The Development of Communal Land Tenure Rights in Afro-Latino Communities

Kathleen R. Painter
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Thomas T. Ankersen, Legal Skills Professor and Director
Conservation Clinic, Levin College of Law
Grenville Barnes, Associate Professor
School of Forest Resources and Conservation

According to a 2001 report by the Economic Comission for Latin America and the Caribbean (ECLAC), there are 150 million people of African descent in Latin America, equal to 30% of the region’s population (Hopenhayn and Bello, 2001). While indigenous groups have long been recognized as minority groups with special political and cultural significance and granted specific protection under the law, including the rights to tenure over their traditional lands and land use practices, Latin American governments have only recently begun extending similar protections to Afro-Latino groups.

Afro-Latinos face many of the same challenges as indigenous groups, and scholars often include Afro-Latino groups in their writings about indigenous rights. Many of these are isolated rural groups descended from African slaves and minimally integrated into the general population. Groups such as the Garifuna of Central America, Quilombo communities throughout Brazil, and Afro-Colombian and Ecuadorean communities along South America’s Northern Pacific Coast often live in isolated communities, employ traditional or communal land use practices including subsistence or rotational agriculture and extractive practices, and share a cultural history that is distinct from the general population, dating from the arrival of slave ships from Africa. In the case of the Garifuna, they maintain their traditional language.

Legal protections for indigenous and Afro-Latino groups range from official recognition of the multicultural nature of Latin American societies and of particular indigenous groups, to official recognition of minority languages and in some cases, provisions for bilingual education, recognition of indigenous customary laws under the public law, anti-discrimination laws, and collective property rights and formal land tenure. Fifteen Latin American countries extend one or more of these rights to indigenous populations: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, and Venezuela. Of these, only Brazil, Colombia, Ecuador, Guatemala, Honduras, and Nicaragua extend some collective rights to Afro-Latino groups, and only Honduras, Nicaragua, and Guatemala provide exactly the same rights to Indigenous and Afro-Latino groups (Hooker 2005). Generally these laws apply only to a small subset of Afro-Latinos, usually rural communities descended from escaped slaves.

This paper will focus on communal land tenure rights as they relate to Afro-Latino populations. Even in countries where Afro-Latino groups are officially granted communal territorial rights within the constitutions or other laws, they are generally
much less successful than indigenous groups in actually petitioning for title to their lands and obtaining official titles. Using examples from the Quilombos of Brazil, the Garifuna of Central America, and Afro-Colombian and Ecuadorian communities of the Pacific Coast, we will address the following questions.

1. Why extend communal land tenure rights to Afro-Latino communities? Race alone is not enough to justify special rights and privileges for Afro-Latinos. What constitutes Afro-Latino cultural identity and what characteristics are common to Afro-Latino groups across Latin America or are shared with indigenous groups? Should Afro-Latino groups simply receive the same rights as indigenous groups, or should they be treated as a distinct cultural entity?

2. What land-use practices are employed within Afro-Latino communal lands? Most groups are involved in traditional agrarian lifestyles, and some employ rotational agriculture with long fallowing periods or extractivist lifestyles which help to justify the need for a communal tenure arrangement.

3. What are the principal challenges facing Afro-Latino communities as they try to obtain official land titles? What is the political process that they must go through to receive a title and what rights, specifically, do communities receive with their land title?

4. What are the main sources of conflict and drivers of change in Afro-Latino community land tenure arrangements? In some areas, conflicts with neighboring land owners, agro-industry, or growing tourism operations are major factors in changing land-tenure arrangements.

1. Why extend communal land tenure rights to Afro-Latino communities?

Communal property arrangements have been practiced by many groups of people throughout the world, and formal recognition of communal property rights is increasing in many places. The right to hold property is recognized as a basic human right, including the right to collective property within the context of peoples’ rights to self-determination of language, culture, and a healthy natural environment. While nations have long recognized indigenous property rights, recognition of communal property rights for Afro-Latino communities is a relative recent development (Ankersen and Ruppert, 2006).

Villegas (1996) writes that Colombian legislation extending rights to Afro-Colombian groups is not based on skin color alone; as such legislation would be simple racism. What, then, justifies special rights, concerning land tenure and otherwise, to populations of African descent? In the Colombian case, Villegas cites the conservation of a longstanding cultural traditions and a harmonious co-existence with the landscape, as justifications for extending these rights to certain Colombians.

In 1989 the International Labor Organization (ILO) adopted the Indigenous and Tribal People’s Convention, Number 169, also referred to as ILO 169. This document was
written to encourage nations to enact legislation to protect the rights of indigenous and tribal peoples, including land and labor rights and rights to bilingual education and political autonomy (England and Anderson 1998). Twelve Latin American countries ratified this convention (Hooker 2005).

ILO 160 protects “indigenous and tribal people,” which would include African tribes but makes no mention of groups of African descent in the Americas. (As Safa (2005) points out, any region-wide declaration regarding Afro-Latinos is still lacking, despite the fact that the Afro-Latino population numbers five times more than indigenous people.) ILO 169 stresses that indigenous and tribal groups must self-identify, and defines elements of indigenous and tribal groups as follows:

- traditional lifestyles
- culture and ways of life different from other segments of the national population, including economic activities or language
- own social organizations or political organizations
- living in historical continuity in a particular area, usually before the time of colonization by other groups (ILO 2003).

In many cases, rural Afro-Latino populations meet some or all of these criteria. Law 70, the 1991 Colombian Law recognizing Afro-Colombians in the Pacific Basin as distinct ethnic groups and granting them collective land-tenure rights, mirrors the ILO’s criteria, defining these communities based on criteria of culture, history, occupation, and location. In addition, Law 70 makes provisions for a form of self-government through “consejo comunitarios,” or community advisory committees (Ng’weno 2000).

Villegas (1996) points to traditional lifestyles, distinct from the general Colombian population, and historical residence in the Pacific Chocó region, as justification for Law 70. Black communities of the Pacific coast employ a rotational agricultural system in which fields are planted for a season or two and then left to fallow for a number of years. In the tradition of these communities, the person who first plants the land considers himself the owner, although it may appear that the land isn’t presently occupied by anyone. Apart from being a traditional practice that distinguishes Chocó communities from other Colombian campesinos, the practice of long fallow periods is relatively environmentally benign, allowing productive agriculture to continue for many years without the use of chemical fertilizers or fungicides (Villegas 1996). It would be difficult, within such a system, to title land to individual owners, so a collective tenure arrangement, including the entire area that farmers traditionally use on a rotational basis, is necessary to preserve this traditional way of life.

The Chocó is a particularly fragile and biodiverse region, rich in endemic species, and under considerable pressure for logging, mining, and other extractive activities. 50% of the forests in this region are currently within Afro-Colombian communal territories, and community control of natural resources for a subsistence lifestyle is considered an important conservation tool in the Chocó (Sanchez and Garcia 2006).
Asher (1998) describes the Afro-Colombian communities of the Chocó as an “invisible” culture and cites separateness from mainstream Colombian society as a main distinction of Afro-Colombians in the Chocó. This sentiment is echoed by Sanchez and Garcia (2006), who note that the Colombian census did not include data on the size of the Afrocolombian population until 1993, when the newly passed Law 70 made it necessary. Even then, the census data collected indicated a far smaller Afrocolombian population than was estimated by demographers, probably because the census didn’t reach all rural Afrocolombians, and because of negative stereotypes associated with defining oneself as Afrocolombian (Sanchez and Garcia 2006). For many years, Colombian national policy encouraged a process of mestizaje, “mixing,” or assimilation of black and indigenous populations into a homogeneous population speaking one language and believing in one god (Asher 1998). While some black groups did assimilate into Colombian society, others, including those of the Chocó, remained isolated and developed a distinct black culture.

Afro-Ecuadorian communities of the Esmeraldas, Ecuador’s northwestern province bordering Colombia, share some cultural similarities with Colombian groups. Traditionally their land tenure system has been based on farms passed down through family lines, but organized together within the larger community, known as the “ancestral settlement” or today the “Comuna Afroecuatoreana.” Afro-Ecuadorians also traditionally practice subsistence agriculture, hunting, fishing and forestry (Batallas 2002).

The Garifuna people of Central America might come closest to defining themselves as an “indigenous” group. Garifuna history dates back to the 17th Century when a shipwrecked group of African slaves landed on the Caribbean island of St. Vincent and incorporated themselves into the local indigenous population. British occupation of the island in the late 1700s forced their migration to Honduras and other parts of the Caribbean coast of Central America, where they still reside (Thorne 2004). The Garifuna maintain their own language and many cultural traditions, and most Garifuna consider themselves indigenous on the grounds that they were living on their present territory before the existence of the modern nation-states. In 1992, Honduran Garifuna groups joined Indigenous groups in a protest march demanding the ratification of ILO 169 (England and Anderson 1998). The Garifuna have been among the most successful of Afro-Latino groups in actually receiving title to their lands, partly due to political leverage gained through their historical identification as or alliance with indigenous groups (Thorne 2004).

In addition to the Garifuna language and religious beliefs, the Garifuna employ traditional land use practices including a system of subsistence agriculture, hunting, and fishing, with specific divisions of labor for men and women. Garifuna traditionally employ a communal land use system and do not recognize the rights of individuals within a community to own a particular piece of land. Instead all members of the community must have access to the functional ecosystems, including agricultural areas as well as the rivers, lagoons, forests and beaches that allow for hunting, fishing, and the extraction of resources for traditional practices such as the building of houses, collection of medicinal
plants, and other artesanry (England and Anderson 1998). Recognition of communal land tenure is necessary to preserve the cultural traditions and ways of life of the Garifuna.

In Brazil, rural Afro-Brazilian communities known as quilombos receive cultural recognition and land rights based mostly on their historical struggle against slavery and historical occupation of their lands. The term “quilombo” refers specifically to communities of escaped or freed slaves. “Quilombo” is an Umbundo word from Central Africa (Angola and the Congo) for a group of warriors who had fled from various tribes and formed a guerrilla-like group with influences from several tribes and cultures. This phenomena was reconstructed in Brazil by escaped slaves. Similar communities were know as “palanques” in Cuba, “curribes” in Venezuela, and “maroons” in the USA and parts of the Caribbean. Palmares was the largest and most well knownquilombo but is not in existence today. Many historical studies are about Palmares (Ratts 2000).

Up until the 70s and 80s, quilombos were considered a thing of the past. In the 70s and 80s, modern quilombos were “discovered” and began to be studied. Descendents of these communities are sometimes referred to as “remanecentes de quilombos,” or “remains of the quilombos,” and receive collective property rights similar to Brazilian indigenous reserves under Article 68 of Brazil’s 1988 constitution (O’Dwyer 1998).

Somequilombos did historically use African languages, though all speak primarily Portuguese now. The oldest residents of some quilombos still speak African languages, and many words of African origins have been incorporated into Brazilian Portuguese (Carril 1997).

While laws concerning Afro-Colombian populations and Garifuna peoples are concerned primarily with groups living in one geographic and ecological region, and are largely based on communities’ relationship with the ecosystem, quilombos exist in all 26 states of Brazil, with the highest concentration in the heavily Afro-Brazilian Northeast. As quilombo lands occupy a variety of ecosystems within Brazil, livelihood and land use practices vary greatly between quilombos. Accounts from a number of different individual quilombos reveal a wide range of “collectiveness” of the land and of land use practices. Many communities recognize “private property” of families within the quilombo, usually land which is inherited for agricultural purposes, and in addition some communal spaces are maintained for collective use, such as forests for extractive purposes, or communal grazing lands, or areas where community gatherings and festivals are held (Oliveira 2002, O’Dwyer and Carvalho 2002, Barcellos et al. 2004). Other communities consider all quilombo property to be communal, especially in the Amazon where livelihoods tend to be more based on hunting, fishing, and extractivism, (Acevedo and Castro, 1998). In either case, official titles to quilombo lands are granted on a collective basis.

Writers often refer to the “collective memory” of specific communities and family lines when writing about quilombos (Gusmão 1998, O’Dwyer 1998, Barcellos et al. 2004) and manyquilombos can be traced back to original inhabitants who were, at one point, slaves.
quilombos might have acquired their ancestral lands through several means; through land
invasions by escaped slaves, legitimate land purchased by freed slaves, land gifted to
slaves by former slave masters, or lands lent to former slaves by the government
(Gusmão 1999). Current laws and titling processes seek to formally legitimize what is
widely recognized as a valiant cultural struggle deserving of special legal recognition.

Throughout Latin America, programs for the titling of Afro-Latino lands have been
sponsored by large international organizations such as the World Bank (Guitierrez and
Ortega, 2002, Ng’weno 2000) and the Inter-American Development Bank (Plant and
Hvalkof 2001). Reports from these organizations as well as other reports on Afro-Latino
populations across Latin America call attention to the fact that Afro-Latino populations
targeted by these land reforms are generally very poor in comparison with the country’s
general population.

Guitierrez and Ortega (2002) state that the World Bank is interested in funding a project
to secure title for Afro-Latino territories in the Pacific because they are committed to the
rights of ethnic groups who are “vulnerable and dependent on the land and natural
resources.” They go on to state that 84% of people in the Pacific region do not have their
“basic needs” satisfied, compared to 32% of Colombia’s overall population. The
illiteracy rate is 39%, compared with 9.2% nationwide, and the region has Colombia’s
highest infant mortality rate, at more than 100 deaths per 1000 live births.

Eighty-eight percent of Afro-Ecuadoreans (Larramendy and Uqillas) and 60% of Afro-
Brazilians (compared with 30% of whites) (Hooker 2005) live below the poverty line. In
Brazil, whose income distribution is generally agreed to be among the world’s most
unequal, black men earn on average 63% of the average white man’s income, and black
women earn about 68% of a white woman’s income. This largely reflects the fact that
black Brazilians often receive less formal education than white Brazilians (Bello and
Rangel 2002).

The World Bank carried out a demographic study of populations of African descent in
five Latin American countries (Honduras, Colombia, Ecuador, Peru, and Argentina)
between 2003 and 2005. In all of these countries, common demographic indicators
recorded through household interviews, such as income, infant mortality rates, literacy
rates, and levels of basic education, indicated that people of African descent live in
greater conditions of poverty than the general population (Ponce 2006, Sanchez and
(2005) gives similar statistics on Afro-Brazilians.

Afro-Latino populations have historically suffered racial discrimination in many
countries, and are more likely than indigenous people to move to urban areas and seek
low-paying wage labor (Bello and Rangel 2002).

Statistics such as these concerning poverty and Afro-Latino groups often provide
significant justification for programs to extend “special” rights to these groups, including
land tenure rights, regardless of whether their ethnic identification and cultural practices alone call for special preservation.

2. What land-use practices are employed within Afro-Latino communal lands?

While land use practices are as varied as the different Afro-Latino groups and the ecological conditions under which they live, most groups are involved in traditional agrarian lifestyles. Some employ rotational agriculture with long fallowing periods, or extractivist lifestyles including fishing, hunting, logging, and the collection of non-timber forest products, such as heart of palms and acai, which help to justify the need for a communal tenure arrangement.

Afro-Latino groups are often considered to have a special relationship with their natural environment, much like that of indigenous groups, and authors write about land uses including both productive land uses and cultural or ceremonial uses.

Residents of the Colombian Choco, especially, have been considered to be the caretakers of the fragile ecosystem in which they live. In addition to a system of rotational subsistence agriculture calling for large expanses of forest in which fields can be planted and then left to fallow for a number of years (Villegas 1996), the present economy of the region also depends largely on extractivist activities, including timber, palms and hearts of palm, gold and silver mining, and river and sea products (Ng’weno 2000). In the southern part of the region, as well as in the Afro-Latino communities of neighboring Ecuador, there are some agribusiness activities including cultivation of oil palm, sugar cane, and bananas, cattle ranching, and aquaculture (Ng’weno 2000, Batallas 2002). Afro-Ecuadorian communities have also traditionally practiced hunting, fishing, timber extraction, and subsistence agriculture (Batallas 2002).

Sanchez and Garcia (2006) note that rural Afrocolombians living outside the Chocó region generally occupy family farms, and some live on small islands or coastal areas of the Caribbean. Although Law 70 does make provisions for Afrocolombians outside of the Chocó who maintain similar land use strategies, these communities have not been targeted for collective land titling.

Like the Afro-Ecuadorian communities, Brazilian quilombos are often based on family landholdings passed down from father to son, but situated together with a group ofquilombola who have belonged to the same community for as long as anyone can remember, and are usually related by blood or marriage. Because the quilombos are spread throughout Brazil’s many ecoregions, production systems vary, but usually include subsistence agriculture and sometimes fishing, cattle ranching or production of other livestock, or extraction of forest products.

Though lands are often managed on a family-by-family basis, many quilombo communities do share the tradition of working in a “mutirão,” also called a “troca de dias,” or “exchange of days,” in which a group of farmers will take turns working together
on each member’s property. This is often done in times when intense labor is needed to complete a certain task, or during harvest times. The family whose field is receiving the mutirão’s labor sometimes provides lunch for the group (Batallas et al. 2004, Bandeira e Dantas 2002, Oliveira 2002).

Forest and river resources as well as community grazing lands are sometimes managed on a communal basis. Marin and Castro’s 2004 ethnographic study of Abacatal, a Quilombo in the northeastern Amazon, in the state of Pará, gives an in-depth description of the group’s land use practices, and describes the extraction of stones for construction, wood for making charcoal, and açai, a palm fruit which enjoys a stable market in Brazil. Soares da Silva (2004) reports a combination of communal and family-controlled property regimes in Jocojó, another Amazonian quilombo. Families maintain individual agricultural areas and hunt, fish, and collect fruit in communal areas.

Garifuna communities engage in non-commercial fishing in both rivers and oceans, and hunting, mainly of deer and iguana, as well as subsistence agriculture and sale of surplus fish and game. Thus Garifuna territory must include both agricultural areas and access to hunting and fishing resources. Increasingly, Garifuna men work outside of the family landholdings on plantations, in tourism or in other industries (Thorne 2004, Palacio 2005).

In addition to productive activities, Afro-Latino traditional lands often play a part in the cultural life of these groups. Many case studies describing quilombos describe a space set aside for community events and festivals which often include traditional music and dances, some of which were historically prohibited by slave owners (Soares da Silva 2004, Gusmão 2001). Barcellos et al.’s 2004 ethnography of the community Morro Alto, in Brazil’s Rio Grande do Sul province, gives an extensive account of the Maçamique, a traditional Afro-Brazilian festival which combines aspects of Catholicism and African religions to honor both Catholic and African saints or other religious figures.

Garifuna cultural traditions are considered to be very dependent on the natural environment. Natural resources are used for the construction of traditional houses and other forms of artesany, including canoes and tools for making cassava bread, which is considered an ethnic marker of the Garifuna in Honduras (England and Anderson 1998). Community festivals marks the planting and harvesting seasons and specific fishing activities, and Garifuna cosmology includes specific notions about how land and water must be treated (Thorne 2004).


Many Afro-Latino groups share the custom of burying a part of a baby’s umbilical cord shortly after birth, a practice which is believed to tie the child to his or her ancestral lands. Anthropologists have documented this practice in Afro-Latino communities in Colombia, Ecuador, and Brazil (Batallas 2002, Escobar 2006, Barcellos et al. 2004).
Colombia, this ritual is accompanied by filling the baby’s navel with some natural substance such as plants or the ground bones of a particular animal, which is expected to transfer to the child the properties of this particular plant or animal (Escobar 2006). In Ecuador, it is believed that if the place where someone’s umbilical cord is buried is later occupied by industrial agriculture or other non-traditional land uses, the person’s emotional equilibrium can be greatly disturbed (Batallas 2002).

3. What are the principal challenges facing Afro-Latino communities as they try to obtain official land titles? What is the political process that they must go through to receive a title and what rights, specifically, do communities receive with their land title?

Though legislation in many countries has granted rights to Afro-Latino communities to obtain official communal land titles, the establishment of this legislation alone does not guarantee land rights to any community. Usually communities must petition the government for the official title, often through a lengthy political process in which the community must document the spatial extent of their land and their ancestors’ historical occupation of the area. In communities which are often poor and unaccustomed to active participation in the political process, this can be a huge challenge.

The first step in the process is the passing of legislation granting land tenure rights to Afro-Latino groups. It must be decided which groups specifically are included in the legislation and what kinds of rights and limitations they should receive. Table I describes legislation related to land tenure and Afro-Latino populations in 6 countries.

After such legislation is passed, communities eligible for title must be identified and demarcated. This usually involves a great deal of work on the part of both the community and the government agency. In Brazil, for instance, the logistics of titling quilombo territories quickly became much more complicated than expected when many more communities claimed to be descendents of quilombos than were originally expected. In 1992, some sources estimated that there were around two dozen such communities in Brazil (Benatti 2004), while INCRA’s (Instituto Nacional de Colonização e Reforma Agraria, the agency responsible for land titling) website currently estimates that more than 3000 such communities have been identified, with some six hundred actually involved in the titling process (INCRA 2006).

INCRA’s website states that communities seeking official title must first identify themselves as a quilombo by presenting a declaration to the Fundação Cultural Palmares (FCP), a division of the Ministry of Culture, which works to preserve Afro-Brazilian culture. The FCP will then submit a formal proposal to INCRA on the community’s behalf. A “study of the area” must then occur, delineating the territory in question, although INCRA doesn’t specify who exactly carries out this study. In practice, government agencies of particular states or NGOs help with this process (Benatti 2004), and some communities have even hired private lawyers (Brasileiro and Sampaio 2002). Generally this study must show the extent of the territory that the community actually uses, for agriculture or other purposes, and the permanent residency of community
members on this land (Benatti 2004), a process anthropologists have described as “torturous” (Marin and Castro 2004). After this document has been approved, INCRA must clear and other occupants from the land, sometimes through payments, before issuing the official title (INCRA 2007).
<table>
<thead>
<tr>
<th>Country</th>
<th>Legislation</th>
<th>Rights Granted</th>
<th>Limitations</th>
<th>Afro-Latino Groups Affected</th>
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<tr>
<td>Colombia</td>
<td>1991 Transitory Article 55</td>
<td>Requires congress to create a commission to create a law that recognizes collective property rights of black communities.</td>
<td>Property recognized by this law will be transferable only according to certain terms.</td>
<td>Communities inhabiting “empty lands” in the rural riparian zones of the Pacific Coast (Asher 1998).</td>
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<tr>
<td>Colombia</td>
<td>1993 Law 70</td>
<td>Recognizes Black communities of Colombia as an ethnic group, protects their cultural identity and promotes their development.</td>
<td>Lands of Afro-Colombian communities are inalienable, imprescriptible, and inembargable. Some limitations on use of natural resources, especially subsurface resources (Asher 1998).</td>
<td>Communities inhabiting “empty lands” in the rural riparian zones of the Pacific Coast, and possibly other communities living in similar conditions and managing their lands in a traditional way (Plant and Hkl). As of 2002, 58 titles granted to 497 communities, 22,132 families, on 2,359,204 ha., through the World Bank’s Natural Resource Management Program (Gutierrez and Ortega 2002).</td>
</tr>
<tr>
<td>Ecuador</td>
<td>1994 Article 36 of the Ley de Desarrollo Agrario (Law of Agrarian Development)</td>
<td>Legalization of land rights and protection of traditional practices for indigenous, mountain, and Afro-Ecuadorian communities.</td>
<td>Individual land titles within community lands are still respected, land can be divided within community.</td>
<td>50 Afro-Ecuadorian Communities held communal titles as of 2002 (Batallas 2002).</td>
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<td>Brazil</td>
<td>1988 Constitutional Article 68 of the Ato das Disposições Transitórias (Act of Transitory Dispositions)</td>
<td>Requires the state to recognize and to grant official property titles to the descendents of Quilombolas who are presently occupying their ancestral territories.</td>
<td>Title is communal and lands must be used for agricultural or extractive activities and preserve the natural environment.</td>
<td>At the time that this law was passed, there were estimated to be less than 30 Quilombos in Brazil (Benatti 2004). Today there are estimated to be more than 3000 Quilombo communities throughout Brazil. 654 of these have initiated the land titling process (INCRA). As of 2004, 61 titles had been granted to 119 communities (Castro 2004).</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>2003 Law 445, Indigenous Land Demarcation Law</td>
<td>Recognizes rights of indigenous and ethnic (including Afro-Caribbean) communities to use and manage traditional lands as community property.</td>
<td>Land cannot be sold or taken by the state if abandoned. Law also recognizes rights to marine resources.</td>
<td>Garifuna, Black Creole, and Indigenous groups (Riverstone 2004).</td>
</tr>
<tr>
<td>Honduras</td>
<td>Article 107 of the 1982 Constitution</td>
<td>Protects indigenous land rights, prohibits foreigners from owning coastal land. States that the government must protect indigenous rights, especially with regard to land and natural resources.</td>
<td>Often the extent of titles are limited and they apply only to the village where Garifuna houses are located, not necessarily the agricultural areas. Land is inalienable and non-transferable. Improvements such as buildings can be bought and sold within the community (Thorne 2004).</td>
<td>As of 2001, 39 collective titles had been granted to 32,000 hectares (Safa 2005).</td>
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<tr>
<td>Article 346 of the 1982 Constitution</td>
<td>International agreement protecting indigenous land rights.</td>
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<td>Signatory of ILO 169</td>
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The state of Pará, in the Northeastern Amazon, created a workgroup in 1997 to develop proposals for the titling of quilombos. As a result, quilombos in Pará have been relatively successful in achieving titles, with over 400,000 hectares titled, benefiting 1,365 families, as of 2003 (Benatti 2003). “The quilombola experience is not an isolated one,” writes Salustiano da Silva (2001), citing additional groups offering support to Quilombolas, including “Remanescentes de Quilombos do Flechal” in Maranhão, which has succeeded in supporting the titling of 9542 hectares. Other such organizations include “Os Remanescentes de Quilombos de Rio das Rãs” in Bahia, accompanied by the Comissão Pastoral da Terra, a religious organization with a history of work in land reform in Bahia, and the Sociedade Agrosergipana de Estudos e Cidadania in Sergipe (Salustiano da Silva 2001).

Anthropologists have also been involved in preparing “identification reports,” including history and modern ethnography of Quilombo communities. Through a grant from the Ford Foundation, the Associação Brasileira de Antropologia (ABA) undertook a series of studies of Quilombos throughout Brazil, a collection of which were published in a 2002 book, Quilombos, identidade étnica e territorialidade (Quilombos, Ethnic Identity, and Territory, O’Dwyer 2002). O’Dwyer describes the project as “active anthropology,” both academically interesting and with the purpose of getting Quilombo lands titles as specified by Article 68. Master’s and doctoral students have also elaborated identification reports to support Quilombo communities as part of their theses and dissertations (O’Dwyer 2002). Many of these authors describe lengthy political processes in which data and signatures must be collected by the community or a supporting organization and presented to the Fundação Cultural Palmares. In many cases Quilombo land claims do not go uncontested by neighboring landowners, and in complicated cases lawyers are hired by both communities and competing landowners (Brasileiro and Sampaio 2002, Souza 2002, Oliveira 2002).

Colombia’s Law 70 includes a much more detailed description of what information must be presented, and by whom, in order for a community to receive land title as dictated by Law 70. The “Consejo Communitario” (Community Advisory Committee) must present the petition, which must include both an act of election, showing that the representatives presenting the petition were legally elected to represent the community, and an act authorizing the solicitation of land title, along with the actual land title petition (Villegas 1996). Article 20 of Law 70 states that the petition must include the following:

1. A physical description of the land to be titled, indicating:
   a. Name and location of the community, means of access, department and municipality to which the community belongs
   b. Affirmation that the community is located on “tierras baldias,” or empty lands not belonging to anyone
   c. General description of the territory’s borders in relation to each of the four cardinal directions, including a map, and including the names of bordering landowners or communities.
   d. Physical composition of the area, including geographic features.
2. A description of ethnohistoric precedent, including how the community was formed, who were the first inhabitants, and the forms of organization and socio-cultural relations practiced by the community.

3. Social Organization specifying family relationships and forms of internal organization within the community.

4. A demographic description of the territory, name of the benefiting communities and an estimate of the population comprising them.

5. Current land tenure in the community, including
   a. Type of tenure of individuals and the community
   b. Forms of tenure of neighboring individuals/communities

6. Situations of conflict: problems that exist concerning territory and resource use, indicating their causes and possible solutions.

7. A description of traditional production practices, specifying:
   a. Forms of individual and collective use of natural resources.
   b. Other cultural forms of use of the territory. (Art. 20, Dec. 1745/95) (Villegas)

The petition is presented to Incora, the Colombian Agrarian Reform Institute. Obviously, the compilation of such a detailed petition presents a huge challenge for Colombia’s Afro-Colombian communities. These communities are among the poorest and least educated in Colombia and rely heavily on outside organizations to assist in the preparation of land titling petitions. Many communities do not customarily have a tradition of community organization in place, so before the land titling process can begin, an organization such as the Consejo Comunitario must be created (Ng’weno 2000, Gutierrez and Ortega 2002).

The World Bank has been a significant partner in assisting Afro-Colombian communities in the titling of their lands. Beginning in 1994, the Bank’s $39 million Natural Resource Management Project (NRMP) has promoted titling of black and indigenous lands, as well as community organization and sustainable use of natural resources. As of 2000, The NRMP was responsible for 17% of land titled to Colombian indigenous people and 100% of the land titled to Afro-Colombians. As of 2000, thirty-seven titles were granted to 360 communities, benefiting 17,772 families on 1,655,305 ha (Ng’weno 2000). As of 2002, 58 titles granted to 497 communities, 22,132 families, on 2,359,204 ha (Guitierrez and Ortega, 2002).

The NRMP focused heavily on community organization, including the creation of consejos comunitarios as required by law to legally represent the communities. The first 18 months of the program focused exclusively on establishing consejos comunitarios and establishing other legal and institutional conditions for the titling of black and indigenous lands. $1.2 million of the Bank’s funds went to support regional committees, including delegates from local communities who met to monitor the implementation of the NRMP, identify and resolve problems, and coordinate land titling activities (Ng’weno 2000).

For some communities, the Consejo Comunitario has become an important governing body in the communal management of natural resources, in some cases developing management plans, authorizing extractive activities or defending community lands against such activities by unauthorized people (Sanchez and Garcia 2006).
Other organizations active in the Colombian Pacific include OREWA (The Regional Association of the Embera and Waunana) and ACIA (The Integral Peasant Association of the Middle Atrato). These organizations were involved in land tenure issues long before the NRMP and were very influential in establishing collective, rather than individual, territorial rights for ethnic groups (Ng’weno 2000).

In Ecuador, the process is similar. Communities must create a legally recognized organization to ask for land title on the community’s behalf. Although the Afro-Ecuadorian population traditionally lives in rural communities, communal titling of land is attributed not only to cultural preservation but also to reducing administrative costs and simplifying the logistical process of legalizing titles to a large amount of land. (Batallas 2002).

The World Bank sponsored a less extensive project in Ecuador which supported, among other things, titling of black and indigenous lands, called The Indigenous and Afro-Ecuadorian Peoples Development Project (PRODEPINE). PRODEPINE succeeded in titling 22,700 hectares (Larreamendy and Uqillas). A number of other NGOs have also assisted communities with this process, including the Organización Campesina Esmereldas Norte (OCAMEN) and the Unión de Organizaciones Negras del Norte de Esmeraldas (UONNE), which pressured the government to offer the same land rights to Afro-Ecuadorians as are offered to indigenous people. Other active NGOs include the Proyecto SUBIR, which works with about 30 communities on land legalization and natural resource management projects, and The Fondo Ecuatoriano Populorum Progressio (FEPP), which has supported the titling of 427,612 ha. to indigenous, campesino, and Afro-Ecuadorian groups (Batallas 2002).

In Central America, land titling for Afro-Latino groups tends to be similar to the titling process of indigenous groups. The Garifuna, especially, have gained political leverage by allying themselves with indigenous people to rally for indigenous rights as stipulated by ILO 169 and other indigenous laws in Honduras and Nicaragua (England and Anderson 1998).

Nicaragua passed a new indigenous land law in 2003, the “Law of the communal property regimen of the indigenous peoples and ethnic communities of the autonomous regions for the Atlantic Coast of Nicaragua and the Bocay, Coco, Indo, and Maiz Rivers.” This law was meant to resolve land disputes along the Caribbean Coast, including those involving some Black Creole communities, and recognizes communal property rights for indigenous people. The implementation of this law is in its early stages, but also will involve a lot of organizational work in terms of defining and organizing communities as well as the territory to be titled, and purchasing land from non-indigenous landholders (Riverstone 2004).

4. What are the main sources of conflict and drivers of change in Afro-Latino community land tenure arrangements?

In many cases, communities begin the process of officially titling their ancestral lands only when forced to do so by some external conflict that had the potential to threaten their access to the lands they have always used. Case studies from throughout Latin America describe
conflicts with neighboring landowners or indigenous groups, changing regional economic conditions that put pressure on land resources for agroindustrial or tourism use, and political and economic conditions that cause residents to migrate away from their traditional lands.

O’Dwyer’s 2002 collection of quilombo case histories describes a different such conflict for each community described. One community hired a lawyer and began seeking legal title when a neighboring rancher blocked the road traditionally used to access the community (Brasileiro and Sampaio 2002). Other communities have had neighboring landowners illegally invade their traditional lands, or produce forged documents to prove ownership of traditional quilombo lands (Souza 2002), or have had conflicts with corporations trying to purchase quilombo lands from individual families, sometimes without adequate compensation, in order to plant eucalyptus, rupper, or other crops, and at the same time divide the traditional quilombo community (Oliveira 2002, Marin and Castro 2004).

Marin and Castro’s 2004 ethnography on Abacatal, a Quilombo in Pará, describes a long series of historical events that led the citizens of Abacatal to take steps to solidify their territorial rights. An area that was once rural and agricultural has been increasingly affected by urban expansion in the nearby cities of Belém and Ananindeua in the 1960s and 70s, followed by the opening of a new road in 1974, connecting Abacatal with Ananindeua and bringing with it the influences of easier access to urban markets and jobs. The agroindustrial companies Pirelli and the Companhia Industrial Brasileira both own property bordering the community, which has resulted in several land disputes.

Non-traditional settlers have also moved into the area and have managed to obtain titles to some traditional lands simply because the communities occupying those lands did not hold official titles at the time. Newcomers have charged the quilombolas rent to work their own land, or prohibited them from cultivating subsistence crops, and have sold the land to other landholders and companies. Only after years of sometimes violent land disputes, destruction of quilombola homes and property, legal battles, and the interventions of a group of anthropologists did the traditional residents of Abacatal finally receive title to their property (Marin and Castro 2004).

Brazil has a long history of violence surrounding land tenure disputes. Since colonial times, the person using the land, for agriculture or other purposes, is considered its owner. Historically landowners have taken possession of the land by clearing the forest and planting another crop, a practice which leaves little room for traditional lifestyles or forest conservation. More recently disputes have become common between large landowners and absentee landowners and landless workers who seek to possess unoccupied lands, or quilomobolas or others who seek official title to the lands they have occupied for many years. Between 1985 and 1999, there were 996 assassinations related to land tenure disputes in Brazil, 820 additional assassination attempts, and only 5 convictions for these assassinations in all of Brazil (Domingos 2002).

In Ecuador’s Esmeraldas province, Afro-Ecuadorian communities are experiencing similar pressures on their traditional lands as agribusinesses and settlers move into the area. Conflicts with mixed-race Ecuadorian settlers arise when settlers occupy lands that they
believe to be “vacant,” which are actually traditional Afro-Ecuadorian territory, or invade land legitimately owned by someone else. Afro-Ecuadorians tend to manage their lands in a traditional and holistic way, which might include fishing, hunting, extractivism and small-scale agriculture. Other settlers tend to focus on cattle ranching on larger landholdings, on average between 20 and 50 hectares, which involves the clearing of forest cover or other vegetation, so these two types of land uses are naturally at odds with each other. Settlers tend to believe that indigenous communities and Afro-Ecuadorian communities control too much land and work too little (Batallas 2002).

Agroindustry also competes for land in Esmeraldas. Historically the area has been a large producer of bananas, and more recently, African oil palm. As of 2002, an estimated 30 or 40 thousand hectares were occupied by plantations of African oil palm. Companies often purchase land from smallholders or influence communities to sell by blocking communities’ access to roads or by agreeing to plant a quantity of palm on community lands in exchange for a piece of land. Campesinos and Afro-Ecuadorians often end up working as wage laborers on these plantations. The logging industry is active in Esmeraldas as well, and has been known to enter Afro-Ecuadorian community lands without permission (Batallas 2002).

Afro-Latino communities in Ecuador and Brazil often face conflicts with neighboring landowners, sometimes larger and more powerful ones. Afro-Colombian communities face a different dynamic, as most of the communities covered by Law 70 are settled on “tierras baldias,” or “empty lands” owned by the state. In many cases land claims by Afro-Colombian communities go uncontested and a simple transfer of land from the state to the community takes place. In these cases, the community’s biggest challenge is to create a consejo comunitario and organize to the degree necessary to comply with the requirements of Law 70 to obtain legal title.

In some cases, border disputes do exist between Afro-Colombian communities and neighboring indigenous communities. Historically, indigenous organizations have been more vocal and more involved in the political process than Afro-Colombian ones. Indigenous Colombians have enjoyed collective land rights since the 1960s, while Afro-Colombians received this right only in 1993, and in some cases, previously existing concessions to indigenous communities made the Afro-Colombian land tenure less secure. When the World Bank’s NRMP project began titling Afro-Colombian lands at a faster rate than indigenous ones, indigenous organizations complained and adjustments to the plan were made (Ng’weno 2000).

By far the largest obstacle facing communities in the Colombian Pacific is armed conflict. While the Chocó region remained on the margins of Colombian violence for many years, military, paramilitary, guerilla, and drug-trafficking activity has been increasing in the region since the mid 1990s, first with the arrival of guerrilla groups including the FARC, and followed by paramilitary groups in 1996 (Escobar 2002). This activity has caused a large number of residents to relocate to other areas. With over 2 million internally displaced people nationwide, Colombia has the largest internal refugee crisis in the world (Escobar 2002).
As of 1996, there were 13,000 displaced persons in the Chocó region. Shortly after receiving title to their lands in 1997, 23 communities were displaced by paramilitary forces and relocated elsewhere (Gutierrez and Ortega 2002). Many members of the ACIA, one of the main NGOs active in the region, were displaced and took refuge in urban centers, and both Afro-Colombian and indigenous leaders have lost their lives in the conflict. The World Bank’s NRMP project has been significantly affected by the large number of internal displacements, as this causes the breakup of the social networks and community organizations that the NRMP has worked to create. Relocation of the traditional residents to urban centers removes families from traditional land use practices and economic life and interrupts connections to ancestral lands (Ng’weno 2000). In addition, both paramilitary and guerilla groups influence land use practices in the region, either by pressuring agriculturalists to plant coca, or by allying with African oil palm capitalists to expand the palm frontier (Escobar 2002).

The NRMP hopes that continuing to pursue official land titles will allow these communities some long-term land tenure security that will permit them to return to the region in a less-violent future (Ng’weno 2000, Gutierrez and Ortega 2002).

A World Bank demographic study of Afrocolombians points out that rural Afrocolombians are not immune to migration to cities purely for the purposes of employment and improved economic stability. In a 2002 study of Afrocolombians in Bogotá, 87% of respondents reported migrating to the city for economic opportunities, while only 5% reported fleeing violence in rural areas (Sanchez and Garcia 2006).

Central American Afro-Latino groups, including the Garifuna, have also experienced the effects of urbanization and increased participation in urban economies in recent years. An increasingly lucrative tourism industry has created incentives for land invasions, bribery, and intimidation to gain access to beachfront property in Honduras. Lands held by Garifuna communities are meant to be set apart from the market economy, and Honduran law does not permit their sale. In some cases, Garifuna landowners have illegally sold their lands, fearing that they will eventually lose the land anyway, without fair payment. Many Garifuna territories in Honduras suffer from multiple ownership claims (Thorne 2004).

Although they are considered an indigenous group, the Garifuna do not necessarily live in isolated rural villages. Many live in cities, work in the service sector and pursue higher education, even immigrate to the United States. In Honduras, rural villages are less isolated than before and many people work in tourism or other service industries, rather than participating in traditional subsistence lifestyles (England and Anderson 1998). Palacio (2005) laments the loss of traditional village life among the Garifuna of Belize. Far from the isolated, self-sufficient communities that one might imagine, Garifuna villages have long been a source of cheap labor for other parts of the country. He describes the village of Barranco, which in 2000 had only a handful of able-bodied residents, and only 94 of the 176 lots in the community were actively maintained. Lack of economic opportunity and basic services such as schools, roads, and running water have contributed to the migration of younger residents from Barranco to the cities. Some older residents remain, and the village is still used for various types of ritual celebrations from time to time (Palacio 2005).
Increasingly, rural Garifuna are dependant on remittances from relatives working in the United States (England 1999).

Conclusions

Afro-Latino communities make up a significant portion of many Latin American societies. They have long been a silent and forgotten minority. Incorporating unique aspects of African, European, and Latin American history, Afro-Latino groups make up historically and culturally interesting segment of society that is distinct from indigenous groups or rural people of mixed ancestry. In many cases, rural Afro-Latinos employ traditional lifestyles that contribute to the biological conservation of their lands. Often their access to education and basic public services is limited, and in many cases they remain among the poorest and most vulnerable of minority groups. For these reasons, the interests of Afro-Latino groups should be addressed as national development policies are created.

Scholars generally agree that Afro-Latinos fall far behind indigenous groups in gaining political rights, including land tenure rights. Many reasons are given for this discrepancy, including the fact that in many countries, Afro-Latinos have only recently been recognized as an ethnic minority deserving of certain protections, while indigenous groups have had this recognition for many years. Indigenous groups tend to be more organized and have a history of political mobilization.

Several authors argue that the recognition of collective rights is dependant on distinct cultural group identity and autonomy, and this is easier for indigenous people to demonstrate than for Afro-Latino people (Hooker 2005, Safa 2006). Because Afro-Latinos have only recently been recognized as a cultural minority, they aren’t perceived as symbols of national identity, as the indigenous people or Mexico or Peru might be, and don’t always enjoy the same image as natural environmentalists with close ties to the land (Hooker 2005).

The fact that Afro-Latinos are as likely to be urban as rural also makes it difficult for them to legitimize their status as autonomous indigenous people tied to a specific territory (Safa 2006). Sixty-six percent of Afro-Colombians (Sanchez and Garcia 2006), 61% of Afro-Ecuadorians (Ponce 2006) and 46% of Afro-Hondurans (Gonzalez 2006) live in urban settings. The Garifuna are spread out over five Central American countries, many live in urban areas and work in industries or on plantations, and a significant number of Garifuna have emigrated to the United States. Modern Garifuna identity tends to be based more on common language, culture, and history, but not necessarily dependent on a geographic location. Outside of their traditional territory, their authenticity and the rights that go with it are questioned (England 1999).

Community autonomy is also important in legitimizing the cultural identity of Afro-Latino groups. Safa (2005) defines this partly as “prioritizing the fulfillment of basic community needs,” and Afrodescendants, especially urban ones, tend to place less priority on the collective than indigenous people. Especially in Brazil, where 45% of the population shares some African descent and significant urban Afro-Brazilian populations exist, African culture, music, and identity have spread throughout the national population, weakening these cultural
differences as a basis for Afro-Brazilians to mobilize based on exclusion and marginality (Safa 2005).

Official land titles are one way to protect vulnerable communities, by providing the legal basis to resolve land disputes. In many cases, Afro-Latino communities do not yet enjoy secure land tenure. Laws granting them territorial rights are recent in many countries and have not yet been fully implemented. The process of titling their lands seems to be arduous in many countries, sometimes to the point of being inaccessible to communities, or requiring significant assistance from NGOs and/or significant international funding. While community members may be significantly empowered by participation in this process, ultimately, decisions regarding community lands should remain in the hands of the community.

Steps should be taken to ensure that once official title is received, communities really do enjoy control over their traditional lands. Many land legalization projects report obtaining one title for a large number of communities and a very large landholding. In Colombia, Guitierrez and Ortega (2002) report the titling of 497 communities and more than 2 million hectares, on just 58 communal land titles. In Brazil, Castro (2004) reports 61 titles granted to 119 quilombos in Brazil between 1995 and 2004, encompassing 7635 families on 904,485 hectares. Titles are not usually granted on a community-by-community basis. This might indicate that participation by individual communities in the legal process of gaining title to this land, and the ongoing process of managing it and defending it against competing interests, is fairly limited. Do community members and community leaders feel that they exercise control over the land that they and their community use? After land has been titled, what measures are put in place to support Afro-Latino communities against competing land interests such as expanding agribusinesses, settlers, and even guerilla warfare?

In addition to the legal security provided by secure land tenure, legal titling of lands can contribute to community development in a variety of other ways. Secure land tenure has been shown to encourage long-term investment in the land by landowners and others, and provides additional incentive for sustainability in land use practices. Government services such as schools and roads are more likely to be provided to communities who enjoy secure land tenure and are considered permanent. Legal title to land is often a prerequisite for participating in other development programs, especially lending programs. International lending institutions such as the World Bank and the Inter-American Development Bank have long recognized the need to support land-titling programs as a development tool, and over a billion US dollars have been invested in such programs since 1996 (Ankersen and Ruppert 2006). Supporting land titling programs is one way to enable Afro-Latino communities to further their own economic development, as well as to preserve their longstanding cultural traditions.

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