in securing the 'Ethnic Chapter'.¹⁵ The Ethnic chapter recognizes that ethnic peoples have been seriously affected by the internal armed conflict and their importance to the implementation of the peace agreement and in the country's development. It acknowledges the need for communities to exercise decision-making control over matters that may affect their lands, territories, and resources, and provides guarantees for the full exercise of their human and collective rights, including the obligation of the state to guarantee the right to free, prior, and informed consultation, as well as the right to cultural objection as a guarantee of non-repetition.¹⁶ After the Accord, the most formal body of representation is the 'Instancia Etnica' – but it has had difficulty getting off the ground. The 'Comisión Etnica' is, in practice, a much more active and broad-based body for ethnic participation.

The peace agreement, together with Colombia's National Development Plan¹⁷ (NDP) 2014-2018, configures a new development model to be implemented in the post-conflict era. The NDP proposed a new territorial development approach to reduce the large territorial imbalances, including territorial targets for reducing disparities in living standards. These goals were transferred to the peace agreement¹⁸ as a way to formalize land rights for vulnerable populations and to achieve inclusive territorial development. The commitment to a Comprehensive Rural Reform (Chapter 1), identifies the issue of land ownership as one of the historical causes for the conflict and one of the main challenges to address in the post-conflict context. The peace agreement is expected to introduce important improvements in terms of land rights and restitution for Afro-Colombian and indigenous communities, a process that has remained unfinished since these rights were formally incorporated into the 1991 Constitution.

The consequences of the armed conflict have had the hardest effects on indigenous and Afro-Colombian communities, representing 73% of forced displacement victims¹⁹. This has contributed to a weakening of their cultural identities, rooted in the sense of community and their relationship with the land and environment.²⁰ Colombia's indigenous and Afro-Colombian populations²¹ are historically relegated groups which have suffered from social, political, legal, and economic marginalization both before and during the conflict. They have been victims of illegal land occupations used for coca cultivation²²,

illegal mining, cattle ranching, and agricultural (palm oil) expansion,²³ displacing them from territories of strategic importance for securing their livelihoods, which have threatened their identity and sustainability.

Historically, Colombia has had a paradoxical approach towards indigenous and Afro-Colombian communities. On the one hand, Colombia's 1991 Constitution includes quite progressive legislation regarding indigenous rights that recognizes the country's "ethnic and cultural diversity," stipulating that resource extraction must not harm indigenous peoples and that communal lands of indigenous and Afro-Colombian communities are "inalienable, inextinguishable and immune from seizure." It also acknowledges the right to Free Prior Informed Consent (FPIC) for development projects and establishes indigenous territorial entities to guarantee legal, political, cultural, and economic autonomy. But, on the other hand, reality shows that indigenous and Afro-Colombian communities are excluded both from the formal economy and from the political system, hindering their voices from being heard in decision making-processes. Almost 28% of indigenous populations in Colombia live in extreme poverty.²⁴

Similarly, the Afro-Colombian population continues to suffer from racism and exclusion which is deeply rooted in the legacies of colonialism and slavery. This reinforces the gap between Colombia's elites and these marginalized communities, excluding the latter from the country's development strategies and policies. Moreover, these groups live in rural areas where the state has little or no presence in terms of ensuring the provision of basic services.

The peace building process could also enable opportunities to strengthen green growth and introduce sustainable economic policies to protect the environment and make progress towards the Sustainable Development Goals, which is integrated in Colombia's NDP for 2014-18. This includes a goal to reduce deforestation by 27% below 2013 levels.²⁵ However, while the withdrawal of FARC indicates the removal of some of the drivers of environmental degradation, it also means that areas previously deemed inaccessible have become open. This appears likely to lead to new populations settling in former conflict zones, and infrastructure and other industries, such as agriculture and mining, expanding into environmentally sensitive areas. This could in turn lead to environmental degradation, such as deforestation and water shortages, threatening not only the environment, but also social and economic stability. A sensitive balance needs to be struck on how to prioritize competing demands for land, while also protecting areas of high conservation value²⁶ and the ancestral territories of indigenous and Afro-Colombian people.²⁷



MARGINALIZED GROUPS AT THE FRONT LINE AND FORESTS

The armed conflict between the government, the paramilitaries and the guerrillas took place to a large extent in the collective territories of ethnic groups. A large part of the ancestral and collective territories of the indigenous and Afro-Colombian communities are located in forests. Over 37 million hectares of land falls under collective property, representing more than 50% of the country's forests. Today, Colombia is one of the countries in Latin American with the highest percent (34%) of national land reserved for indigenous peoples and other rural communities.²⁸ These territories are mainly located in the Amazonian basin and Pacific region, the natural savannahs of the Orinoquia, the high Andean ecosystems, the inter-Andean low valleys, the Caribbean plains and in the Sierra Nevada de Santa Marta. This recognition was the result of various years and struggles to demand territorial rights led by the indigenous and Afro-Colombian peoples to achieve legal recognition from the Colombian State. Land tenure security remains crucial for them to protect their own sources of livelihood and guarantee their survival as collective communities, sustaining the link between their identity and the territories where they live.

There are two types of collective property: 'resguardos' are legally recognized territories for indigenous peoples, and collective territories are the legally recognized term for Afro-Colombian communities. Both are found in almost all of the country's ecosystems, with a majority located in the Amazon basin and Pacific regions, recognized as areas of great biological diversity and abundance of fresh water. For the communities, the territory is much more extensive than currently recognized by the state since there is a legitimate ancestral and historical possession of their lands.²⁹ Colombia, as a multi-ethnic and multicultural nation, has established that indigenous and Afro-Colombian communities have the right to decide on their territories.³⁰ In this sense, the recognition of their territorial rights is fundamental, as the Constitutional Court points out: "without the recognition of the territorial rights, their rights to cultural identity and autonomy are mere formal recognitions."³¹

These forested territories, which for centuries remained isolated and forgotten, are now recognized as valuable, containing strategic natural resources, a situation that has endangered peoples who are subject to violence and threats mainly related to the objective to control lands and natural resources. In areas where the conflict was more

intense, natural resources were exploited uncontrollably, promoting illegal economies, such as mining³², logging, wildlife trafficking, and coca cropping, which have harmed the environment³³ and diminished the rights of peoples and communities that historically occupied those lands.³⁴ At the same time, Colombia's export-oriented economy that depends on oil, coal, gold agricultural products, and cattle ranching, pushed an economic model that depends on agribusiness and extractive industries. Moreover, according to the Atlas of Environmental Justice³⁵, Colombia has the greatest registered socio-environmental conflicts in the region, largely due to activities such as mining or hydrocarbon exploitation.

All these factors have contributed to deforestation and the destruction of ecosystems in areas of significant biodiversity. Colombian forests represent 10% of the planet's biodiversity.³⁶ According to the Institute of Hydrology, Meteorology and Environmental Studies (IDEAM), deforestation in the Colombian Amazon and the Andean region caused a loss of 6,206,984 hectares of forest during the conflict (5.4% of Colombia's total territory)³⁷. An estimated 1 million acres were destroyed in the conflict, particularly in the Central Andes area, which has been linked to a devastating hydroelectric crisis in the country³⁸.

According to the Colombian government there are seven main drivers of deforestation in Colombia: the extension of the agricultural and livestock frontier; illicit crops, in particular coca; settlement and displacement of populations; infrastructure projects; mining; commercial or personal use of timber, and wildfires.³⁹ In 2015, approximately 124,000 hectares were deforested in Colombia, which the government attributed to illegal mining, illicit crops, illegal logging, and forest fires. The war has played a major role as a driver of deforestation, with approximately 85% of early deforestation warnings registered in conflict zones in the second half of 2015. A large part of informal gold mining takes place in territories occupied by indigenous or Afro-Colombian communities. Moreover, as of October 2015 an estimated 15% of illicit coca plantations were found in the collective properties of Afro-Colombian peoples and 11% in indigenous reserves. There is a danger that criminal actors will dominate areas where mining, illegal coca cultivation or logging are prominent, as well as legitimate economic activities taking place in conflict-affected areas, at the expense of the environment.⁴⁰

Colombia & Land Rights

The extreme concentration of land, in terms of landholdings as well as land use, was at the root of the armed conflict that is now coming to a close after over five decades. More than seven million people were forcibly displaced⁴¹ by the conflict and over 8.3 million hectares of land was seized or abandoned.⁴² Colombia now has the highest concentration of landholdings in Latin America. According to Colombia's 2014 census, the largest one percent of agricultural landholdings has 81% of land, leaving only 19% of land distributed among the remaining 99% of farms.⁴³

This inequality has become more extreme in the last half century. Large landholdings now occupy more territory and their average size has grown exponentially, while more smallholdings cover even less territory, as their average size has decreased. Nearly one million small farms now have less land available on average than each cow raised on the country's large cattle ranches. Women control only 26% of landholdings, which are smaller and have less access to machinery, credit and technical assistance than those of men.⁴⁴ An estimated 800,000 rural households who depend on agriculture have no land at all.⁴⁵

There is also a marked duality in land use: small farms mostly produce food, while large estates have vast areas that are non-productive or dedicated to extensive cattle raising, as well as to industrial monoculture for export. This bipolar tenure structure continues to be fueled by policies that seek to attract investment in large-scale agribusiness and natural resource extraction, such as the law to create and regulate Zones of Interest for Economic and Social Development in Rural Areas (ZIDRES).⁴⁶ Yet such policies, which can lead to even further concentration of land,⁴⁷ clash with an alternative approach to development that prioritizes more equitable access to and control over land and other means of production, rather than seeking to replace large unproductive landholdings with further land accumulation for more intensive natural resource exploitation.

Comprehensive rural reform is at the forefront of the 2016 Peace Agreement between the government and the FARC, which aspires to a more equitable distribution of land. As a result, land redistribution processes involving 10 million hectares (3 million newly granted free of charge and 7 million legalized with title), 8.8% of the country's land area, are expected over the next 12 years, in addition to the return of dispossessed land mandated by the 2011 Law 1448 for Victims and Restitution of Lands.⁴⁸ Yet multiple challenges remain to fulfill these commitments, which alone would still be unlikely to fully address the extreme inequality in access to land. To date, barely five percent of the 109,000 restitution applications have been resolved, and it remains questionable whether adequate land will be available to meet redistribution commitments, much less actual needs. Yet, put simply by Edilia Mendoza, leader of the Colombian Rural Women's Platform, "If we do not have land, we do not have peace."⁴⁹

Ongoing conflicts over land use are still present in various regions across the country, where peasant families are struggling for access to land taken over by large agribusiness interests, and indigenous and Afro-Colombian communities struggle to protect their territories – only some of which are formally recognized – from powerful agribusiness, oil and mining interests. An additional 4 million hectares are formally claimed by indigenous communities but are yet to be titled.⁵⁰ Community leaders and human rights defenders continue to be targets of violence and harassment related to conflicts over territory: Colombia's Ombudsman documented 156 murders over 14 months (through March 2017), most of them rural activists and at least 25 percent were indigenous leaders.⁵¹

Full implementation of the 2016 Peace Agreement commitment for comprehensive rural reform is necessary, even if not sufficient, to consolidate peace in Colombia. The Agreement commits to lay the foundation for structural transformation of the countryside,⁵² which is essential to address extreme inequality. Yet the initial executive decree to implement commitments on access to land – via the Land Fund – falls short in some aspects and is being challenged.⁵³ But if it goes into effect, it would help make land available for creation and expansion of indigenous reserves. Full implementation of the commitment to create a complete, updated land registry can help to better inform policy to effectively address extreme land inequality. Civil society engagement and monitoring of these processes is essential to ensure recognition and protection of the rights of smallholder, indigenous and Afro-descendent communities over their lands and territories.

Contributed by Stephanie Burgos and Andrés Fuente, Oxfam

II. The World Bank and Colombia

RECENT WORLD BANK PORTFOLIO IN COLOMBIA

The World Bank is one of the world's largest sources of funding and technical assistance for developing countries and has provided assistance to Colombia since 1949.⁵⁴ Colombia is currently the World Bank's 7th largest borrower under its middle-income country lending arm, the International Bank for Reconstruction and Development (IBRD), with US\$ 9.6 billion in outstanding debt as of March 2018, and average annual new commitments of \$1.5 billion in FY 2015-17.⁵⁵ The current portfolio includes 20 active IBRD operations and two projects through the Bank-hosted Global Environment Facility (GEF), totaling US\$ 2.8 billion in net commitments. An additional US\$71 million is invested in various sectors through World Bank-hosted trust funds.

The World Bank and its client governments use the Bank's country engagement process to plan development activities, including the Systematic Country Diagnostic (SCD) and the Country Partnership Framework (CPF). The CPF is a four to six-year strategy document that the World Bank develops through stakeholder consultations in collaboration with the government to guide its operational activities and projects in a borrowing country.⁵⁶ The Bank's 2016-21 CPF for Colombia builds on three strategic pillars: 1) "Fostering balanced territorial development;" 2) "Enhancing social inclusion and mobility through improved service delivery;" and 3) "Supporting fiscal sustainability and productivity."⁵⁷

The first pillar builds on findings from the 2015 SCD, which identified "Insufficient forest and land management in post-conflict areas" as one of the key challenges to inclusive and sustainable growth. The CPF notes that "distorted land property rights" is a major challenge in post-conflict territorial development, where high regional disparities suggest that large population groups are excluded from development. Commitments under the pillar on territorial development include government support to implement planning tools, such as the spatially integrated territorial development plans (Planes de Ordenamiento Territorial), and a 'multi-purpose' rural-urban land cadaster. It also aims to support Colombia's green growth strategy, by enhancing the capacity for natural resource management in selected regions. Forest related issues link to this pillar; however, there is no specific objective outside of Colombia's own commitments through its National Development Plan. The SCD notes that the rate of forest loss remains a cause for concern and identifies the expansion of agricultural and livestock frontiers as a particular threat, resulting in around 2,400 m² of forests being destroyed every year.

Observing issues around unequal land distribution is not new; it was identified as a key obstacle for economic and social development already in the 1950s.⁵⁸ In 1994 the World Bank initiated the Market-Assisted Land Reform (MALR) program, with Colombia as the first country to institutionalize the reforms. The main theory behind MALR

was that government land reforms were inefficient, and that it would be more beneficial to create functioning land markets by incentivizing buyers to negotiate voluntary deals directly with sellers. The government's role would be limited to supporting the process, for example, by providing grants for poor farmers.⁵⁹ While MALR has influenced land policy debates, the program was criticized on a number of fronts and is largely deemed to have failed to achieve its objectives.^{60 61 62 63 64} More recently, a 2010 World Bank Colombia Rural Land Policy Note called for an update to the cadastral system, and in 2013 the World Bank funded the Land Governance Assessment Framework.⁶⁵ Most recently, in early March 2018, President Juan Manuel Santos signed a \$20 million grant agreement with the World Bank's BioCarbon Fund Initiative for Sustainable Forest Landscapes (ISFL) to launch a Sustainable Integrated Landscape Program to "improve land-use planning, protect landscapes including forests, and provide technical assistance so that cattle, oil palm and commercial forestry businesses transition to sustainable and competitive production models" in the Orinoquía region.⁶⁶ It remains to be seen how this will align with the land management reforms undertaken as part of the DPF agreed actions described below.

DEVELOPMENT POLICY FINANCE AS A LENDING INSTRUMENT

DPF is a rapidly-disbursing World Bank lending instrument aimed to address "actual or anticipated development financing requirements". In contrast to Investment Project Finance (IPF), which finances government activities for physical or social infrastructure, DPF provides "non-earmarked general budget financing" for a program of policy and institutional actions that can influence, for example, investment flows. The completion of a mutually agreed set of policy and institutional actions, or 'prior actions', is one of the legal conditions for disbursement of funds under DPF.⁶⁷ DPF operations generally have a time span of no longer than 12 months, but they can be part of a series.⁶⁸ In financial year (FY) 2017, World Bank funded DPF operations worldwide worth almost US\$9.6 billion, representing 23% of the Bank's lending through its middle-income country arm, the International Bank for Reconstruction and Development (IBRD) and International Development Association (IDA).⁶⁹

DPF was created by the Bank in 2004 by merging Sectoral Adjustment Loans (SECALS), Structural Adjustment Loans (SALs), and other instruments⁷⁰. With the end of the Bretton Woods international order and the emergence of a multipolar world, DPF was created to better reflect the contemporary relationship between World Bank and middle-income countries. Unlike the structural adjustment

loans, that were heavily conditioned on market-oriented reforms to be implemented by the borrowing state, DPF entails completing prior actions as a condition for the loan disbursement that are mutually agreed between WB and Governments. In this sense, it is possible to argue that DPFs serve as a vehicle for borrowing governments to pursue policy agendas that reflect their own strategic priorities (which are not necessarily aligned with priorities of vulnerable groups and peoples).

The flexible design of DPF ultimately reflects a complex relationship between the World Bank and the borrower countries by promoting 'win-win' schemes for both entities. On the one hand, DPF is an instrumental lending tool for the World Bank to support development agendas in borrowing countries and earn a significant profit by lending large amounts of money quickly, with relatively low preparation and execution costs compared to other lending instruments. On the other hand, DPFs serve as a vehicle for middle-income country governments to receive, in a short period, large amounts of money to implement institutional and policy reforms that allow them to pursue their political agendas. These policy reforms tend to support a program of policy or institutional actions to improve the investment climate in borrowing countries. Investment is broadly defined by the WB to include spending "not only for enlarging the productive basis of a country, but also for making it more productive. Investment includes both physical and human capital, as well as spending which directly substitutes for future investment requirements, such as spending on improved operations and maintenance."⁷¹

One of the main criticisms of DPF operations is that they are not subject to appropriate and robust standards or safeguards policies, like the ones that apply to investment project financing. DPF operations are guided by a Bank Policy (Operational Policy 8.60)⁷², which relies heavily on the borrower's own processes and systems. According to the World Bank's Independent Evaluation Group (IEG), "there is little guidance on how to conduct a meaningful and useful capacity assessment and gap analysis of country risk management systems."⁷³ While there is guidance on how to identify risks, information on actions to take should a risk be identified is lacking. Moreover, while, for example, an environmental assessment could describe the overall features of environmental management, the links to specific policy actions supported by the DPF may not be adequately covered or understood. This is because environmental management systems are typically organized around physical features and resources⁷⁴ rather than governance, yet in DPF, it is governance (often the most challenging feature of environmental management) that is targeted.⁷⁵ The links to social risks are even further complicated, as there is often not a specific government department dealing with these risks.⁷⁶ The World Bank has developed reports on the use of Strategic Environmental Assessments (SEAs), currently called Strategic Environmental and Social Assessments (SESAs) as specific tools that fit better to assess the environmental and social implications of policies and institutional reforms. However, they are not used as part of a set of tools to assess environmental and social implications of policy reforms in the contexts of DPFs.

This is particularly problematic when it comes to assessing social and environmental impacts. The policy states that any "likely significant effects" on poverty and social consequences (especially on poor people and marginalized groups) or on environmental, forests, or other natural resources should be outlined in the program document together with an assessment of the systems available for reducing the impacts and any improvements needed.⁷⁷ However, a 2015 IEG review of the management of social and environmental risks with DPF noted that there is no clear guidance on what constitutes "likely significant effects." Importantly, it found that staff frequently referred to it as "direct, short-term effects," leaving out consideration of important indirect or longer-term effects.⁷⁸ The IEG review also indicates that after a policy action is implemented, there is no formal and clear system in place in the Bank to monitor and evaluate environmental and social risks and their potential mitigation in DPF.⁷⁹ Additionally, the World Bank's 2015 DPF retrospective found that only a third of the prior actions assessed included an "adequate" discussion of any significant environmental effects.⁸⁰

Another issue relates to consultations. In its policy for DPF, the World Bank advises countries "to consult with and engage the participation of key stakeholders in the country in the process of formulating its development strategies," including with "social groups directly affected by the operations." A country's "arrangements for consultations and participation relevant to the operation, and the outcomes of the participatory process" should be outlined in the DPF program document. Moreover, "relevant analytic work conducted by the World Bank, particularly on poverty and social impacts and on environmental aspects" should be made publicly available as part of the consultation process.⁸¹ However, evidence shows that consultations are of variable quality because these procedures are based on the countries' constitutional and legislative framework, so experiences change country to country. The concern is that the World Bank does not offer minimum standards for consultations with clear guidance on how to proceed in these cases.

Moreover, from a civil society perspective, the distinction between DPF and IPF is not always made clear, which can limit constructive engagement that could contribute to better design, in particular regarding social and environmental aspects. In the words of the IEG, civil society "frequently find DPF design to be a black box, where little information is made public until the operation is approved and the reforms have already been implemented."⁸²

Another issue identified by the IEG as problematic is the short time span for many DPFs, which means that monitoring and evaluation (M&E) is inherently difficult due to "the disconnect between the substantial length of time needed to observe results and the brief time after which operations are evaluated."⁸³ This limits the value of standard World Bank M&E documents such as Implementation Status Reports (ISRs) and Implementation Completion Reports (ICRs). This also means that accountability, including access to remedy, is limited since the World Bank's accountability mechanism, the Inspection Panel, cannot review complaints relating to loans that have closed or are more than 95%

disbursed. This leaves a very short window for impacted communities to prove any actual or anticipated harm caused by a DPF operation.⁸⁴

According to IEG's 2013 review of World Bank support to the forest sector, DPF was one of the main instruments used for forest policy reform between 2002 and 2011.⁸⁵ A landmark DPF case was brought to the Inspection Panel in 2005. The case, dealing with a complaint from indigenous Pygmy peoples, related to a World Bank timber concession reform undertaken, specifically through the Transitional Support for Economic Recovery Grant (TSERO). TSERO sought to improve governance in the forest sector by introducing a regulatory framework for industrial logging concessions in the country's tropical rainforests. While the Bank had assessed that the Project would not have significant social or environmental effects, the Pygmies argued that there was a risk that the DPF could cause irreversible harm to the forests that they live in and depend on, and moreover, they had not been consulted.⁸⁶

Based on its investigation, the Inspection Panel expressed particular concern over the Bank's failure "even to identify the existence of the Pygmy peoples" in the project area. It questioned whether DPF had been the right instrument to use given the social and environmental risks associated with DRC's forest sector, noting that DPF "effectively bypasses the environmental and social safeguard policies that apply to projects." It concluded that "up-front and accurate assessment of environmental and social impacts is important for DPLs," but that the system in use "is flawed."⁸⁷

DPF & Forests

A 2005 World Bank analysis noted that while DPF "has the potential to bring about highly positive outcomes for forests and forest people," it could also "indirectly and inadvertently, lead to adverse impacts." The analysis further recognized that linkages between "broad institutional and policy reforms under [DPF], and outcomes at the forest level are likely to be diffuse, indirect, and highly variable from one situation to the next."⁸⁸

While the DPF policy states that the Bank's program document should assess any likely significant effects on a country's environment, forests, and other natural resources, that are caused by specific country policies supported by a DPF operation, the 2013 IEG review noted that the lack of safeguards "inhibited the Bank's ability to apply rigorous risk assessment and related mitigation measures in its [industrial timber] concession portfolio."⁸⁹

Direct and indirect drivers of deforestation have also been linked to DPF. A 2017 report series, published by the Bank Information Center together with local partners, identified potential risks to forests through DPFs in four countries, linked to the promotion of large-scale infrastructure, mining, and public-private partnerships (PPPs), such as for oil, gas, large-scale hydropower and roads.⁹⁰ For example, in Mozambique, DPF support was targeted towards increased investment in coal mining, despite the deforestation risks.⁹¹ In Indonesia, a DPF aimed at increasing private investment in infrastructure ran the risk of increasing deforestation despite the fact that much of the infrastructure development is taking place in forest-rich regions.⁹² In both cases the Bank failed to adequately consider forest-related risks in its assessments.

PRÉSTAMOS PARA LAS Políticas DE Desarrollo DPL

III. CASE STUDY: Colombia's Territorial Development Policy Loan

CONTEXT AND TERRITORIAL DEVELOPMENT POLICY LOAN

The Colombian government and citizens face several challenges in their transition to peace. The post-conflict context in Colombia requires huge institutional capacity and financial efforts from the Colombian government. A major requirement is for costs associated with the peace building agenda. According to official data, the costs of implementing the agreement range from roughly 0.9% to 0.7% of GDP (about US\$2.5 billion) annually for the next 15 years.⁹³ In recent years, Multilateral Development Banks (MDBs) have approved several loans for Colombia. For instance, since November 2016 the Inter-American Development Bank (IDB) has approved 29 loans to Colombia for a total sum of US\$1.2 billion.⁹⁴ From 2005 to 2017 Colombia received 22 World Bank DPF loans totaling \$9.2 billion. As of April 2018, only one DPF, for \$500 million, was active.⁹⁶ Also, both Banks are developing operations to finance the rollout of the Multi-purpose cadastre.⁹⁷

In December 2016, ten days after Colombia's Congress ratified the peace agreement with the FARC, the World Bank Board approved a new DPF operation for €716.5 million (approximately US\$800 million) for the Colombia Territorial Development DPF, the first DPF in a series of

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two.⁹⁸ Just over a week later, all of the funding had been disbursed. Although this is common practice for DPFs as a budget support instrument, this is a major concern in terms of transparency and participation. Negotiations between government and World Bank started months before the DPF was made public and approved as the eight agreed 'prior actions' had to be completed as condition for disbursement. However, by the time Colombian citizens and civil society organizations (CSOs) learned about the DPF, negotiations between the parties had ended and organizations had no chance to challenge the policy decisions agreed tied to the loan.

The eight mutually agreed policy reforms that the World Bank required the Colombian government to complete in order to disburse the loan are based on two pillars, which build on Colombia's CPF, the NDP, and the Peace Agreement:

Pillar I: Strengthened land management systems and institutions;

Pillar II: Improved fiscal information, investment prioritization and strengthened financial management of subnational expenditure.

While this DPF sets the institutional ground for the improvement of land management, territorial planning, and efficiency of allocation of resources at the local level, given that a DPF provides non-earmarked general budget support, there is no direct correspondence between the prior actions and the allocation of the funds. In CONPES⁹⁹ 3334 (2005), the Colombian Government emphasized the importance of this

SEGUIMIENTO A LA EJECUCIÓN DEL CRÉDITO DEL BANCO MUNDIAL DPL COLOMBIA TERRITORIAL



FIGURE N2: Results from presentations given at the workshop “Analysis of the impacts of World Bank lending for territorial development policy in Colombia” Bogotá, Colombia February 20, 2018

type of multilateral development bank lending with ‘free destination’ budget support for the country to finance its fiscal deficit.¹⁰⁰ Given the lack of transparency around how DPF money is allocated within Colombia’s budget, it is not possible to evaluate if the benefits of the loan are greater than the costs.¹⁰¹

The World Bank’s assessment of the Territorial DPF did not foresee any major negative social or environmental impacts linked to the loan. In the program document, the Bank concluded that the policies linked to Pillar I “are likely to have positive effects promoting a reduction of regional socio-economic inequalities through improved territorial management and planning at the subnational level, a better provision of public services and local public goods, as well as by developing and protecting local property rights.”

Moreover, it deemed that the prior actions supported by the DPF “are not likely to have significant negative effects on the environment, forests and other natural resources,” concluding that “the overall net direct and indirect environmental effects of the DPF would be positive” or neutral. At the same time, the overall risk rating that the World Bank assigned to the project was “moderate”. This rating is telling in that it points to the unpredictable, or not fully understood, secondary effects of the prior actions.

As for consultation with key stakeholders, the DPF program document refers to a “complex process of consultations” linked to the NDP but provides no further information or evidence regarding who was consulted, how, and about what. This claim made by the DPF program document should be supported with evidence and information.

ETHNIC COMMUNITIES AND THE MULTI-PURPOSE CADASTRE

Prior Action 1: The Government has approved a comprehensive **property cadastre**¹⁰² policy, which: i) Redefines the roles and responsibilities of institutions and levels of government to separate regulatory and implementation responsibilities; ii) Defines standards and methodologies for surveying, recording, and valuation of properties to transform the fiscal cadastre into a multiple-purpose one; and iii) Mandates the updating of cadastral information of all the land parcels in Colombia.

The property cadastre policy refers to CONPES 3859, which was approved in June 2016. According to the Bank, CONPES 3859 is expected to provide “the enabling conditions for the design, implementation, use, and maintenance for a multi-purpose cadastre for the first time”. The new policy calls for designing and establishing within a ten year period (2016-25) design and establish a multi-purpose cadastral system that will “(i) adequately characterize the physical conditions of the territory under a systematized and standard methodology, (ii) guarantee the full alignment between physical and legal property information, (iii) document and record market-related land values to enable functional land markets, and (iv) incorporate provisions to ensure technical, financial and institutional sustainability in the long term.”¹⁰³

This means that CONPES 3859 will serve as the main guideline to orient the National Cadastre Law (Ley de Estatuto Catastral) which is one of the indicative prior actions, triggering the second Territorial DPF. In other

words, the GoC agreed in prior action 1 of the loan agreement to develop a plan to have a law that would govern a ten-year implementation process. The draft law was submitted for parliamentary approval on August 16, 2017 and was still awaiting action as of the end of March 2018.¹⁰⁴ The law hasn't been approved, yet the DNP stated that pilots to implement the multi-purpose cadastre policy in 23 municipalities and in 145,533 properties (1% of the national territory) would go ahead.¹⁰⁵

Traditionally, the cadastre has been used for fiscal purposes in urban areas, focusing solely on the value of the property as a basis for establishing taxes. Thus, it did not provide necessary information for territorial planning. In this sense, CONPES 3859 defines the multi-purpose cadastre as a land information system which goes beyond tax purposes, in two main aspects: (1) to *provide legal security* through registration or representation of interests on land, related to their occupation, value, use and urbanization; and (2) to *support the decisions of territorial ordering and economic,*

social and environmental planning, by integrating information on rights, restrictions and responsibilities.

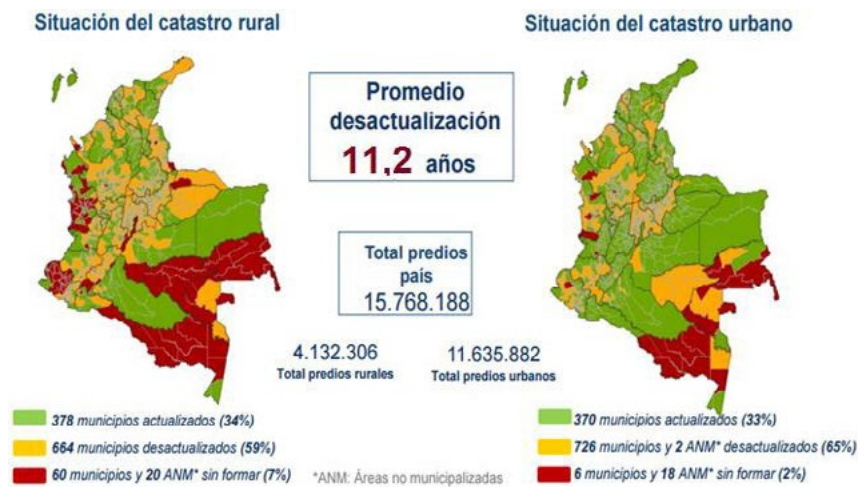
Another related important aspect of a multi-purpose cadastre, according to the Bank, is that it "collects additional information related to the parcel (such as land use, densities, socio-economic category) and interacts with existing relevant infrastructure systems (infrastructure, environmental), *enabling the cadastre system to serve as a tool for planning and for territorial development, as well as an instrument to inform investment prioritization.*"¹⁰⁶

There is a general consensus about the need for a multi-purpose cadastral system, including support from Afro-Colombians and indigenous peoples, given that the current cadastre is outdated and incomplete for more than 58% of the territory¹⁰⁷. Specifically, 28.5% of the national territory does not have a registered cadastre, and 63.9% of the existing cadastre is outdated; this corresponds to 722 municipalities, both urban and rural.¹⁰⁸

FIGURE N3:

Territories without cadastre information and high degree of outdated rural and urban level cadastre

Source: NPD¹⁰⁹



Significantly, as shown in the figure below, 79% of the 187 municipalities historically affected by the armed conflict do not have cadastral information.

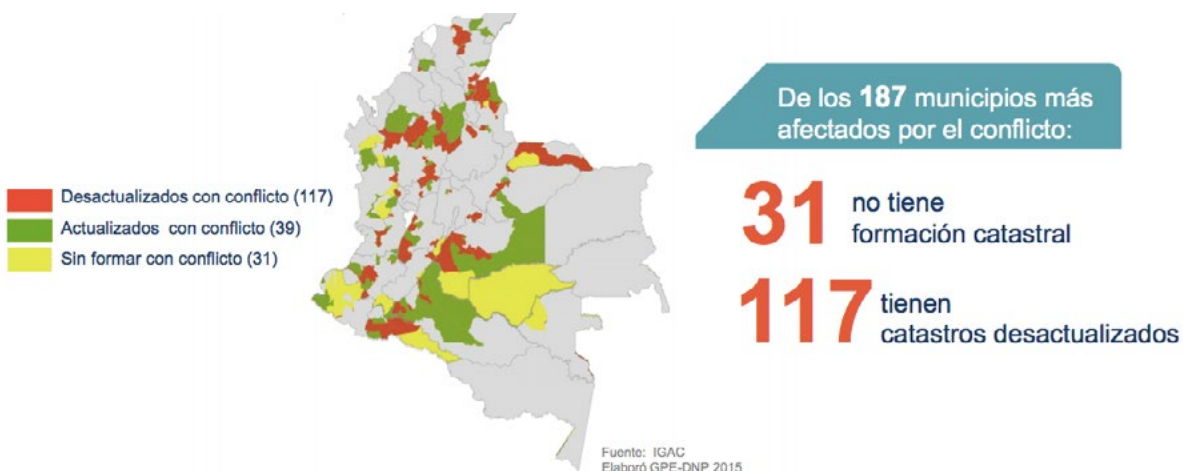


FIGURE N4:

Territories affected by the conflict and their cadastre update

Source: IGAC¹¹⁰

This generates legal uncertainty due to the informality in land tenure in territories where many inhabitants are victims of forced displacement.¹¹¹ Also, Colombia's economic growth for the past decade has been mainly in urban areas, generating larger gaps in poverty rates and standards of living between urban and rural areas across regions and within departments and municipalities.¹¹² In this sense, a complete cadastre is long overdue; however, it requires careful consideration of political, economic and social issues, given the huge concentration of land, decades of dispossession, and disputes over territories.

In this sense, there are four main elements of CONPES 3859 determined by prior action 1 that are concerning for indigenous and Afro-Colombian communities:

1. Legal security: Following the best practice based on the principle of legal independence¹¹³ and security of property, CONPES 3859 states that the multipurpose cadastre seeks to integrate and cross-register legal title information against the boundaries of indigenous 'resguardos' and lands of Afro-Colombian communities 'territorios colectivos,' as well as environmental restrictions and responsibilities, delimitation of property tax assets and private goods with the purpose to improve the legal security of property rights.¹¹⁴ According to an Afro-Colombian leader, a historical problem for Afro-Colombian people is the lack of legal recognition of their territories. In this sense, the multi-purpose cadastre could provide an opportunity to make an integral assessment of their territory and develop a much-needed ethno-development strategy.¹¹⁵

Nonetheless, indigenous and Afro-Colombian leaders expressed their concern that overlaying of legal titles against the boundaries of indigenous 'resguardos' and lands of Afro-Colombian communities 'territorios colectivos,' could weaken their collective rights if the proper safeguards are not in place to ensure protection of their territories. First, they mention that CONPES 3859 document established that the multipurpose cadastre aims not only to improve the legal security of property rights, but also to facilitate "the functioning of societies and markets and ensure the effective use of information by the State and other interested parties."¹¹⁶ In this sense, they argue that the multipurpose cadastre correlates to a particular vision of development that aligns with the extractive economic development model implemented aggressively by the last four Colombian governments (2002-2018) and conflicts with how the indigenous and Afro-Colombian peoples understand territory, which goes beyond the mere identification of the legal status of the land.

An unintended consequence of this procedure of identification of territories and cross-registration of titles is that it could become a mechanism that ends up expropriating territories from these peoples because they are not in the cadastre. The leaders interviewed for this study emphasized that it would be important

that these records are clear and that guarantees, and protections are in place for those who hold a land title but are not registered in the cadastre. This is an important issue for ethnic people, precisely because of the nature of the information that the cadastre will produce. Ethnic leaders mentioned that the cadastre system will serve to identify what types of natural resources are available in their territories. They claim that the government should ensure that the cadastre does not operate as a tool to "strengthen extractive economic policy,"¹¹⁷ but instead protect their own rights in their territories and defend the right to Free, Prior, and Informed Consent for changes affecting their communities.

For Colombia, the area identified as owned by indigenous peoples is 37.58 million hectares (33.87% of national territory).¹¹⁸ Indigenous peoples and Afro-Colombian communities advocate for stronger land rights as a tool to ward off deforestation and climate change and better protect their lands and territories.¹¹⁹ A growing body of evidence highlights that secure land rights for forests communities are the best defense for forest destruction and environmental conservation.¹²⁰

2. Social, environmental and economic planning: Land management in Colombia covers all activities related to its economic, social and environmental aspects. This includes the valuation of property, mining, and management of public services, among others. In this regard, indigenous and Afro-Colombian communities are asking how the vision of "development" supported by CONPES 3859 and the Multi-purpose Cadastre National Law project will be implemented with regards to their holistic and ethnic vision of territory and development. The leaders interviewed mentioned that CONPES 3859 and the Multi-purpose Cadastre National Law project lack an ethnic approach, as the main focus is put on property held on an individual or private basis: "the multipurpose cadastre mainly identifies the current state of land tenure and ownership with the individual plots."¹²¹ Moreover, the CONPES 3859 does not specify any particular role for resguardos and Afro-Colombian collective territories in the land use planning process. In section 5 of the CONPES 3859, the document justifies the need for a Multi-purpose Cadastre to develop "instruments that effectively protect property rights, reflect tenure legitimacy of those who occupy and use the land, and to improve the processes of planning and implementation of policies related to rural land management as urban,"¹²² but without specifying which other actors apart from the state will control land use decision-making.

For indigenous peoples and Afro-Colombian communities, the physical aspects of territories, such as land, forests and rivers, cannot be treated as separate. Instead the notion of territory is based on a worldview that connects the earth with the spiritual and the material. Territoriality is linked to the way people use land and other natural resources and, how they organize and give meaning to a place,

while responding to economic, policy and cultural dimensions. Indigenous people deem that animate beings, in particular trees and animals, embody a multitude of charitable or malefic forces, which must be respected. For many people, certain trees are venerated and protected, and in the past many large forests were therefore left untouched as they were considered to be sacred territories. For Afro-Colombian communities, territoriality relates to a complex network of ways of living, with a close dependence on forests and other ecosystems.^{123 124} These perspectives are also reflected in the visions of what 'development' constitutes. Many indigenous communities have "life plans" and Afro-Colombian people "ethno-development plans" that define how they themselves want to develop, from a social, environmental and economic perspective, based on their culture and ancestry.¹²⁵

3. Land markets: CONPES 3859 proposes to improve the legal security of property rights, as one of its main purposes is to facilitate and smooth the functioning of both societies and markets.¹²⁶ The main assumption here is that the current cadastral appraisals in Colombia do not accurately reflect the physical and economic characteristics of the properties and the land market dynamics. This approach can be linked to World Bank advice for Colombia, including a 2007 policy note to the government, which called for the establishment of an efficient land market arguing that "the efficient use of land requires conditions that facilitate the mobility of property rights, so that land can be used for more productive activities and by more efficient users."¹²⁷ The underlying idea is that the economic valuation of the properties and land, as established by CONPES 3859, will facilitate the transparency of land markets, as well as efficiency in fiscal management in all areas. All these elements included in CONPES 3859 are key for the process of land reform and land use in Colombia.

Although the Afro-Colombian leaders interviewed confirmed that overall, they have great concerns regarding the construction and implementation of the Multi-purpose Cadastre, some believe that it could lead to official recognition to collective territories and indigenous resguardos. A major concern from indigenous leaders is how the information from the Multi-purpose Cadastre could be used, in particular by large and medium scale extractive industries, and what the associated impact on their territories would be. They argue that the identification of land and property and the possible 'strategic uses of the land' could be dangerous, for their land rights, as their territories are rich in resources. If this information becomes public, without proper protection for collective territories, it could represent a risk for their economic, social, cultural and environmental sustainability. Thus, the new multi-purpose Cadastre system could be either used to strengthen indigenous and collective territories through clearer boundaries and rights, or weaken them if their territories are not fully recognized, which would put ethnic communities in a much higher state of vulnerability.¹²⁸ Given this, leaders consider that it is key

to have land formally recognized as legally belonging to their communities as a first step to secure their rights.

A large part of the areas where the collective territories of the indigenous and Afro-Colombian peoples are located were for years isolated and forgotten areas, but today they are recognized by agri-business and extractive industries as areas rich in natural resources. This context has put these peoples directly in danger. Currently, violence and threats against these peoples are mainly related to the control of their territories and natural resources, through the dispossession of lands in territories recognized by the state and in those where there is still no legal recognition of property. Despite the complexity of the political, territorial, and social context and risks to ethnic peoples who defend their territorial rights, the leaders of these peoples persist in seeking legal recognition of their territories. At the end of 2017, social movements¹²⁹ raised strong complaints at national and international level about the serious situation of violation of Human Rights and International Humanitarian Law, with the systematic murder of social leaders and human rights defenders. According to a report collected by Cumbre Agraria¹³⁰, since the signing of the Peace Agreement in 2016 and through 2017, there have been more than 200 targeted killings, including leaders of ethnic groups.¹³¹

Similarly, promoting land markets involves enhancing private and traditional property over collective territories. Some indigenous and Afro-Colombian leaders expressed that Colombia has a unique historical opportunity to re-define its approach to development, which includes addressing problem of land reform and land use from an inclusive approach, but that needs to be ensured with the proper mechanisms in place to protect collective tenure. One indigenous leader reaffirmed that beyond the mere tenure, their communities have spiritual connections with their territories that are related with their own cosmovision which determines how they use the land. This is supported not only by the text of the Colombian Constitution but also by vast jurisprudence developed by the Constitutional Court that reinforces this relationship.

To address some of these issues, in May 2017, ethnic communities put forward a proposal¹³² to include an Ethnic Commission in the Multi-purpose cadastre system, to guarantee that the rights of their communities are respected and ensure that the new cadastre system will actually strengthen their rights and not undermine them. This demonstrates the high level of involvement, commitment and participation that the ethnic communities had in the debate regarding the process of implementing the multi-cadastre system. According to the ethnic leaders interviewed, "there is a need for an Ethnic Commission in the cadastre system. The commission should be in charge of updating the information on ethnic territories and identifying and resolving tenure conflicts." This recommendation is particularly important in this context considering that the WB has prepared a loan to the GoC for \$100 million to implement the Colombian Multipurpose Cadastre Project, which includes an Indigenous Peoples Plan.^{133 134}

Colombia Multipurpose Cadaster Project (P162594)

The World Bank has prepared a \$100M Colombia Multipurpose Cadaster Project (P162594). At the time of report formulation, status of the Colombia Multipurpose Cadaster Project was still unclear. Although there will be no project interventions within the Indigenous peoples' territories, nor impacts on them, according to the Bank, an Indigenous Peoples Plan (IPP) has been developed, and the project will be subject to consultations before appraisal. This could be an opportunity for addressing the Ethnic Commission requests and including Ethnic communities from the planning and design phase to ensure to inclusion of vulnerable groups from the beginning of the project. According to the project overview: "The IPP will contain protocols for an adequate interaction with ethnic groups, respecting their culture, customs and habits. It will also ensure the active participation of communities and their authorities in the project activities."¹³⁵

The project overview states that in a post-conflict context, **"the risk of land conflicts is significant"** (8). Because of this sensitive context, the systematic multipurpose cadaster process will include several "mechanisms to reduce and manage conflict in the field, including instruments such as: social mapping and sensitization of the communities participating, alternative dispute resolution mechanisms during the process, and a grievance mechanism for those not fully satisfied" (8). It also states that the project seeks to minimize potential conflicts and recognizes that there are groups whose land rights will potentially require extra attention, such as: "women, orphans, indigenous, and Afro-Colombians."

The Project's Integrated Safeguards Data Sheet states that "to avoid misunderstandings and make sure that cadaster process and implication are well understudied among holders the proposed Project's approach should include a broad communication strategy that mobilizes all holders and cover all holdings in the targeted areas" (10). Herein lies a concerning implication that the main risk vis-à-vis 'holders' is merely a communication issue rather than a substantive structural problem concerning territorial conflicts and vulnerable communities in Colombia as the present report is demonstrating. Moreover, there is a disconnect between recognizing that "risk of land conflicts is significant" and the Safeguards sections, where the project's environmental and social impacts are considered be "minor, site specific and easily manageable [...] Potentially **adverse social impacts are expected to be small**, as they will be avoided or minimized through appropriate preventive and mitigation measures" (9).

NATIONAL LAND AGENCY AND LAND TITLING

Within the framework of the extraordinary powers granted by the Congress of Colombia for the government to advance a Comprehensive Rural Reform, the Government passed Decree 2365 in December 2015 that liquidated and suspended the INCODER (Instituto Colombiano para el Desarrollo Rural)¹³⁶ and restructured the Ministry of Agriculture. Three new agencies were established to replace and assume the functions of the extinct INCODER: The National Land Agency (ANT), the Rural Development Agency (ADR), and the Territorial Renewal Agency (ART).

Prior Action 2: The Government has established the institutional framework to, inter alia: i) implement access-to-land programs for rural productivity and equity, and ii) *support the process for rural land formalization, through the creation of the **National Land Agency (ANT)**.*¹³⁷

The Government passed Decree 2364 in late 2015 and Decree 419 in 2016 to create the ANT as the ruling authority for land management in the country, which is supported by prior action 2. According to the DPF loan agreement, the ANT will execute policy regarding the social development of rural property, which includes land management as a productive asset, attainment of secure legal title to the land, promotion of fulfillment of the social role of land ownership, and the administration of rural properties entrusted to the nation. In this way, the ANT will use the multi-purpose cadastre to "contribute to building and facilitating public access to information needed to build understanding of rural land markets and become the main institution responsible for managing and administering public land."

While DPF funds are not earmarked to specific activities beyond the prior actions, the DPF documents set a target of 40,000 plots in rural areas to be formalized by the ATN in

2018, against a zero baseline.¹³⁸ This begs the question of how the Colombian government will be expected to finance this target, if not with the DPF loan. Ethnic leaders interviewed noted that it is not clear how or whether the Colombian government is using the money provided by the Territorial DPF loan to ensure effective land titling for ethnic communities.

The Territorial DPF project does not make any substantive mentions of the importance of indigenous peoples and Afro-Colombian communities in this process of rural land formalization. Nor does it include any specific incentives to prioritize the recognition of collective rights. Ethnic communities find this new institutional arrangement, in particular the dissolution of INCODER, as problematic because instead of ensuring and facilitating their land titling, it is creating more barriers to access for ethnic people. They had expected that the Territorial DPF would help overcome such problems, but as the following section describes, ethnic communities still encounter several obstacles in the process of land formalization.

AFRO-COLOMBIAN REQUESTS

- **There are 271 requests submitted by Afro-Colombian communities for the legal recognition of their community councils in 18 departments and 103 municipalities of the country.** While the total land area requested was not publicly available, more than half (55%) of the requests are for areas that total approximately one million hectares. This compares to a national land area of 114.2 million ha. The distribution of community councils or collective territories with request for collective titling by regions is the following: i) The Pacific region and the inter-Andean valleys with 48.7%, ii) the Caribbean region with 38%, iii) the regions of La Orinoquía and the Amazon with 12.5% and, iv) the Magdalena Medio region with 0.7%.¹³⁹
- **Many of these requests for collective titling have been outstanding for more than a decade without response from the competent authorities (first INCODER, now ANT).** Of the 271 cases reviewed, 29% don't have information regarding the application status and 39% have been detained for 'lack of documentation'. Only 13% have received an acceptance order,¹⁴⁰ and most of these are stalled under the pretext of 'legal formalism'. Out of 148 community councils without collective title, 25% are affected by agro-industrial projects in their territories, 23% by hydrocarbons, 6% by oil pipelines, and 7% by other infrastructure projects. As long as certain Afro-Colombian communities lack titles, these pressures will continue to seriously threaten collective life.¹⁴¹
- The time for approval for collective titling should not exceed eight months (collective titling to Afro-Colombian communities is established in chapter IV of Decree 1745 of 1995). However, the ANT is not complying with the established time for approval. Regarding this issue, an Afro-descendant leader stated: "there is no due process and the times stipulated in the Law are never met, that's why we have many territories that have not been titled and many of those that were titled, were not titled in the complete way, as requested by the community. This means a territorial loss in the collective titling exercises."
- Afro-Colombian communities mentioned that when INCODER was created¹⁴², they had the opportunity to address their historical demand for collective land titling, but after the first two years the process had stopped. Now, with the ANT, they haven't seen any major progress. An Afro-Colombian leader explains this issue in the following terms: "The new institution quickly titled during the first two years of the Law [when INCODER was approved], but that began to delay the collective title. The 6.5 million hectares that were recognized was thanks to a meticulous, collective and intense work of the organizations that at that time included PCN, the Inter-Ethnic Forum, ACAPA, among others, we put ourselves in front of INCODER, taking advantage of the Law, information was collected, territories were mapped, to make the recognition effective".



FIGURE N5:

Map of the Departments in Colombia where there are Community Councils without collective titling

Source: *Observatorio de Territorios Étnicos y Campesinos*¹⁴³

INDIGENOUS COMMUNITIES REQUESTS

- In the case of indigenous communities, there are 678 applications registered for the constitution, expansion, and restoration of indigenous territories. Only 197 (29%) of these applications identify the precise area to be legalized; 71% of registered applications have the area to be legalized pending survey or concurrence by authorities.

TABLA. SOLICITUDES LEGALIZACIÓN TERRITORIOS INDÍGENAS

Procedimiento Administrativo	Nº Solicitudes	Solicitudes que incluyen Área	Área por legalizar (Has)	Familias	Personas
Ampliación	297	84	399.310	32.640	156.001
Constitución	360	111	1.026.905	24.823	115.033
Saneamiento	21	2	384	625	2.305
Total	678	197	1.426.599	58.088	273.339

Source: ANT

- Almost 42% of these requests are located in the areas of Putumayo, Tolima, Caquetá and Cauca. The 197 applications with precise area seek a total of roughly 1.43 million hectares (average of 7,242 ha.). In Putumayo, 73% of the requests are for the constitution of resguardos to address the precariousness of titling of the Inga, Awá and Nasa peoples. In Tolima, 99% of the cases requested are by the Pijao people who for decades have demanded full recognition of their ancestral territory. In Caquetá, 55% of the cases are directed to expansion of indigenous reservations areas that were not fully recognized in the previous processes. And in Cauca, the applications are for the expansion and constitution of the territories recovered in previous decades. Out of the requests submitted by the indigenous peoples, 77% are still at the initial request stage, 14% are in process, and 9% are in suspension.¹⁴⁴
- For indigenous peoples, the range of time for ANT to respond to collective titling requests is, according to the 7th article of Decree 1071 of 2015, eight months. As with the Afro-Colombian requests, indigenous people state that there has been no compliance with the designated time for approval. Indigenous peoples also raised the issue that in 2012, the national government allocated nearly \$ 80,000 million pesos for indigenous peoples, by 2018, but according to the ANT it is projected to invest only \$ 21,000 million.¹⁴⁵
- According to the National Commission of Indigenous Territories, the ANT has been issuing, unilaterally and without consultation, resolutions, directives and internal documents since Jan. 2017 that seriously affect the territorial rights of indigenous peoples in Colombia. For example, in ANT Directive 01 of 2017, it uses 'suspicion' as a legal and viable criterion for decreeing the suspension of land titling processes for indigenous peoples who are allegedly occupying private property without prior judgment, as provided by the Colombian legal system. This action denotes the violation of the right to due process by ANT. ANT resolution 1653 of 2017 was approved without previous consultation and provides a new function to the Directorate of Land Access, which is "advancing the processes of acquisition and expropriation of properties for indigenous communities"¹⁴⁶. According to Decree 2365 of 2015, which was properly consulted with indigenous communities within the framework of the agreements signed in the PND 2014-2018, this function corresponds to the Directorate of Ethnic Affairs. Accordingly, indigenous peoples assert that they should have been consulted before ANT approved the modification.
- The National Land Agency (ANT) has subordinated the advancement of territorial administrative procedures for the legalization, endowment and protection of indigenous territories to Decree 1858 of 2015. But since Decree 1858 was issued without any consultation, this violates the fundamental right of indigenous peoples to free, prior, and informed consultation of new legislative and administrative measures that affect them.



FIGURE N6:

Analysis and proposals of Ethnic Communities given at the workshop “Analysis of the impacts of World Bank lending for territorial development policy in Colombia” Bogotá, Colombia | February 20, 2018

KEY ISSUES RELATED TO ANT AND THE LAND TITLING PROCESS FOR ETHNIC COMMUNITIES

- In theory, ANT was created to accelerate land titling and ensure it occurs, but since the agency was created, the land titling achieved has been minimal for ethnic communities¹⁴⁷. Although Colombia has developed robust legal and institutional frameworks to recognize community rights, the limitations in the institutional arrangements and capacity to implement community rights are still huge (including financial and technical limitations of the national and subnational government agencies). For example, indigenous and Afro-Colombian leaders interviewed state that the government is not able to respond to the requests since the procedure is overloaded with bureaucratic and legal obstacles that prevent solving them. This creates a legal limbo that is weakening their collective rights as there is no progress towards results in the land titling process for ethnic communities.
- Secondly, Colombia’s ethnic communities explain that the procedures are not adjusted to their social and cultural realities. According to their leaders, one of the barriers to access is that the ANT does not have

specialized lawyers to advise the communities or specialized professionals to help ethnic communities fulfill all requirements. This represents a huge obstacle for communities to realize their right to collective titling as they need to hire their own lawyers or work with specialized NGOs that give them advice.

- Territories requested by the ethnic groups are usually disputed zones claimed either by large extractive industries, by municipalities for urban expansion, or by government to create protected areas to meet environmental conservation targets. According to one leader “[...] ethnic communities have to wait to obtain the titles of their territories for years but, in the meantime, big companies are able to acquire rights for concessions and exploitation of mining and forest resources really fast via processes that are not clear to us.”¹⁴⁸ Land titling and land tenure are important for ethnic communities as they represent the first and best safeguard to protect their cultural, economic, social and political rights to ensure their collective survival, which is intertwined with the protection of

PROPUESTAS DE LOS PUEBLOS ÉTNICOS

A LAS ACCIONES PREVIAS DEL DPL

- CONSOLIDAR LAS PROPUESTAS DESDE UNA VISIÓN ÉTNICA
- COMO CONTEXTO SE ENCUENTRA EL CAPÍTULO ÉTNICO PARTE DEL ACUERDO PARA LA TERMINACIÓN DEL CONFLICTO



DESDE 2013 HAY PROPUESTAS

PARA LOS PUEBLOS ÉTNICOS ES INDISPENSABLE PARTICIPAR EN LA CONSTRUCCIÓN DE LOS PLANES, PORQUE SE ESTÁ TRATANDO EL

TERRITORIO

ES DECIR LA EXISTENCIA DE LOS PUEBLOS



CATASTRO MULTIPROPOSITO

- EXISTE INTERÉS PERO PREOCUPACION ANTE LA NO PARTICIPACION ACTIVA DE LAS COMUNIDADES EN EL PROCESO
- LA TITULACION REQUIERE SALVAGUARDAS PARA LOS PUEBLOS
- LA CONSULTA PREVIA SOLO SE HA DADO PARA PUEBLOS INDIGENAS, HA PREOCUPACION POR UN POSIBLE CAMBIO DE LA PROPOSTA EN EL CONGRESO



FORTALECIMIENTO INSTITUCIONAL PARA EL DESARROLLO RURAL

□ EXISTE Poca INFORMACION EN EL TERRITORIO SOBRE LA GESTION DE LA ADR.



SE UTILIZA A LAS COMUNIDADES PARA LA SOLICITUD DE LOS FONDOS, REFINANCIADOS, Y AL MOMENTO DE RECIBIRLOS NO HAY APERTURA A LA PARTICIPACION DE LOS MISMAS.

FORMALIZACION Y ACCESO A LA TIERRA RURAL



LUCHA HISTORICA DE LAS COMUNIDADES PARA TITULACION DE TERRITORIOS



INTERESES PRIVADOS Y EXTRACTIVOS POR LOS TERRITORIOS



ASESINATO DE LIDERES



BAJO COMPROMISO POLITICO ANTE LA TITULACION

PROPUESTAS

EXISTEN 2 PROPUESTAS ESPECIFICAS RELACIONADAS CON EL FORTALECIMIENTO INSTITUCIONAL DE LA POLITICA DE DESARROLLO TERRITORIAL [FONDO DEL DPL BANCO MUNDIAL]

- 1 CREACION DE UNIDAD ÉTNICA EN TEMA DEL CATASTRO MULTIPROPOSITO
- 2 INSTAURACION DE UNA SUBDIRECCION DE ASUNTOS ÉTNICOS EN LA ART

their territory and its natural resources. A growing body of evidence¹⁴⁹ suggests that stronger land rights are one of the most effective tools to combating climate change and reduce deforestation rates. For example, low deforestation rates on indigenous reserves in Colombia have resulted in relatively low CO2 emissions: "According to WRI calculations, Indigenous Reserves have higher carbon density, at 145 tonnes per hectare, than other Amazonian forest, with 128 tonnes per hectare. From 2000 to 2012, loss of about 70,000 hectares of forest on Indigenous Reserves resulted in about 34 million tonnes of CO2 emissions, equal to 484 tonnes of CO2 per hectare. During the same period, the Colombian Amazon outside Indigenous Reserves lost 694,000 hectares of forest, resulting in 316 million tonnes of CO2 emitted (456 tonnes per hectare)."¹⁵⁰ More significant perhaps than the higher carbon density of Indigenous Reserves (13.3% in standing forests, and 6.1% in forests lost), is the ratio of Colombian Amazon forest lost outside the Reserves to those inside (almost 10 to 1).

- According to the National Commission of Indigenous Territories (CNTI), the lack of recognition of indigenous and other collective territories contributes to the forced displacement, dispossession and occupation of their territories by third parties, such as settlers, armed actors or private companies and contributes to the risk of extinction and extermination of indigenous peoples because it does not guarantee enough land for their survival at the economic, social, environmental and cultural level. They recognize that the Colombian state is one of the main actors that has historically contributed to the violation of their territorial rights and with the creation of the ANT is continuing to do so by creating inefficient procedures that are not functional and useful to ensure their access to land rights. Recognition of collective land tenure is a mechanism to stop negative effects (e.g. environmental externalities, displacement) of land privatization which fractures or ignores their collective rights and fosters fragmentation and land use change that frequently degrades natural habitat.¹⁵¹

RURAL DEVELOPMENT POLICY FROM A TERRITORIAL PERSPECTIVE

Prior Action 3: The Government has strengthened the institutional framework for rural development through the *creation of the Rural Development Agency (Agencia de Desarrollo Rural) (ADR), which will plan, structure, co-finance, and implement rural development projects.*

This third prior action supported by the DPF operation creates the ADR, whose main function is to execute agricultural and rural development policy from a territorial perspective through national, associative or territory-level structuring, co-financing, and execution of rural and agricultural development plans and projects. According to Decrees 2364 and 2365 of December 2015, the ADR will also support processes related to strengthening the management of rural and agricultural development. The ADR will perform functions at the national level, but relies on territorial technical units. The ADR has responsibilities of structuring, co-financing and implementing plans and projects for agricultural and rural development as well as strengthening the management of agricultural and rural development. As the main goal of the prior action is to develop and strengthen the institutional framework for integrated rural development¹⁵², the indicator to measure results is the percentage of total co-financed rural development projects that have a territorial focus (baseline: 16% in 2016 and target of 100% in 2018). The territorial approach implies abandoning the traditional approach by which support was provided mainly to individual producers in a fragmented manner. These new projects must include four components to be considered comprehensively, with a territorial approach. These components are technical assistance, access to productive assets, land preparation, and alignment with the production chain and production priorities of the territory.¹⁵³

Ethnic leaders report that the information regarding the role and goals of the ADR has not gotten through to ethnic communities as they don't know what the main function of the ADR is. Problematically, people from ADR are reaching out to people in the territories to propose projects that ignore previous agreements that the ethnic communities have had at the national and regional levels. To the extent this occurs, it jeopardizes previous discussions and agreements that the indigenous and Afro-Colombian communities have had with local authorities. Currently, the agency coordinates the execution of 1420 productive projects of rural and agricultural development with a territorial focus throughout the country. This work fits in three programs: 1) Implementation of rural development projects, 2) artisanal fisheries and aquaculture of limited resources, and 3) productive rural development projects with a territorial approach.

The main goal of Prior Action 3 is the consolidation of a strengthened institutional and regulatory framework for integrated rural development. As a result, the government issued Decree 893 in May 2017 to create territorial development programs (known in Spanish as PDETs) "as a planning and management instrument to implement, as a priority, sectoral plans and programs within the framework

of the Comprehensive Rural Reform (RRI)." The Decree establishes that the geographic coverage of the 16 PDETs prioritizes 170 municipalities, of which 107 contain ethnic groups, with 452 indigenous reserves and 305 community councils.¹⁵⁴ The PDETs are linked to the Integral Rural Reform in the Peace Agreements and aim to focus on the regional development of areas most affected by the armed conflict and abandoned by the state.

The PDET is currently one of the most debated programs in the implementation of the peace agreement at the territorial level. Although the PDETs are not triggered by this particular prior action, they are implemented by the Land Renovation Agency (ART) that was established through Prior Action 2. This, combined with the fact that PDETs are a fundamental element of the Integral Rural Reform and were repeatedly mentioned in discussions with ethnic leaders makes them relevant to this report.

Although Decree 893 establishes that PDETs must have respect for the ethnic communities' governments and be built with the participation of the communities' authorities that accredit formal and legitimate recognition, Afro-Colombian people state that this is not happening in reality. According to an Afro-Colombian leader: "[...] it is a top-down policy, [...] the ethnic communities should participate and establish the guidelines to ensure that these development programs have a territorial approach recognizing our history, culture, and our relationship with territories."¹⁵⁵ Thus, the effective implementation and full compliance with commitments of the PDETs is problematic for ethnic communities as they are not promoting inclusive development in their areas.

An indigenous leader interviewed similarly expressed that it is not clear how the PDETs will serve to strengthen indigenous territorial rights. Their people are concerned because they find a huge gap between the approach towards the PDETs at the national level and what is actually happening on the ground. This situation puts at risk the inclusive and transparent development of these programs. An Afro-Colombian leader explained this issue in the following words: "There is a great disconnect that is evident at the national level and what is being done regionally; there is no coordination, and we have evidence that this participatory process has really reached the point where the agreements made in meetings are not met."¹⁵⁶

In the words of one of the ethnic leaders consulted "these institutions [ANT and ADR] are not to guarantee our rights, but guarantee much broader strategies, which might go against many of our rights."¹⁵⁷ While it is too early to evaluate these institutions, since all these reforms occurred at the end of 2015, the underlying problem is that these new agencies were created by presidential decrees without consultation: "All these institutional reforms did not have participation of the Afro-Colombian and Indigenous people. All those decrees affecting our situation came out and we did not participate, and we were not aware. They were an avalanche of more than ten decrees, which came out to re-align the whole sector of territorial and agrarian development."¹⁵⁸



IV. Conclusions & Main Findings

DEVELOPMENT POLICY FINANCE

- **In Development Policy Finance, impacts of the policy reforms occur after the money is fully disbursed and impacts depend on how reforms are implemented.** The assessment of environmental and social impacts in the design of DPFs under the Bank Policy (OP 8.60) are subject to a high degree of discretion in the estimation of the magnitude of risk.¹⁵⁹ The Bank determines whether country policies supported by the operation are “likely to cause significant effects.” For example, in the case of the Territorial DPL, the GoC got a loan in exchange for a plan (CONPES 3859) to have a law that would govern a ten-year implementation process.
- **World Bank operational policy fails to ensure mitigation of social and environmental impacts, especially those resulting “downstream,”** i.e. as a consequence of the implementation of DPL-mandated laws or policies. Risk assessments depend largely on the discretion of Bank staff; there no real options available for mitigating medium and long-term impacts outside of the client country’s own institutional framework. According to the DPF document, prior actions supported by the DPF “are not likely to have significant negative effects on the environment, forests and other natural resources,” concluding that “the overall net direct and indirect environmental effects of the DPF would be positive” or neutral and the overall risk rating that the WB assigned to the project was “moderate.” However, it is not clear how the World Bank arrived at these conclusions.¹⁶⁰

COLOMBIAN TERRITORIAL DPF

- **The Territorial DPF did not establish mechanisms or provide information to ensure ethnic communities’ proper participation in the new institutional arrangements supported by the Territorial DPF.** These communities were offered no space for dialogue to actually influence the loans that the GoC has agreed with the World Bank, or the role and goals of the new

agencies in charge of land management triggered by prior actions 2 and 3. Also, ethnic communities expressed the importance and necessity of a multi-purpose cadastre system, but had concerns regarding 1) the lack of their participation in developing and implementing the multi-purpose cadastre policy and 2) the risks that could be exacerbated if public information on natural resources is used not to protect the ethnic communities, but is used instead to promote extractive or agri-business in their territories.

- **Lack of inter-institutional organization and coordination in the GoC is exacerbating transparency and accountability issues.** Although Colombia has developed robust legal and institutional frameworks to recognize community rights, the limitations in the institutional arrangements and capacity to implement community rights are still huge. There is no clarity on the new functions of the new agencies that were established with the dissolution of INCODER. Communities are concerned that the lack of clarity in institutional roles, main responsibilities, and monitoring capacity of the new agencies that will be implementing the new territorial arrangements generates more inefficiencies, rather than strengthening the GoC’s institutional capacity. At the same time, there is a lack of clear division of labor between the national and subnational government level which exacerbates the lack of institutional capacity to implement the Peace Agreements and all the post-conflict programs, projects and policies.
- **CONPES 3859, which was a principal basis for the Territorial Governance DPF, does not include strong institutional mechanisms to address the predictable conflict between the protection of ethnic lands and the promotion of private land markets.** The new multi-purpose Cadastre system could be either used to strengthen indigenous and collective territories through clearer boundaries and rights or weaken them if their territories are not fully recognized. This makes ethnic communities more vulnerable. An unintended consequence of the procedure of identification of territories and cross-registration of information could be expropriation of communities’ territories because they are not in the cadastre. Community leaders emphasized the importance of these records being clear and having guarantees and protection for those communities that have a title but are not registered in the cadastre.
- **CONPES 3859 is a plan to guide the ‘Ley de Estatuto Catastral’ that would govern a ten-year implementation process.** The draft law was submitted for parliamentary approval on August 16, 2017 and was still awaiting action as of the end of March 2018.¹⁶¹ Even so, the National Planning Department (DNP) stated that pilots to implement the multi-purpose cadastre policy in 23 municipalities and in 145,533 properties (1% of the national territory)

would go ahead.¹⁶² One of the major characteristics of DPFs is that funds are not earmarked to specific activities beyond the prior actions. Nonetheless, the DPF document sets a target of 70% in 2018 against a zero baseline of area to be covered by the cadastre pilot program. Considering this, it is not clear how World Bank expects the government to use the money because, in this case, the DPF is supporting the creation of a long-term plan, CONPES 3859, but it is also setting a specific target to achieve by 2018.

- **The Territorial DPF document does not assess evidence regarding who was consulted, how and about what:** The official claim in the Territorial DPF Program document is that the policies supported by this DPF were informed by “a complex process of consultations” (27). However, the document does not assess evidence regarding who was consulted, how and about what.
- **Ethnic communities don’t experience improvements or particular benefits regarding collective land titling process and securing land tenure.** Despite the ‘institutional strengthening process’ embodied by the Agencia Nacional de Tierras (ANT), ethnic communities haven’t experienced improvement at the local level. In particular, they haven’t seen the ANT make progress toward the target of 40,000 plots in rural areas with formalized rights in 2018. Most of the requests for collective land

titling have stagnated and there has been a minimal advance in the process of titling collective territories for ethnic communities. Moreover, there are no clear institutional mechanisms for these groups to make claims or complaints to the ANT or to strengthen enforcement. Recognition for collective land tenure is a mechanism to stop land privatization which fosters fragmentation and land use changes negatively affecting natural habitat.

- **It is difficult to find consistent official data on land titling requests and the number of official *resguardos* and collective territories officially recognized:** There is no consistent official data across different entities of the government. The territorial DPF is intended to help the government to overcome such problems.
- **While addressing collective territories is critical, it is actually one illustration of a broader problem, which also applies to land for peasants who have individual plots, particularly women.** Another is that much of the expansion of the extractive economic model that this DPF facilitates is most likely to occur in the Altillanura, Colombia’s rich, biodiverse savannah, the gateway to the Amazon on which the Amazonian biome depends.



V. Recommendations

WORLD BANK

1. Revise and strengthen DPF governing policies by harmonizing and aligning them with the new WB safeguard policy framework: DPFs lack a rigorous and comprehensive set of social and environmental safeguards to ensure that WB projects do no harm and that vulnerable groups can access projects benefits. Operational Policy 8.60 governing DPFs was not included in the review and update of Bank safeguard policies (the new Environmental and Social Framework). This was a lost opportunity to strengthen DPF governing policies. In light of this, the WB should revise and strengthen DPF governing policies by developing specific safeguards mechanisms that ensure transparency, inclusion and proper tools to assess social and environmental implications for the medium and long term of the policy and institutional reforms.

2. Recognize the significant risks of land conflict in the Colombia Multipurpose Cadaster Project (P162594) and reflect these in WB documents, including the Safeguards Data Sheet: As recognized in this report, ethnic communities raised several concerns regarding the social and environmental implications related to the development of the Multipurpose Cadastre and the process of regularization of collective property rights. The pipeline project should recognize in the Safeguards documents that socio-environmental risks are high and address them with preventive strategies based on extensive consultations and inclusion of ethnic communities from the beginning in the design, as well as implementation and monitoring. The project should minimize and prevent conflicts between business interests and collective lands by ensuring that the proper safeguards are in place to protect ethnic and vulnerable communities' rights.

3. Ensure environmental and social assessments for DPFs: Guidance on DPF design should provide clear, mandatory criteria for assessing social and environmental risk and a country's institutional capacity to manage that risk. This includes all risks arising from changes in land ownership & use policy and law, especially potential impacts from changes in land tenure and rights on vulnerable or marginalized groups and their traditional territories. The SEA and SESA could be used as tools to assess environmental and social implications of policy reforms. DPFs should also be subject to environmental and social risk categorization based on a robust an open environmental and social screening process that includes potential downstream impacts of policy changes. Moreover, all DPFs should be subject to monitoring and evaluation mechanisms, which encompass longer term monitoring of reform results, and parallel redress mechanisms.



4. Improve DPF transparency and disclosure:

To better understand the specific reforms and government actions supported by the World Bank's DPF operations, and the associated potential social and environmental risks, the DPF program document should disclose:

- i. all measures contained in DPF-supported laws, policies and investment frameworks, with examples of expected significant impacts; and
- ii. all current and planned investment projects related to the DPF operation.

5. Incorporate social and environmental governance in DPF reforms:

DPFs need to ensure that countries have adequate governance capacity to develop, implement, and enforce regulations and incentives for sound social and environmental management. In the case of territorial governance, policy reforms to strengthen and protect ethnic communities' security of forest tenure should be prioritized as proven strategies to protect forests and combat climate change as well as their own fundamental rights.¹⁶³

6. Hold, report, and act on inclusive consultation:

To ensure legitimacy and likely achievement of DPF prior actions and triggers. Considering the magnitude of impact from prior actions, DPFs need to be fully transparent and properly consulted, since the quality of the design and outcomes cannot otherwise be assured. Improved guidance on minimal standards for consultation that establishes greater advisory capacity by a wider range of stakeholders at key moments in the project/reform cycle is required. This should include:

- i. Early disclosure of information, including instruments such as SEA/SESAs, prior to the approval of the loan,
- ii. Once active, the application of the standard of free, prior, and informed consent (FPIC), as provided by ESS7, in all matters affecting Indigenous Peoples, and equivalent protections for Afro-descendant communities.

7. Provide for comprehensive forest protection:

The World Bank Group's Forest Action Plan FY16-FY20 states that "the WBG aims to support clients to promote growth that does not come at the expense of their natural forests..." As such, the World Bank must ensure ex-ante DPF assessment of potential risks and impacts of land use change, including direct and indirect impacts to forests. Any DPF reform measures that support project investments that could cause significant adverse impacts to primary forest or critical habitat, and the peoples that depend upon them, should not go forward.

8. Provide additional financing to address the limitations in GoC institutional arrangements and capacity to implement community rights, both for indigenous and Afro-Colombian communities. This includes addressing financial and technical limitations of the national and subnational government agencies with responsibility in this area. The \$100 million Multipurpose Cadaster Project loan could be designed to fill this need, evidenced by the shortfalls in Colombia's land reforms to date under the DPF.



GOVERNMENT OF COLOMBIA

The recommendations to the Government of Colombia are a result of the discussions that representatives of Ethnic Communities had during the workshop that was hosted in Bogotá in February 2018.

1. Strengthen Institutions: As this World Bank DPF has a main goal of the institutional strengthening of the territorial policy in Colombia, the ethnic communities have two specific demands to be considered to support an ethnic approach in territorial governance. This proposal includes creation of

- i. an Ethnic Agency or Unit to monitor and advise on the proper and equitable implementation of the multi-purpose cadastre law; and
- ii. an Ethnic Commission to ensure prompt and fair resolution of ethnic issues in the ANT and the ART. If the Colombian government is the sole operator and implementer of territorial arrangement policies and institutions, this raises questions among ethnic communities regarding their voice in territorial distribution in the country, how they are represented, and who decides the winners and the losers of the new territorial order. The ethnic peoples have a vision and a proposal for development in their territories.

2. Provide for participation of ethnic peoples in the processes of territorial governance to achieve a comprehensive vision. GoC administrative procedures are not adjusted to the social and cultural reality of indigenous and Afro-Colombian peoples and are inefficient and ineffective for their needs. This is evident in the quest of the ethnic communities to include an ethnic unit in the ANT and an Ethnic Commission in the design and implementation of the Multi-Cadastre System. Permanent engagement in and oversight of the implementation of these policies will help the communities to ensure that the new territorial arrangement responds to and respects their holistic vision of territory.

3. Collect information on the indigenous reserves and Afro-Colombian territories that are a) already granted and b) requested/in process in order to integrate into the cadastral system and map them. Our research found no comprehensive delineation or mapping of these reserves and territories. This seems essential, along with the multi-purpose cadastre, to secure their rights and avoid conflicts.

4. Recognize and apply collective land tenure as a mechanism to mitigate potential negative implications that CONPES 3859 could produce for Ethnic Communities: Consistent with Article 8b (inter alia) of the Declaration on the Rights of Indigenous Peoples [G.A. Res. 61/295, U.N. Doc. A/RES/47/1 (2007)¹⁶⁴—aka, UNDRIP], the Government must avoid any action which has the aim or effect

of dispossessing Indigenous Peoples of their lands, territories, or resources. More broadly, Indigenous Peoples and local communities have historically played an essential role in the management and protection of lands, forests, and freshwater systems in Colombia as elsewhere, and supporting their role in doing so is fundamental to advance peace and sustainability.¹⁶⁵

5. Address the requests that were submitted by the ethnic communities to ensure titling of the indigenous *resguardos* and collective territories for Afro-Colombian communities: This is consistent with results from the International Land and Forest Tenure Facility that securing local peoples' land and resource rights yields positive, transformative change.¹⁶⁶

6. Support ethnic communities with technical assistance and training: This is justified particularly in light of patterns of racial discrimination against Afro-Colombians, which have limited their access to education and land, and in recognition of the ethnic dimension of the past internal armed conflict.¹⁶⁷

7. Improve the quality of information available for decision-making, especially with regards to land use planning, and incorporate environmental considerations into planning instruments.

8. Strengthen local authorities and foster local participation in environmental management, especially for Indigenous and Afro-Colombian communities that inhabit much of the country's forested areas.

9. Strengthen collective titling and protect the special characteristics of collective territories (inalienable, indefeasible, and non-marketable) in the implementation of the policies supported by the Territorial DPF: Collective territories should not end up in contracts, such as leases to extractive companies, that are inconsistent with collective values. Territorial rights need to be linked to the way peoples use land and other natural resources and how they organize and give meaning to a place, while responding to economic, policy and cultural dimensions. For indigenous peoples, connection to specific locations and their natural attributes must be respected. For Afro-Colombian communities, territorial rights must recognize ways of living that include a close dependence on forests and other ecosystems.

References & Footnotes

¹ World Bank, project page “Colombia Territorial Development Policy Loan”. Retrieved from: <http://projects.worldbank.org/P158520/?lang=en&tab=overview>

² The declared goals were to: “(i) strengthen institutions for land management and territorial planning; and (ii) improve subnational financial management and investment prioritization.”

³ According to official government data from the Departamento Administrativo Nacional de Estadística (DANE). The Afro-Colombians, or people who identified themselves as: “negro, mulato, afrocolombiano o afrodescendiente”, accounted for 10.5% of the population and 3.4% as indigenous (2005 Census). Retrieved from: http://www.dane.gov.co/files/censo2005/PERFIL_PDF_CG2005/00000T7T000.PDF

⁴ Because of the nature of the data collection process, which took into account time and budget limitations, the implications of the potential social and environmental implications on women and campesinos are not analyzed in this report.

⁵ An official register of the ownership, extent, and value of real property in a given area, used as a basis of taxation.

⁶ World Bank, Program Document for Territorial DPL “Operation type: First in a series of two single Tranche programmatic Development Policy Financing (DPF) operations”, emphasis added. Retrieved from: <http://documents.worldbank.org/curated/en/593461479480212965/Colombia-First-Programmatic-Territorial-Development-Policy-Financing-Project>

⁷ **Prior action 4: Strengthened Territorial Planning.** The Government has approved a new territorial planning policy, which enables: (i) the development of territorial & land-use plans at Departamento-level to foster regional integration, and (ii) the updating of municipal land-use plans under a new methodology that incorporates urban-rural linkages. The PDETs are being implemented now with the communities. The PDETs also group planning instruments specific to these ethnic communities. In this sense, the POTs is not an issue that was highlighted as a concern on behalf of the ethnic communities. The POTs are the responsibility of the municipalities, that is, the mayors must start the task of these new POTs, usually the communities are not involved. The POTs work urban, rural and urban expansion areas.

⁸ Other prior actions are:

Improved Planning and Execution of Regional Investments, Prior Action 5: The Government has adopted a new policy that strengthens the Memoranda of Understanding between national and sub-national governments (Contratos Plan) by: (i) Requiring prioritization of investments with highest impact potential in areas of higher needs, (ii) Creating a Regional Fund⁴¹ to speed-up project execution, and (iii) Ensuring co-financing of investments from subnational governments.

Improved fiscal reporting by subnational governments, Prior Action 6: The Government, through the legislature, has enacted Organic Law 1753 which centralized the fiscal risk oversight of subnational governments in the MHCP through the unification of reporting requirements to improve the quality of regional fiscal data.

Harmonized Accounting and Budget Regime across agencies and levels of government, Prior Action 7: The Government has harmonized the public sector accounting practices to a single national standard regime across government entities, including subnational governments, to be applied on a mandatory basis from January 1, 2017, to enable comparability of data across all sectors and levels of government.

Design and regional adoption of Standard Investment projects for SNG as part of the new public procurement policy for the national and subnational governments, Prior Action 8: The Government has enabled the use of standard project designs by subnational governments to reduce the time and cost in the procurement and execution of regional and municipal investment projects.

⁹ Field work done by Asociación Ambiente y Sociedad (AAS) during the months of October and November 2017 included eight in-depth-interviews to Indigenous and Afro-Colombian leaders. The leaders requested to remain anonymous as well as the names of the organizations that they represent. Field work also included a process of monitoring and participant observation of the process of advocacy done by ethnic groups to the Plan Marco de Implementación.

¹⁰ The workshop was held in Bogotá, Colombia on February 2018. It was organized by Asociación Ambiente y Sociedad (AAS), Justicia Tributaria en Colombia (JTC), and Bank Information Center (BIC). Participants that attended the workshop included: i) members of indigenous and Afro-Colombian organizations ii) representatives of the Colombian National Government, ii) members of local, national, and international NGOs, iv) academics, researchers, and scholars v) social and environmental activists. Representatives from the World Bank office in Colombia were invited to participate. For more information on the presentations and outcomes of the main discussions and activities please contact: cjuaneda@bankinformationcenter.org

¹¹ In this point the reference is made to conflict areas but it is important to note that the territories where the FARC were based, according to experts, have been protected from environmental damage by extractive industry and they were indirectly recognized as ‘environmental authorities’ that in some territories played a role positive and in others negative. For further information on this topic see: <http://sostenibilidad.semana.com/medio-ambiente/multimedia/farc-ambivalencia-frente-medio-ambiente/33710>

¹² Information about victims and victims of displacement also vary widely. According to official data (Unidad de Víctimas), as of April 1st, 2018, 7.371.504 people have been displaced in Colombia. Retrieved from: <https://rni.unidadvictimas.gov.co/RUV>. Additional data, from the UNHCR states that in Colombia, as of 2016, 7.4 million people had been displaced. Retrieved from: <http://www.acnur.org/recursos/estadisticas/>

- ¹³ Omaira, Bolaños. Collective Tenure Rights in Colombia's Peace Agreement and Climate Policy Commitments. Rights and Resources International (RRI). Retrieved from: http://rightsandresources.org/wp-content/uploads/2016/12/Collective-Tenure-Rights-in-Colombia%E2%80%99s-Peace-Agreement-and-Climate-Policy-Commitments_English.pdf
- ¹⁴ Summary of Colombia's Agreement to end conflict and build peace. Presidencia de la República de Colombia. Retrieved from: <http://www.altocomisionadoparalapaz.gov.co/herramientas/Documents/summary-of-colombias-peace-agreement.pdf>
- ¹⁵ "Capítulo Étnico incluido en el Acuerdo Final de Paz entre el Gobierno Nacional y las FARC" por ONIC, en Comunicados ONIC, 25 Agosto 2016
- ¹⁶ See Rights & Resources Initiative, [Collective-Tenure-Rights-in-Colombia's-Peace-Agreement-and-Climate-Policy-Commitments.pdf](#). Also: Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."
- ¹⁷ Enacted as [law 1753](#) of 9 June 2015.
- ¹⁸ See "Summary of Colombia's Agreement to End Conflict and Build Peace;" and actual text of the 310-page Agreement. Retrieved from: www.acuerdofinal.com.co.
- ¹⁹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA)
- ²⁰ The special connection that Indigenous People and Afro-descendant communities have to the land they inhabit has also been recognized in international law and jurisprudence (Inter-American Court of Human Rights, Saramaka People v Suriname decision of 28 November 2007). <file:///C:/Users/Usuario/Downloads/AMR2326152015ENGLISH.PDF> page 4
- ²¹ Colombia is host to some 1,450,000 Indigenous people (IWGIA), making up just over 3% of the total population. The Afro-Colombian population makes up some 10.6% of the population, although the land over which they claim ownership consists of only 2% of Colombia's territory.
- ²² According to the UN Office of Drug Control, coca cultivation increased by 52% inside indigenous reserves, rising from 7,799 hectares in 2014 to 11,837 hectares in 2015. See: [Forests in Colombia fall victim to illegal coca plantations](#) by [María Lourdes Zimmermann](#) on 16 September 2016.
- ²³ Minority Rights Group International, World Directory of Minorities and Indigenous Peoples - Colombia: Afro-Colombians, 2008. Retrieved from: <http://www.refworld.org/docid/49749d3cc.html>
- ²⁴ Tovar-Restrepo, M., & Irazábal, C. (2014). *Indigenous women and violence in Colombia: Agency, autonomy, and territoriality. Latin American Perspectives*, 41(1), 39-58 (page 46). doi:10.1177/0094582X13492134
- ²⁵ Per the [NDC Partnership](#), Colombia's National Development Plan established a goal to limit deforestation rates to 90,000 hectares per year by 2018, reducing from a baseline of 120,933 hectares deforested in 2014, a 25.6% reduction, and an annual rate of roughly 0.12% of forest area. Despite this, deforestation rates in Colombia's Amazon region jumped by 44 percent from 124,035 hectares to 178,597 (roughly 690 square miles) from 2015 to 2016, according to Colombia's [Institute of Hydrology, Meteorology and Environmental Studies \(IDEAM\)](#). [Observers](#) attribute this to opportunistic loggers entering territories where fear of FARC had kept them away for decades, and converting them into sites for large-scale agriculture and cattle ranching, road infrastructure, or illegal Mining. Moreover, unofficial sources (Global Forest Watch) report higher deforestation rates, including 291,000 ha. In 2016 and an average of over 205,000 ha. (0.3%) annually from 2001-16.
- ²⁶ See as background Forest Stewardship Council: [HIGH CONSERVATION VALUES AND BIODIVERSITY: What are high conservation values and what do they mean for biodiversity?](#)
- ²⁷ Morales, L. (2017). *Peace and environmental protection in Colombia: Proposals for sustainable rural development*. The Dialogue http://www.thedialogue.org/wp-content/uploads/2017/01/Envt-Colombia-Eng_Web-Res_Final-for-web.pdf
- ²⁸ This statistic is from Rights and Resources Initiative (2015), « Who owns the World's Land » A global baseline of formally recognized indigenous and community land rights http://rightsandresources.org/wp-content/uploads/GlobalBaseline_web.pdf. [More precise information is provided in a presentation \(n.d.\) by Jairo Alonso Mesa Guerra, Superintendent of Notaries and Registration, Ministry of Justice and Law, Gov't. of Colombia](#) in [The Role Of Registration In Colombian Indigenous Communities Property Recognition: According to Colombian Ministry of Interior, there are 872 indigenous reservations totaling 31,148,406 hectares. 4,180,247 additional hectares have been requested as extensions of these reservations. The 2005 Census in Colombia reported an indigenous population of 1,378,884 people, of whom 933,800 remain in reservations. This means that there are 445,084 people, 27% of Colombiás indigenous population, who do not possess recognized collective territory. Claims to safeguard the collective territorial rights of indigenous and black communities in situations of displacement or at risk of being displaced are referred to The Special Administrative Unit for the Management of Restitution of Dispossessed Lands. \(SAUMRDL\).](#)
- ²⁹ Titled Indigenous Resguardos [reserves] were 32,181,508 ha. and Afro-descendent Collective Territories 5,574,828 ha., per INCODER 2015, as reported by RRI. See also Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."
- ³⁰ Rodríguez, GA (2010), La consulta previa con los pueblos indígenas y comunidades afrodescendientes en Colombia. Facultad de Jurisprudencia Universidad del Rosario. See: <http://www.urosario.edu.co/jurisprudencia/catedra-viva-intercultural/Documentos/CONSULTAPREVIA/>

³¹ Corte Constitucional Sentencia T-188 de 1993. M.P. Eduardo Cifuentes Muñoz

³² State agencies including the Office of Comptroller General and the Office of the Human Rights Ombudsman have issued numerous reports condemning the negative environmental impact of mining activities. See, for example, the series of studies on mining entitled *Minería en Colombia* by the Office of the Comptroller General published in four volumes between May 2013 and November 2014, Retrieved from: <http://justiciaambientalcolombia.org/2014/08/11/coleccion-estudios-contraloria-mineria-colombia/>

³³ For example, guerrilla attacks on oil pipelines have led to a reported four million barrels of spilled oil over the years.

³⁴ Idem illegal actors such as armed groups paramilitary forces with the intent of gaining or maintaining social and political control over territories

³⁵ Environmental Justice Atlas. Retrieved from: <https://ejatlas.org/country/colombia>

³⁶ Kristen French (2017) Forest-Friendly Development can bolster peace in Colombia, paper says. Earth Institute. Retrieved from: <http://blogs.ei.columbia.edu/2017/03/16/forest-friendly-development-can-bolster-peace-in-colombia-paper-says>

³⁷ Cecilia Roa (2016). Environmental Democratization in Post-War Colombia. GIGA, Number 5. Retrieved from: <https://www.giga-hamburg.de/en/publication/environmental-democratisation-in-post-war-colombia>

³⁸ United Nations Environment Programme. The Environmental Dimension of Peace. Retrieved from: <http://www.unep.org/ourplanet/may-2016/articles/environmental-dimension-peace>

³⁹ The REDD Desk. REDD in Colombia. Retrieved from: <https://theredddesk.org/countries/colombia>

⁴⁰ Morales, L. (2017). *Peace and environmental protection in Colombia: Proposals for sustainable rural development*. The Dialogue http://www.thedialogue.org/wp-content/uploads/2017/01/Envt-Colombia-Eng_Web-Res_Final-for-web.pdf

⁴¹ OCHA/Colombia Humanitarian Country Team (2016). "Humanitarian Needs Overview –Colombia", UN OCHA (Office for the Coordination of Humanitarian Affairs), Bogotá, November 2016. https://www.humanitarianresponse.info/system/files/documents/files/hno_colombia_2017_en.pdf. According to official figures, 7.1 million people were forcibly displaced between 1985 and August 2016.

⁴² Historical Memory Group (2016). "Basta Ya! Colombia: Memories of War and Dignity", Bogotá, Centro Nacional de Memoria Histórica. <http://centrodememoriahistorica.gov.co/descargas/informes2016/basta-ya-ingles/BASTA-YA-ingles.pdf>

⁴³ Guereña, A., "A Snapshot of Inequality: what the latest agricultural census reveals about land distribution in Colombia", Bogotá, Oxfam, 2017. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/colombia_-_snapshot_of_inequality.pdf

⁴⁴ Guereña, A., "A Snapshot of Inequality: what the latest agricultural census reveals about land distribution in Colombia, Bogotá, Oxfam, 2017. Retrieved from: https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/colombia_-_snapshot_of_inequality.pdf

⁴⁵ Presidencia de la República de Colombia (2017), Decreto Ley Número 902 de 2017 "Por el cual se adoptan medidas para facilitar la implementación de la Reforma Rural Integral contemplada en el Acuerdo Final den Materia de tierras, específicamente el procedimiento para el acceso y formalización y el Fondo de Tierras", Bogotá, República de Colombia, 29 May 2017. <http://es.presidencia.gov.co/normativa/normativa/DECRETO%20902%20DEL%2029%20DE%20MAYO%20DE%202017.pdf> Colombia's National Statistics Administration Department reported this statistic based on its 2011 National Survey on Quality of Life.

⁴⁶ Burgos, S. (2016). "Hope for 'The Future' in Colombia", *The Politics of Poverty*, Oxfam America, 22 December 2016.

⁴⁷ The ZIDRES law circumvents restrictions on land accumulation under Colombia's agrarian reform law, which prohibits accumulation by any person or company of "baldíos" – land that has at one time belonged to the state –that occupy an area larger than the 'family agricultural unit' (defined by law to provide for a family's sustainable livelihood). By facilitating association between companies and small farmers, this new law enables further land concentration for large-scale projects and reduces state land available for distribution to the landless.

⁴⁸ This law, which has a 10-year mandate that expires in 2021, established a program involving administrative and judicial measures to process claims registered by those who were evicted, dispossessed or displaced from their land after 1991. The government's Land Restitution Unit operates as a counsel for victims and takes cases before special courts, where the burden of proof is reversed (current occupiers of the land are the ones who must provide evidence of their legitimate tenure), to provide restitution of lands that were abandoned or seized as a result of the conflict.

⁴⁹ S. Burgos and M. Matheu (2017). 'The peace process in Colombia needs strong US support', *The Politics of Poverty*, Oxfam America.

⁵⁰ Superintendencia de Notariado y Registro "The role of registration in Colombian indigenous communities property recognition". Retrieved from: https://www.conftool.com/landandpoverty2018/index.php?page=browseSessions&print=head&doprint=yes&form_session=38&presentations=show

⁵¹ Defensoría del Pueblo (2017). "Informe de Riesgo No. 010-17 A.I.", Bogotá. <http://www.defensoria.gov.co/es/nube/noticias/6236/156-l%C3%ADderes-sociales-y-defensores-de-derechos-humanos-han-sido-asesinados-en-los-%C3%BAltimos-14-meses-Defensor%C3%ADa-Defensor%C3%ADa-del-Pueblo-l%C3%ADderes-sociales-Defensor-del-Pueblo-Colombia-l%C3%ADderes-sociales.html>

- ⁵² National Government of Colombia and Revolutionary Armed Forces of Colombia – People’s Army (2016). Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace”, Bogotá, Oficina del Alto Comisionado para la Paz, 24 November 2016. <http://www.altocomisionadoparalapaz.gov.co/Prensa/Documentos%20compartidos/Colombian-Peace-Agreement-English-Translation.pdf>
- ⁵³ El Espectador (2017)., “Creación del Fondo de Tierras se discute hoy en la Corte Constitucional”, Bogotá. Retrieved from: <https://www.elespectador.com/noticias/judicial/creacion-del-fondo-de-tierras-se-discute-hoy-en-la-corte-constitucional-articulo-708335>
- ⁵⁴ Mason, E. S. and Asher, R. E. (1974). The World Bank since Bretton Woods. The Brookings Institution. Retrieved from: <https://books.google.co.uk/books?id=Y4VmW98hZy8C&pg=PA656&lpg=PA656&dq=%22world+bank%22+columbia&source=bl&ots=hgkVqS7MvE&sig=JZ2E9PFcfOGvPaCJZNa6U1MkNc&hl=en&sa=X&ved=0ahUKEwi15ckX2sfWAhXMLVAKHZqbAa04HhDoAQhKMAc#v=onepage&q=%22world%20bank%22%20colombia&f=false>
- ⁵⁵ See <http://www.worldbank.org/en/country/colombia/overview#2> and <http://www.worldbank.org/en/country/colombia/projects>
- ⁵⁶ Federici, M. and Kjell, P (2017). *Influencing World Bank projects before they happen: A beginner's guide to advocacy on Country Partnership Frameworks*. <http://www.bankinformationcenter.org/wp-content/uploads/2017/08/CPF-primer-July-2017-FINAL.pdf>
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- ⁵⁹ Aiyar, M., Parker, A. and van Zyl, J. (1995). Market-assisted land reform: a new solution to old problems. In *Agriculture & Natural Resources Department Dissemination Notes 4*. Retrieved from: <http://documents.worldbank.org/curated/en/708351468740977892/Market-assisted-land-reform-a-new-solution-to-old-problems>
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- ⁶⁴ Bretton Woods Project (2002). WB land reform: “land for whoever can buy it”. Bretton Woods Update 28. Retrieved from: <http://www.brettonwoodsproject.org/2002/05/art-16267/>
- ⁶⁵ The Land Governance Assessment Framework (LGAF) is a diagnostic tool to assess the status of land governance at country level using a participatory process that draws systematically on existing evidence and local expertise rather than on outsiders. The analysis covers nine themes: land tenure recognition; rights to forest and common lands and rural land use regulations; urban land use, planning, and development; public land management; process for transfer of public land to private use; public provision of land information (land administration and information systems); land valuation and taxation; dispute resolution and review of institutional arrangements and policies. The assessment follows a scorecard approach and produces a matrix of policy priorities matrix. The LGAF process helps to establish a consensus on (i) gaps in existing evidence; (ii) areas for regulatory or institutional change, piloting of new approaches, and interventions to improve land governance on a broader scale (e.g. by strengthening land rights and improving their enforcement); and (iii) criteria to assess the effectiveness of these measures. This report presents the result for Colombia. See *Mejora de la Gobernanza de la Tierra en Colombia* and the scorecard at: http://siteresources.worldbank.org/INTLGA/Resources/Colombia_Scorecard.pdf
- ⁶⁶ “Climate-smart Farming in Colombia’s Last Agricultural Frontier,” REPORT from World Bank, 16 Mar 2018, <https://reliefweb.int/report/colombia/climate-smart-farming-colombia-s-last-agricultural-frontier>.
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⁷⁰ Vince McElhinny (2011), *The World Bank and DPLs: What middle income countries want*. Building Informed Civic Engagement for Conservation in the Andes and Amazon (BICECA), Bank Information Center. <http://www.bankinformationcenter.org/en/Document.102530.pdf>

⁷¹ World Bank (2017). *Bank Policy: Development Policy Financing OPS5.02* <https://policies.worldbank.org/sites/ppf3/PPFDocuments/b98d432b7471441b9f3936b7c380bd05.pdf>

⁷² World Bank (2017). *Bank Policy: Development Policy Financing OPS5.02* <https://policies.worldbank.org/sites/ppf3/PPFDocuments/b98d432b7471441b9f3936b7c380bd05.pdf>

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⁷⁴ Environmental management systems tend also to be reactive and not well-integrated; see Pezzoli, Keith (2000) "Environmental Management Systems (EMSs) and Regulatory Innovation," *California Western Law Review*: Vol. 36: No. 2, Article 7. Available at: <http://scholarlycommons.law.cwsl.edu/cwlr/vol36/iss2/7>.

⁷⁵ For further discussion of the role of environmental governance in a developing country context, see Wingqvist, Gunilla Ölund et al.: *The role of governance for improved environmental outcomes: Perspectives for developing countries and countries in transition*, 20 June 2012. It concludes (pp. 49-50): "Governance aspects need to be considered when aiming at improving implementation of environmental legislation and other environmental measures....Accountability mechanisms, such as ensuring the rights to **access information, public participation and access to an impartial justice system, are essential** for enabling these constituencies to demand environmental improvements." [Emphasis added.]

⁷⁶ Independent Evaluation Group (2015). *Managing environmental and social risks in Development Policy Financing*. Washington DC: International Bank for Reconstruction and Development / The World Bank http://ieg.worldbankgroup.org/sites/default/files/Data/reports/Managing_ES_Risks_in_DPF.Sept18.2015.pdf

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⁷⁸ Independent Evaluation Group (2015). *Managing environmental and social risks in Development Policy Financing*. Washington DC: International Bank for Reconstruction and Development / The World Bank http://ieg.worldbankgroup.org/sites/default/files/Data/reports/Managing_ES_Risks_in_DPF.Sept18.2015.pdf

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⁸⁶ Inspection Panel (n.d.). Congo, Democratic Republic of: *Transitional support for economic recovery credit and emergency economic and social reunification support project*. Retrieved from: <http://ewebapps.worldbank.org/apps/IP/Pages/ViewCase.aspx?CaseId=62>

⁸⁷ Inspection Panel (2007). Congo, Democratic Republic of: *Transitional support for economic recovery credit and emergency economic and social reunification support project. Investigation Report*. [http://ewebapps.worldbank.org/apps/ip/PanelCases/37-Investigation%20Report%20Executive%20Summary%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/37-Investigation%20Report%20Executive%20Summary%20(English).pdf)

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- ⁹³ Plan Marco de Implementación, official government document, the information on costs is on page 217 and 218. Retrieved from: <http://www.kavilando.org/images/stories/documentos/Plan-marco-de-implementacin.pdf>
- ⁹⁴ Inter-American Development Bank (IDB), active and pipeline projects in Colombia. Retrieved from: <https://www.iadb.org/en/projects-search?query%5Bcountry%5D=CO&query%5Bsector%5D=&query%5Bstatus%5D=&query%5Bquery%5D=>
- ⁹⁵ Rights and Resources Initiative (2015), “Who owns the World’s Land: A global baseline of formally recognized indigenous and community land rights” Retrieved from: http://rightsandresources.org/wp-content/uploads/GlobalBaseline_web.pdf
- ⁹⁶ This was the Second Sustainable Development and Green Growth DPL, approved December 2017, closing December 2018. The \$600 million Colombia Fiscal and Growth DPL 1, approved in March 2017, closed March 30, 2018.
- ⁹⁷ The World Bank has prepared a \$100M Colombia Multipurpose Cadaster Project (P162594), see the overview of the project: <http://documents.worldbank.org/curated/en/412091489780662832/pdf/ITM00184-P162594-03-17-2017-1489780660232.pdf>. The Inter-American Development Bank (IDB) is prepared a \$50M Municipal Cadastral Management Strengthening Program (CO-L1164), see project profile: <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-590845287-11>
- ⁹⁸ World Bank, Program Document for Territorial DPL “Operation type: First in a series of tow single tranche programmatic Development Policy Financing (DPF) operations”
- ⁹⁹ A CONPES document results from a deliberative process and decisions adopted by the National Council for Economic and Social Policy (Consejo Nacional de Política Económica y Social, CONPES), which is a governmental advisory body responsible for setting Colombia’s policies on economic and social development. For example, it can provide direct executive orders to create reform and set the basis upon which the national budget is presented to Congress on a specific subject.
- ¹⁰⁰ A CONPES 3334, Retrived from: <https://colaboracion.dnp.gov.co/CDT/Conpes/Económicos/3334.pdf>
- ¹⁰¹ Camilo Diaz (2018). Justicia Tributaria. Presentation of Workshop Bogota, Colombia.
- ¹⁰² An official register of the ownership, extent, and value of real property in a given area, used as a basis of taxation.
- ¹⁰³ CONPES 3859. Política para la adopción y puesta en marcha de un catastro multipropósito rural-urbano DNP, IGAC, SNR, ANT. Javier Burgos Director Técnico – Dirección de Desarrollo Territorial Sostenible DNT. Pág. 15.
- ¹⁰⁴ There’s no indication that it is actually being discussed. For more information, see <http://www.camara.gov.co/sistema-nacional-catastral-multiproposito>
- ¹⁰⁵ Torres Vanessa, (2017) *Seguimiento de la Ejecución del Crédito del Banco Mundial DPL Territorial en Colombia*. Asociación Ambiente y Sociedad (AAS).
- ¹⁰⁶ World Bank, Program Document for Territorial DPL Operation type: First in a series of tow single tranche programmatic Development Policy Financing (DPF) operations, emphasis added. Retrieved from: <http://documents.worldbank.org/curated/en/593461479480212965/Colombia-First-Programmatic-Territorial-Development-Policy-Financing-Project>
- ¹⁰⁷ CONPES 3859 Política para la adopción y puesta en marcha de un catastro multipropósito rural-urbano DNP, IGAC, SNR, ANT Javier Pérez Burgos Director Técnico Dirección de Desarrollo Territorial Sostenible DNT.
- ¹⁰⁸ Nieto Escalante. Comunicado de presa. El catastro multipropósito herramienta fundamental del PND para ordenar el territorio. Retrieved from: <http://www.camara.gov.co/sites/default/files/2017-10/El%2Bcatastro%2Bmultiprop%C3%B3sito%2Bherramienta%2Bfundamental%2Bdel%2BPND%2Bpara%2Bordenar%2Bel%2Bterritorio%2BNieto%2BEscalante.docx.pdf>
- ¹⁰⁹ CONPES 3859 Política para la adopción y puesta en marcha de un catastro multipropósito rural-urbano DNP, IGAC, SNR, ANT Javier Pérez Burgos Director Técnico Dirección de Desarrollo Territorial Sostenible DNT.
- ¹¹⁰ CONPES 3859 Política para la adopción y puesta en marcha de un catastro multipropósito rural-urbano DNP, IGAC, SNR, ANT Javier Pérez Burgos Director Técnico Dirección de Desarrollo Territorial Sostenible DNT.

¹¹¹ CONPES 3859 Política para la adopción y puesta en marcha del catastro multipropósito rural-urbano DNP, IGAC, SNR, ANT, Javier Burgos Director Técnico de Dirección de Desarrollo Territorial Sostenible DNT.

¹¹² World Bank, Program Document for Territorial DPL Operation type: First in a series of two single tranche programmatic Development Policy Financing (DPF) operations, page 8. Retrieved from: <http://documents.worldbank.org/curated/en/593461479480212965/Colombia-First-Programmatic-Territorial-Development-Policy-Financing-Project>

¹¹³ CONPES 3859, page 16 “The principle of legal independence is a legal concept that constitutes a good practice adopted at an international level that will also be adopted by the country Ibero-American Cadastral Network, the Federation International of Geometricians and is incorporated in the international standard ISO-19-152). This principle allows to share and integrate information from legally independent entities (for example, between the Superintendence of Notary and IGAC).”

¹¹⁴ CONPES 3859, page 16. Retrieved from: <https://es.scribd.com/document/359275033/Documento-Conpes-3859-Politica-Catastro-Multiproposito>

¹¹⁵ Mayra Johana Tenjo (2017) “Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia.”

¹¹⁶ CONPES 3859, page 16 and 17. Retrieved from: <https://es.scribd.com/document/359275033/Documento-Conpes-3859-Politica-Catastro-Multiproposito>

¹¹⁷ Mayra Johana Tenjo (2017) “Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia.” page 65

¹¹⁸ Per RRI, 2015 (op. cit.), p. 7 and fn. 56: Refers to Tierras de las Comunidades Negras (Afro-Colombian Community Lands) and Resguardos Indígenas (Indigenous Reserves). Figures may be subject to change as the State reconciles newly titled lands.

¹¹⁹ Globally, evidence shows that an estimated 2.5 billion people depend on indigenous and community lands (which cover over 50% of national territories), but only one fifth of that land has been formally recognized as legally belonging to the indigenous peoples and other local communities that occupy them.

¹²⁰ World Resources Institute <http://www.wri.org/our-work/project/securing-rights>

¹²¹ Mayra Johana Tenjo (2017) “Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia.”

¹²² CONPES 3859, page 38. Retrieved from: <https://es.scribd.com/document/359275033/Documento-Conpes-3859-Politica-Catastro-Multiproposito>

¹²³ Mayra Johana Tenjo (2017) “Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia.”

¹²⁴ Lovera, C.G. et al (2017) Derechos territoriales de las comunidades negras: Conceptualización y sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva. Observatorio de Territorios Étnicos y Campesinos: Bogotá

¹²⁵ Mayra Johana Tenjo (2017) “Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia.”

¹²⁶ CONPES 3859, Retrieved from: <https://es.scribd.com/document/359275033/Documento-Conpes-3859-Politica-Catastro-Multiproposito>

¹²⁷ World Bank (2007). Colombia 2006-2010: Una ventana de oportunidad. Notas de Políticas presentadas por el Banco Mundial. Pág. 227. <http://documentos.bancomundial.org/curated/es/782761468027627013/Colombia-2006-2010-una-ventana-de-oportunidad>

¹²⁸ Mayra Johana Tenjo (2017) “Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia.”

¹²⁹ Some of the social movements that had raised strong complaints at national and international level about the serious situation of violation of Human Rights and International Humanitarian Law are: Proceso de Comunidades Negras (PNC), Organización Nacional Indígena de Colombia (ONIC) and Consejo Nacional de Paz Afrocolombiano (CONPA).

¹³⁰ Cumbre Agraria (2017). See, <https://www.cumbreagraria.org/>

¹³¹ Cumbre Agraria (2017), <https://www.cumbreagraria.org/que-no-nos-cueste-la-vida-a-la-cumbre-se-le-cumple/> In the month of October of the year 2017, there is evidence of an upsurge in systematic violations. Evidence and facts: the massacre in Tumaco of six (6) peasants and two (2) indigenous people of the Awa people, with the registration of more of fifty wounded in this protest for the government’s non-compliance with coca leaf producers, in addition to the disappearance of several people in this event. The murder of an indigenous leader in communication of the Kokocuno del Cauca reservation, and the registration of three (3) people injured after the actions of land recovery. The killings of an indigenous person in the Choco of the Emberá Doviida People, two Sikuanis indigenous people in Meta and Vichada, two community leaders in Guaviare and Cartagena, two leaders of the Nasa People in Cauca, a Pijao leader and the Afro-descendant leader of the Alto Mira Community Council and Border. The figures for indigenous peoples indicate that between 1 November 2016 and 31 July 2017, after the signing of the Peace Agreement, 30 murdered leaders were reported, 6 disappeared, 115 threatened, 3490 people, of Indigenous Peoples in situation of displacement, 9 with forced recruitment that, added to other events, represent a total of 4,508 cases of violations of human rights and violations of IHL in indigenous territories. The most affected departments and the towns with the highest risks of affectations are in: Cauca, Tolima, Antioquia, Cesar, Chocó, Nariño, Quindío, Valle del Cauca, Meta, Guajira, Risaralda and Amazonas; The affected Indigenous Peoples are Wounaan, Eperara Siapidara, Nasa, Pijao, Embera Chamí, Awá, Embera Katío, Zenú, Jiw, Wayuú, Wiwa and Makuna. Report on the violation of Human Rights of the indigenous peoples, November 1, 2016 to July 31, 2017, Ministry of Rights of Indigenous Peoples, Human Rights, International Humanitarian Law and Peace.

¹³²In order to ensure compliance with the Peace Agreement, including among this the inclusion of the Ethnic approach, the national government committed to support the preparation, discussion, and approval of a document called 'Plan Marco de Implementación' (PMI). The ethnic communities developed a series of proposals in the PMI in relation to the Multi-purpose Cadastre. The PMI worked within the framework of the Ethnic Commission, in this space the indigenous peoples and black communities articulated to build a joint proposal that would allow them to have enough political force to advance the proposals.

¹³³At the time of report preparation, status of this was still unclear. The World Bank is financing a \$100M Colombia Multipurpose Cadaster Project (P162594). Although there will be no project interventions within the IP territories, nor impacts on them, according to the Bank, a Plan for Indigenous Peoples will be developed, and will be subject to consultations before appraisal. This could be an opportunity for addressing the Ethnic commission issue. See <http://documents.worldbank.org/curated/en/412091489780662832/pdf/ITM00184-P162594-03-17-2017-1489780660232.pdf>.

¹³⁴Project overview is here: <http://projects.worldbank.org/P162594/?lang=en&tab=overview>; the Indigenous Peoples Plan is at: <http://documents.worldbank.org/curated/en/321281509402887993/Plan-para-pueblos-ind%C3%ADgenas-y-grupos-etnicos>

¹³⁵Project overview, Retrieved from: <http://projects.worldbank.org/P162594/?lang=en&tab=overview>

¹³⁶Presidencia de la Republica. Decreto No. 2365 de 7 diciembre de 2015 "por la cual se suprime el Instituto Colombiano de Desarrollo Rural - INCODER, se ordena su liquidación y se dictan otras disposiciones".

¹³⁷World Bank, Program Document for Territorial DPL Operation type: First in a series of tow single tranche programmatic Development Policy Financing (DPF) operations, emphasis added. Retrieved from: <http://documents.worldbank.org/curated/en/593461479480212965/Colombia-First-Programmatic-Territorial-Development-Policy-Financing-Project>

¹³⁸World Bank, Program Document for Territorial DPL "Operation type: First in a series of tow single tranche programmatic Development Policy Financing (DPF) operations", emphasis added. Retrieved from: <http://documents.worldbank.org/curated/en/593461479480212965/Colombia-First-Programmatic-Territorial-Development-Policy-Financing-Project> "Number of plots in rural areas with formalized property rights through the new process. (Baseline: 0 in 2016; Target: 40,000 in 2018). "comunidades negras: conceptualización y sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva. <http://www.derechos-territoriales-de-las-comunidades-negras-2-.pdf>

¹³⁹Observatorio de Territorios Étnicos y Campesinos. Pontificia Universidad Javeriana (2017). Derechos territoriales de las comunidades negras: conceptualización y sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva. <http://www.derechos-territoriales-de-las-comunidades-negras-2-.pdf>

¹⁴⁰Observatorio de Territorios Étnicos y Campesinos. Pontificia Universidad Javeriana (2017). Derechos territoriales de las comunidades negras: conceptualización y sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva. Retrieved from: <http://www.derechos-territoriales-de-las-comunidades-negras-2-.pdf>

¹⁴¹Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁴²INCODER was created by means of Decree 1300 of 2003.

¹⁴³Retrieved from: <http://consejos.etnoterritorios.org/>

¹⁴⁴Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia." Comisión Nacional de Territorios Indígenas - CNTI. Presentación Diciembre 2017. Page 9-11.

¹⁴⁵ANT budget allocation for 2018

¹⁴⁶Number 9, article 26, <http://www.gobiernomayor.org/noticias-gobierno-mayor/1113-comision-nacional-de-territorios-indigenas-cnti-pronunciamiento-publico>

¹⁴⁷See tool constructed by Observatorio de Territorios Étnicos y Campesinos. Pontificia Universidad Javeriana (2017). Derechos territoriales de las comunidades negras: conceptualización y sistema de información sobre la vulnerabilidad de los territorios sin titulación colectiva. <http://www.derechos-territoriales-de-las-comunidades-negras-2-.pdf>

¹⁴⁸Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁴⁹World Resources Institute, Securing Rights. Retrieved from: <http://www.wri.org/our-work/project/securing-rights>

¹⁵⁰C. Stevens, R. Winterbottom, K. Reytar and J. Springer (2014) Securing Rights and Combating Climate Change: How strengthening community forests rights mitigates climate change. World Resources Institute and Rights and Resources. Page 33. Retrieved from: <http://www.wri.org/publication/securing-rights-combating-climate-change>

¹⁵¹Plant and Hvalkof (2001), Appendini and Torres 2(008,) OVE 2014b. See: <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=39945674>

¹⁵²World Bank Territorial DPL Programmatic Document

¹⁵³ World Bank Territorial DPL Programmatic Document

¹⁵⁴ Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁵⁵ Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁵⁶ Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁵⁷ Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁵⁸ Mayra Johana Tenjo (2017) "Propuestas de los Pueblos Étnicos a las Acciones Previas del DPF Territorial en Colombia."

¹⁵⁹ Key paragraphs of OP 8.60 state:

9. Poverty and Social Impacts. The Bank determines whether specific policies supported by the operation are likely to have significant poverty and social consequences, especially on poor people and vulnerable groups.¹¹ For policies with likely significant effects, the Bank summarizes in the Program Document relevant analytic knowledge of these effects and of the Member Country's systems for reducing adverse effects and enhancing positive effects associated with the specific policies being supported. If there are significant gaps in the analysis or shortcomings in these systems, the Bank describes in the Program Document how such gaps or shortcomings would be addressed before or during program implementation, as appropriate.

10. Environmental, Forests, and other Natural Resource Aspects. The Bank determines whether specific country policies supported by the operation are likely to cause significant effects on the Member Country's environment, forests, and other natural resources. For policies with likely significant effects, the Bank assesses in the Program Document the Member Country's systems for reducing such adverse effects and enhancing positive effects, drawing on relevant country-level or sectoral environmental analysis. If there are significant gaps in the analysis or shortcomings in these systems, the Bank describes in the Program

Document how such gaps or shortcomings would be addressed before or during program implementation, as appropriate. Full text is at <http://siteresources.worldbank.org/OPSMANUAL/112526-1124459412562/23585629/OP8.60July1-clean.pdf>.

¹⁶⁰ Given the potential for agribusiness, logging, and other extractive interests to acquire additional land rights under the new laws, and the social and environmental challenges these changes present to the Government, we find both that OP 8.60 was not adequately applied, and that the policy itself lacks the transparency, participation, and accountability needed to ensure mitigation of social and environmental harms.

¹⁶¹ There's no indication that it is actually being discussed. For more information, see <http://www.camara.gov.co/sistema-nacional-catastral-multiproposito>

¹⁶² Torres Vanessa, (2017) *Seguimiento de la Ejecución del Crédito del Banco Mundial DPL Territorial en Colombia*. Asociación Ambiente y Sociedad (AAS).

¹⁶³ Secure tenure rights for local communities, indigenous peoples and women are central to good natural resource governance and important for livelihoods and human rights, as recognized in multiple international conventions. See Larson, Anne M. and Springer, Jenny. 2016. Recognition and Respect for Tenure Rights. NRGF Conceptual Paper. Gland, Switzerland: IUCN, CEESP and CIFOR, accessed 4/5/18 at https://www.iucn.org/sites/dev/files/content/documents/tenure_rights_final.pdf.

¹⁶⁴ Accessed at <http://hrlibrary.umn.edu/instree/declaration.html>.

¹⁶⁵ According to Rights & Resources Initiative, *Securing Community Land Rights Priorities And Opportunities To Advance Climate And Sustainable Development Goals* (Oct. 2017), Key priorities for action, p. 11: "The international community, in collaboration with indigenous and community leaders, should accelerate the recognition of rights on the ground by consolidating and connecting the existing platform of tenure instruments and strengthening indigenous and community organizations' ability to advance their messages and hold rights violators accountable." Accessed at <http://rightsandresources.org/wp-content/uploads/2017/09/Stockholm-Prorities-and-Opportunities-Brief.pdf>.

¹⁶⁶ Ibid., p. 10.

¹⁶⁷ See Institute on Race, Equality and Human Rights: <http://raceandequality.org/en/colombia-2/>.



For further information on the issues raised in the Territorial DPL in Colombia, please contact **Bank Information Center** at:

1023 15th St. NW, 10th Floor,
Washington, DC 20005

(202) 737-7752 | info@bankinformationcenter.org

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**The World Bank
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Territorial Development
Policy Financing:
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