

## Titling Ancestral Territories in the Honduran Mosquitia:

### Exploring the Implications for the Country's Indigenous Peoples<sup>1</sup>

**This Information Brief is the result of a collaboration between the Confederation of Indigenous Peoples of Honduras (CONPAH) – the umbrella organization for the nine Indigenous Peoples of the country – and Forest Trends. The document describes the titling process of indigenous territories currently underway in the Honduran Mosquitia. The article goes on to examine some of the implications of this process for the country and its Indigenous Peoples.**



### Introduction

In June 2015, the Honduran Forest Conservation Institute (ICF) issued an intercommunity title to the Territorial Council<sup>2</sup> of Bakinasta in the Río Plátano Biosphere Reserve (RPBR) in northeastern Honduras. This is the first title of a Miskitu territorial council in the RPBR and the latest achievement in the Miskitu people's struggle to obtain titles for their territory – a struggle that they have been carrying out for more than three decades.

To date, more than one million hectares have been titled in the Honduran Mosquitia (see Table 1). At the end of the process, the size of the indigenous property in this region could cover more than 1.5 million hectares (see Figure 1). However, a title does not create an indigenous territory, it only establishes – on paper – the limits and access rights to a particular geographical area. Such area becomes a *territory* when social control and collective management processes are put in place (Larson et al. 2012).

This article explores these new territorial dynamics in Honduras. The paper begins with a brief account of indigenous land titling processes in the recent history of Honduras, particularly focusing on current developments in the Mosquitia. From there, it discusses key challenges related to the consolidation and governance of these “new” territories in northeastern Honduras. These challenges are shared by all indigenous peoples in the country; therefore, the way these challenges are addressed and resolved in the Mosquitia will have implications for indigenous communities across the country. Lastly, the article examines some implications for Honduran forest policies, including REDD+ and FLEGT-VPA processes.<sup>3</sup>

<sup>1</sup> There are seven indigenous (Lenca, Maya-Chorti, Miskitu, Nahua, Pech, Tawahka and Tolupan) and two Afro-Honduran peoples (Garifuna and English-speaking blacks) in Honduras. Like the Indigenous Peoples, the two Afro-Honduran groups have cultures and ways of life that differ from those of other segments of the national population. They also share with Indigenous Peoples many historical claims and frequently identify themselves as “Afro-indigenous.” Therefore, the term “indigenous” is used in this document to refer to all nine peoples, including the two Afro-Honduran groups.

<sup>2</sup> Territorial councils are internal divisions of the Miskitu territory, organized since 1998 to facilitate territorial zoning and management. The territorial councils, and their respective community councils, represent the basic organizational structures of the Mosquitia Asla Takanka – Mosquitia Unity (MASTA) organization, the highest political and territorial authority of the Miskitu people (MASTA 2012).

<sup>3</sup> See footnote 10 (p. 9) for a brief explanation of these two acronyms.

Table 1. Indigenous Land Titling in Honduras' Recent History<sup>1</sup>

	GARIFUNA		LENCA		MAYA-CHORTI		MISKITU		PECH		TAWAHKA		TOLUPAN		TOTAL	
	No. Titles	Area (ha)	No. Titles	Area (ha)	No. Titles	Area (ha)	No. Titles	Area (ha)	No. Titles	Area (ha)	No. Titles	Area (ha)	No. Titles	Area (ha)	No. Titles	Area (ha)
1993	6	5,126	23	24,270									1	4,217	30	34,321
1994	9	8,491							4	2,767					12	10,677
1995			4	1,897											4	1,897
1996													5	16,135	6	18,622
1997	8	4,685			1	635			3	4,363	4	5,138	3	4,058	19	18,738
1998	6	993	131	62,888									4	19,884	141	83,761
1999	7	7,935	24	16,374	9	658							2	5,882	42	30,849
2000	8	3,514	51	25,164	18	717							5	7,838	82	37,624
2001	6	262	35	16,232	15	511							7	24,761	62	35,552
2002	2	932	1	144	1	5									4	1,081
2003	1	9	4	1,035	10	517							1	257	16	1,819
2004	2	146			1	14									3	160
2005			8	929	5	249							1	352	13	1,178
2006					9	540			1	5					10	545
2007			4	1,006	4	112			1	1,329			1	553	10	3,000
2008			5	273	6	308									11	581
2009			6	3,723	4	247									10	3,970
2010															-	-
2011			1	101	5	189							1	115	7	405
2012			1	322	3	84	1	55,292							5	55,698
2013	1	270	1	88	2	54	2	425,320	2	3,139					10	707,388
2014			1	167	1	21	4	278,519							2	188
2015							4	338,051							4	338,051
<b>Total</b>	<b>56</b>	<b>32,363</b>	<b>300</b>	<b>154,613</b>	<b>94</b>	<b>4,861</b>	<b>11</b>	<b>1,097,182</b>	<b>11</b>	<b>11,603</b>	<b>4</b>	<b>5,138</b>	<b>31<sup>2</sup></b>	<b>84,052</b>	<b>507</b>	<b>1,389,812</b>
<b>%</b>	<b>11</b>	<b>2</b>	<b>59</b>	<b>11</b>	<b>19</b>	<b>0.3</b>	<b>2</b>	<b>79</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>0.4</b>	<b>6</b>	<b>6</b>	<b>100</b>	<b>100</b>

Source: INA 2015.

<sup>1</sup> This table does not include columns for the Nahua people and the English-speaking blacks because, to date, they have not received any title to the lands they have traditionally occupied and used.

<sup>2</sup> Of these 31 titles, 19 are re-measurements of old titles granted to several Tolupan tribes in the 19<sup>th</sup> century.

## The Land Titling Process in Honduras and the Emergence of a Vast Indigenous Territory in the Muskitia

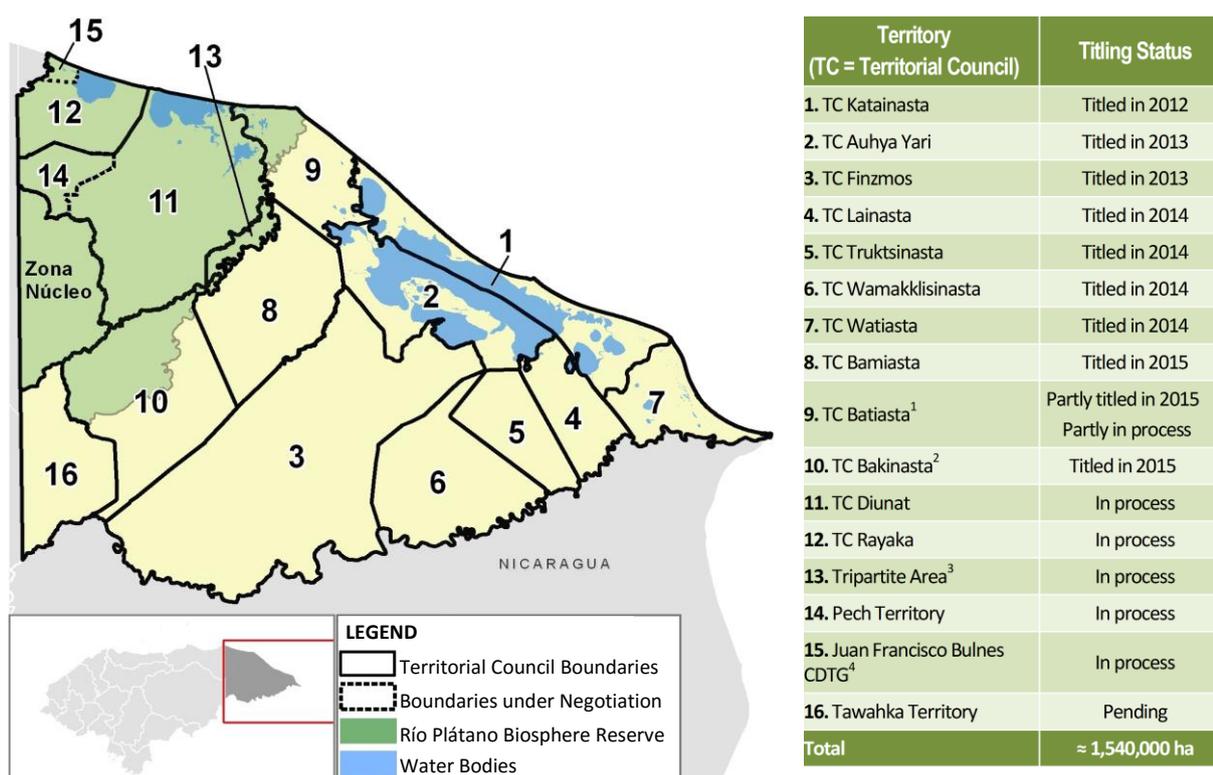
Table 1 summarizes the indigenous land titling process in recent decades. All the titles reported in the table have been issued by the National Agrarian Institute (INA), except for three<sup>4</sup> issued in the RPBR which in accordance with Decree No. 61-2013 were awarded by ICF.

The data reveal two very distinct stages of this process. The eleven titles issued to the Miskitu people in 2012-2015 average 100,000 hectares each and together account for 79% of the area titled to Indigenous Peoples in the past 25 years. In contrast, the other 496 titles were mostly issued before 2012, cover small areas (averaging 590 hectares per title), and together represent only 21% of the area titled.

This difference reflects a significant shift in indigenous land titling policies. For two decades, INA has focused the titling process at the community level, considering the indigenous community as the political and legal entity for conferring tenure rights, and granting rights to relatively small areas – essentially the agricultural and grazing lands surrounding indigenous settlements.

This approach has radically changed with the titling process in the Muskitia. Here, the title holders are the territorial councils and the process is based on the recognition of the *territorial right* of Indigenous Peoples. The titles cover vast areas that represent the entire functional habitat of a group of communities.

**Figure 1. Land Titling Process in the Honduran Muskitia**



Sources: INA 2015 and Dittmar Jenrich (pers. comm., March 2015).

<sup>1</sup> The area of this territorial council is partly inside and partly outside the RPBR. The area outside the RPBR has already been titled by INA, while the area inside the RPBR is in the process of being titled by ICF.

<sup>2</sup> As in the case of Batiasta, the area of this territorial council is partly inside and partly outside the RPBR; however, both areas have already been titled (by INA outside the reserve and by ICF inside the reserve).

<sup>3</sup> The use rights in this area are shared by several communities belonging to the Bamiasta, Bakinasta and Diunat territorial councils; therefore the area will be jointly titled to these three territorial councils.

<sup>4</sup> Garifuna Territorial Development Council.

<sup>4</sup> Two granted in 2013 to two Pech communities (Culuco y Jocomico) and one issued in 2015 to a Miskitu territorial council (Bakinasta).

What explains this shift in the titling policy? The representatives of the Miskitu people claim that the key factor was their determination to defend the unity of their territory. In the words of Donaldo Allen, MASTA<sup>5</sup> Land Committee Coordinator:

*“To defend our territorial integrity, we [the Miskitu] have for decades rejected time and again the offers of partial or fragmented titling repeatedly made to us by different government institutions.”*

This explanation is shared by many observers in the country. But the determination of the Miskitu people and their territorial claims alone do not explain what prompted the Government of Honduras to finally start – after many decades of reluctance and procrastination – the titling process of the entire Miskitu territory. Other factors are at play; Box 1 explores some of them.

### Box 1. What Triggered the Land Titling Process in the Mosquitia?

There are several hypotheses that could answer this question. Without a doubt, the great advances in indigenous land titling in other Latin American countries, coupled with the increasingly vigorous demands of the Miskitu people, have slowly exerted an increasing pressure on the Honduran government to act.

Another key factor was the particular political context of President Porfirio Lobo Sosa’s government (2010-2014). Elected president five months after the coup d’état of June 2009, the first objective of “Pepe” Lobo was to achieve national reconciliation in a deeply divided country following the coup. This political climate was more conducive to the territorial demands of the Miskitu people, because the government wanted to reduce social confrontations and “look good” in the eyes of the international community (Santiago Flores, pers. comm., June 2015).

But perhaps there is another factor even more important. In Honduras it seems that the state has given up trying to implement development policies with a nationwide territorial scope. Instead, its attention is increasingly focused on specific areas considered to be of greater economic potential, referred to as “model cities,” “employment and economic development zones,” “mining reserves,” “industrial parks,” etc. The rest of the country is gradually being left to its own means – with decreasing state presence, insufficient economic resources, and enormous challenges. Under these circumstances, indigenous land claims are at risk of being co-opted by the government agenda because they provide a pretext for the disengagement of the state from the titled areas (generally remote and economically marginal), thereby facilitating the concentration of public efforts and resources in areas of greater economic dynamism (Hale 2011).

The process in the Mosquitia is not yet complete. During 2015, the Miskitu people expect to achieve the titles for the remaining areas located within the RPBR, thus completing the titling of their entire territory, without partitions or gaps. Achieving this would represent the culmination of more than 30 years of struggle. It would also represent the fulfillment of a historical debt of the Honduran state to the Miskitu people, given that the Cruz-Wyke Treaty, signed by the United Kingdom and Honduras in 1859, recognized the sovereignty of Honduras over the Mosquitia with the provision that it would guarantee the region’s Indigenous Peoples’ possession of their ancestral lands (MASTA 2012).

Adding the territories of the other three Indigenous Peoples (Pech, Tawahka and Garifuna) that live in the Honduran Mosquitia, the total area of this indigenous territorial space could cover more than 1.5 million hectares (Figure 1), almost 14% of the national territory.

However, as mentioned in the first section, a title in itself does not create a territory. A territory is not established through an ownership document, but rather through the social and political processes that lead to social control over the land (Larson et al. 2012). The titled lands in the Mosquitia will not be proper *territories* until local management and defense procedures have been established. If achieved, these territorial consolidation processes offer a real opportunity for self-determination and autonomy. But there are many challenges. In the following sections three of these challenges are addressed: (i) **governing authority** in indigenous territories; (ii) **external factors** that undermine territorial consolidation and governance processes; and (iii) **experience and capacity of indigenous organizations** to govern their territories and resources.

While these challenges are of particular concern for the new territorial reality in the Mosquitia, the way they are addressed and the responses that arise will have implications for all Indigenous Peoples in Honduras.

<sup>5</sup> See footnote 2 (p. 1).

## Who Has Governmental Authority over Indigenous Peoples' Territories and Resources?

The recognition of territorial rights carries a strong political content for Indigenous Peoples. The right to own their territory is part of a set of collective rights, including the right to self-govern and pursue their own vision of life and development (van Dam 2011). However, national states, both in Latin America and in other continents, have often sought to strip indigenous territorial demands of their political content. Under the argument of the threat to national territorial integrity, states have resisted recognizing rights to self-determination (Zuñiga 1998). Honduras has been no exception. In many political and government circles, discussing Indigenous Peoples' right to autonomy is still a taboo. This raises important questions regarding who has governing authority over indigenous territories and their natural resources in Honduras.

The current Constitution of Honduras was drafted in the early 1980s, just as the indigenous movement in Latin America was beginning to organize itself politically to demand more rights and space to participate. Because the Honduran Constitution was written at the beginning of this political transformation process, it is not surprising that it makes limited reference to specific rights of Indigenous Peoples. For example, unlike other Latin American constitutions adopted later, the Honduran Constitution does not include the term "Indigenous Peoples" and makes no explicit recognition of rights that nowadays are considered essential, such as the right to the territory (Aguilar et al. 2010).

However, a core feature of the Honduran Constitution is the inclusion of international law in the national legal system (Articles 15 and 16), and the recognition that international treaties and conventions ratified by the country take precedence over national laws (Article 18).

Now, with the adoption in 2007 of the UN Declaration on the Rights of Indigenous Peoples,<sup>6</sup> the international community – including Honduras – has definitively recognized the right of Indigenous Peoples to self-determination. In total, there are at least 15 articles in this Declaration that shape the right to self-determination (ILRC 2015), including the "right to autonomy or self-government" (Box 2).

### Box 2. United Nations Declaration on the Rights of Indigenous Peoples: Key Articles on the Right to Self-Determination

#### Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

#### Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

#### Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Source: UN 2007.

On the other hand, the entire Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries<sup>7</sup> presumes that Indigenous Peoples have their own governing bodies and the ability to govern themselves and manage their resources. Overall, more than 14 articles of this Convention support the decisional autonomy of Indigenous Peoples (ILRC 2015). Moreover, the principle of self-determination has been ratified again and again by different rulings of the Inter-American Court of Human Rights (CIDH) in San Jose, Costa Rica, all of them binding for Honduras and the other American states (van Dam 2011).

In short, in light of the international law recognized by Honduras, the principle of self-determination of Indigenous Peoples includes substantial governing authority over their territories and resources. Specifically, these governing powers include: the right to make and enforce rules on the use of their lands and natural resources; the right to establish their own forms of internal government; and the right to establish rules and procedures for dispute resolution, among others (MASTA 2012, ILRC 2015).

<sup>6</sup> In principle, the declarations of the UN General Assembly have no binding legal force. However, unlike other declarations of the United Nations, the Declaration on the Rights of Indigenous Peoples has an article (no. 38) which emphasizes the obligation of the states to comply with its content. In addition, the UN declarations help to create international legal custom, which is a source of law. For example, there is broad international consensus that the Universal Declaration of Human Rights of 1948 has acquired binding force, via customary law (Zalaquett 2008).

<sup>7</sup> Ratified by the Honduran National Congress in 1995.

Therefore, the fundamental challenge is not lack of rights, but the need to institutionalize mechanisms to exercise self-determination. For example, there is a need to establish indigenous self-governing structures and to clarify their responsibilities vis-à-vis those of other state entities, including the central government and local municipalities. To move in this direction, CONPAH has proposed the development of a Special Law on the Rights of Indigenous and Afro-Honduran Peoples (CONPAH 2015). According to some observers, an alternative option, perhaps more politically feasible, would be the formulation of a Law on Free, Prior and Informed Consent (FPIC) which in addition to regulating the procedures for FPIC in the case of companies, projects, and other actors, would also establish rules for the relationship between state agencies and indigenous decision-making institutions.

However, the country not only lacks institutional channels to implement the right to self-determination; time and again there have also been policies and laws that violate, directly or indirectly, this and other fundamental rights of Indigenous Peoples. This issue is addressed in the next section.

## External Factors Undermining Local Processes of Territorial Consolidation and Governance

Good governance requires a favorable legal and political environment. But that is not what has been offered to the Honduran Indigenous Peoples in the past 20 years. On the contrary, the titling process summarized in Table 1 has coincided with a sequence of structural reforms that have reduced the capacity and responsiveness of government institutions. Moreover, in recent years economic policies have returned to bet heavily on extractive industries as pillars for national development, including mining, power generation, and export-oriented monocultures. As an example, Table 2 shows some key laws passed since 2009 to encourage private investment and relax the rules governing access to land and natural resources.

**Table 2. Recent Laws that Facilitate Access to Land and Natural Resources in Honduras**

Name	Date Approved	Comments
General Water Law	August 2009	Allows the concessioning of water resources for the construction of private hydroelectric power plants (MADJ et al. 2013).
Public-Private Partnership Promotion Act	August 2010	Authorizes the use of public funds to co-finance private investment projects (FOSDEH 2014a).
Investment Promotion and Protection Act	May 2011	Establishes a fast-track process to approve large scale investment projects (PRISMA 2012).
General Mining Law	January 2013	Strongly criticized by civil society organizations for the haste with which it was approved and for leaving the doors open for open pit mining (ICEFI 2014).
Law of Employment and Economic Development Zones (ZEDE)	June 2013	Regulates the creation of investment zones with a high level of autonomy, called "model cities" or "private cities" (FOSDEH 2014b).
Development Promotion and Public Debt Restructuring Act	July 2013	Popularly known as the "Mortgage Law," it essentially allows the long-term mortgaging of "idle natural resources" to refinance the national debt (El Heraldo 2013).

As in other countries in the region, neo-extractive policies are exacerbating the pressure on Indigenous Peoples' lands. For example, the data in Table 3 indicate that in 2014 there were more than 500 applications for new mines at the Honduran Institute of Geology and Mines (INHGEOMIN). If approved, they would double the area of mining concessions already granted. According to Najarro et al. (2011) it is not possible to know with certainty the impact of mining on indigenous lands because "the official information is not fully available ... and the state itself does not have complete control and record of the information regarding the concessions." Nevertheless, a significant part of this expansion is planned in areas with a large indigenous presence such as the departments<sup>8</sup> of Colón and Santa Bárbara (CEHPRODEC 2013). In addition to the expansion of mining activities, the past few years have witnessed the beginning of oil exploration activities in an area of 35,000 km<sup>2</sup> off the coast of the Mosquitia (El Heraldo 2014).

<sup>8</sup> As in many other countries, the departments (eighteen in total) represent the higher administrative and political subdivision of Honduras' territory.

According to CESPAD (2013), in June 2010, just six months after the entry into force of the new General Water Law, 40 new water resource concessions for hydroelectric power plants had been approved. Data from Mi Ambiente (2015) indicate that in mid-2015 there were 158 hydroelectric projects under implementation or study. According to MADJ et al. (2013), at least 22 of these projects are located in indigenous territories or impact their downstream communities; in none of them, however, has an appropriate process for prior consent been carried out nor has the rejection expressed by local residents in open town meetings been respected.

**Table 3. Present and Future Mining in Honduras**

Mine Type	Mines Granted		Mines Requested	
	Number	Total Area (ha)	Number	Total Area (ha)
Metal Mines	146	168,870	313	291,650
Non-Metal Mines	346	151,270	232	122,710
<b>Total</b>	<b>492</b>	<b>320,140</b>	<b>545</b>	<b>414,360</b>

*Source: Garza 2014.*

The expansion of monoculture export plantations is also being actively promoted. The extent of oil palm has quadrupled in just over 10 years, from 33,000 hectares in 2000 (PRISMA 2012) to more than 120,000 hectares in 2013 (ICF 2014). This expansion has occurred mainly in the departments of Colón and Atlántida, in the northern part of the country, and represents – together with large tourism projects such as Tela Bay (OFRANEH 2014) – one of the greatest threats to the lands of the Garifuna communities in these two departments (Radio Mundo Real 2014). The spread of oil palm plantations in northern Honduras also represents a significant threat to the indigenous territories in the Muskitia, given that it is associated with the sale of livestock farms and hence the displacement of cattle ranchers eastward into the Muskitia (PRISMA 2012).

The expansion of cattle ranching is not a new phenomenon in the Muskitia. It is a dynamic that has been unfolding in the region for several decades, putting constant pressure on the resources and territories of its four Indigenous Peoples (Miskito, Pech, Tawahka, and Garifuna). However, there is much evidence of an intensification of this activity, closely related to the increase of drug trafficking in the last 10-15 years (McSweeney and Pearson 2013). In fact, drug traffickers need to control the territory through which they transport drugs, launder their huge profits, and legitimize their presence as supposed cattle ranchers. Buying land and planting vast pastures allows them to achieve these three objectives. The state's response – promoted and supported by the United States – has been the militarization of the Muskitia. But there is a strong concern that military presence is not only used to stop drug trafficking, but also to protect the economic interests of influential people in the region (PRISMA 2012, McSweeney and Pearson 2013).

Clearly, drug trafficking and the associated violence and land grabbing are not confined only to the Muskitia. All the Indigenous Peoples in the country, to a greater or lesser extent, face the same reality in their territories and communities. It is worth noting also that the pressures mentioned in the preceding paragraphs are not unconnected. In addition to funding the expansion of livestock, there is evidence that drug profits are penetrating other sectors of the national economy, including mining, energy, agribusiness, and tourism (Bosworth 2010, McSweeney and Pearson 2013).

In many cases, the dynamics described above manifest themselves through multitudes of businessmen and bodyguards, police and soldiers, and workers and technicians arriving to develop their plans and projects. Many businessmen and technicians are notorious for their non-conciliatory tones, frequently using phrases like “this project will go ahead, whether you like it or not” or “we are here only to inform you, not to ask permission” (MADJ et al. 2013). Drug traffickers do not even bother to inform or discuss, they simply take what they want (McSweeney and Pearson 2013). Forming new power groups, these external actors trample down any community resistance efforts in their way, undermining the local governing and territorial management structures of Indigenous Peoples.

In short, the overlap of mining and hydroelectric concessions, expansion of livestock and monocultures, land grabbing by external actors, drug trafficking, and violence are triggering profound impacts of “de-territorialization” and fragmentation of Indigenous Peoples’ territories. These impacts are compounded by legal reforms oriented to promoting investment and combatting drug trafficking, which lead to a continuous weakening of the national legislation that provides legal security for their lands and territories.

## Experience and Capacity of Indigenous Organizations

As in other countries of the region, in Honduras these organizations were established following the example of union models and designed with policy objectives in mind. While the data in Table 1 suggests that they have been reasonably successful, in many cases their authority faces daily challenges related to their legitimacy and credibility in the eyes of grassroots communities and organizations. The levels of horizontality, representativeness, and accountability are highly variable. Other common problems have been the fragmentation and multiplication of representative organizations, motivated in part by the personal interests of some leaders, but also by external actors, often from government entities or the NGO sector, that promote divisions as a control strategy.

The right to self-determination and the governing authority of Indigenous Peoples over their territories and resources imply the challenge to redefine and reorganize their decision-making bodies, from the grassroots up to the higher structures, in order to ensure that they are able to carry out proper governing functions according to the objectives that each indigenous group determines (Garcia 2013). This does not necessarily mean abandoning the current organizational models, but in many cases it seems important to rebuild and strengthen indigenous institutions at the community, territory, and supra-territory level. This includes establishing bylaws and regulations, clarifying the roles and responsibilities of the various authorities, defining the decision-making processes, and designing resource-generating mechanisms, all of which may allow to establish autonomy.

There is another important challenge linked to the experience and ability of Indigenous Peoples. Most of them, especially in the central and western part of the country, have had early and intensive contact with other segments of national society. For centuries, their territories have been occupied or frequented by non-indigenous outsiders who have promoted a gradual “ladinoization” of their communities. One consequence has been the loss of the customary capacity to govern their territories. Several of these territories are now a collection of communities with little contact with each other, in which it may be difficult to find features or elements of indigenous identity. Reconstructing or reinventing their governance structures is one of the greatest challenges of indigenous organizations and communities in various parts of the country.

## Implications for National Forest Policy

In previous sections it was argued that the emergence of a vast indigenous territory in the Honduran Mosquitia has deep political significance, and its implications will be felt in multiple areas and levels of national society. A sector where these implications will be particularly relevant is the forest sector, for one simple reason: a significant portion of the remaining forests in the country (approximately 30%)<sup>9</sup> are located in indigenous territories.

As described before, autonomy and self-government in the administration of forest resources is not an unfounded claim of Indigenous Peoples, but rather an established right based on international law that Honduras recognizes and endorses. The implementation of this governing authority in their territories not only would represent the acknowledgement of an inalienable right, but could contribute substantially to forest resource conservation and governance. For example, a study by Chhatre and Agrawal (2009) on eighty forest communities in ten tropical countries found a positive association between greater rule making autonomy, enhanced levels of conservation, and local livelihoods benefits. According to the authors cited, this is due to greater respect for rules when they are formulated and supported by local resource users. Hayes and Persha (2010) came to the same conclusion in a study that included, among other areas, the Río Plátano Biosphere Reserve in Honduras. These findings are consistent with many studies that have found a positive correlation between decisional autonomy and conservation (e.g., Agrawal 2001, Bray et al. 2005, Pagdee et al. 2006).

It is important to start discussing how this governing authority may be put into practice. According to CONPAH, a starting point would be reforming the 2007 Forestry, Protected Areas and Wildlife Law (Box 3).

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<sup>9</sup> There is no official data for forest areas in indigenous territories, but just the Mosquitia holds almost 20% of all the forests in the country (ICF 2014).

### Box 3. Proposals to Reform the Forestry, Protected Areas, and Wildlife Law

While it recognizes the right of Indigenous Peoples to own their forest areas, this law assigns to the Forest Conservation Institute (ICF) the exclusive power to regulate the use of the country's forest resources (Article 14), thus denying the right of Indigenous Peoples to participate, with their own self-governing bodies, in the management and surveillance of forests in their territories. To remedy this situation, CONPAH proposes to reform Articles 14, 17, 18, 19 and 20 of the law, which establish the functions and authority of the ICF; Articles 21-28 concerning the creation of the Forest Advisory Councils; and Article 109 on the declaration of protected areas.

Furthermore, the entire regulatory system established by this law is based on the recognition of only two forms of forest tenure (Article 45): public forest areas (those belonging to the state, municipalities, etc.) and private forest areas (those belonging "to individuals or legal entities holding private rights"). This distinction does not recognize a basic fact: Honduras has about 2 million hectares, mostly covered by forests, collectively owned by indigenous communities and peoples,<sup>1</sup> which have their own specific rights and the legal authority to regulate the use of their resources. These indigenous forest areas cannot be administered by the state as if they were private property belonging to entities with private rights. Therefore, these areas need a special forest governance regime – a regime that respects the right to self-government of Indigenous Peoples. In addition to the amendments to the articles mentioned in the previous paragraph, this implies reforming Article 45 of this law in line with the spirit of international conventions and treaties recognized by Honduras.

Like non-indigenous rural communities, indigenous communities can participate in forest harvesting and marketing activities by organizing themselves in cooperatives or other forms of community enterprises under the Social Forestry System (Article 126). While this is an important option used by several indigenous communities in the past 40 years, CONPAH believes that this cannot be the only form in which indigenous communities and peoples can participate in forest economic activities, because they have the right to "freely pursue their economic ... development" through their own economic institutions (see Box 2 on page 5). The recognition of the right of indigenous communities to maintain or develop their own systems or institutions for participating in forest production activities – with no obligation to replicate pre-established external models – implies the need to reform, among others, Articles 126-132 of this law, which establish the norms for community forestry in the country.

Source: CONPAH 2014.

<sup>1</sup> This estimate includes both the titles already issued (including old titles granted in the colonial period, in the 19<sup>th</sup> century, and the first half of the 20<sup>th</sup> century) and those currently in process (e.g. those in the Río Plátano Biosphere Reserve).

Honduras was the first Latin American country to simultaneously engage in REDD+ and FLEGT-VPA processes.<sup>10</sup> Although not all indigenous organizations in the country support these two initiatives, several of them, including CONPAH, are actively involved in both processes. This participation is in itself significant, as it suggests that the two initiatives have recognized the need to work hand in hand with Indigenous Peoples if they are to achieve their goals.

However, there is also fear that REDD+ and the FLEGT-VPA could lead to additional challenges for indigenous rights and territories. It is said, for example, that they could result in greater centralization of functions in the hands of government agencies or a widening of the gap between theory and practice in the implementation of indigenous rights. There are also concerns about the somewhat reductionist approach of these two initiatives – the first focused on carbon emissions and the second on the legality of timber – which could lead them to ignore Indigenous Peoples' multi-dimensional perception of forests (van Dam 2011).

But REDD+ and the FLEGT-VPA could also bring opportunities. A key step to materialize some opportunities is for the different stakeholders involved in both processes to recognize the rights of Indigenous Peoples, including the right to self-determination, to maintain and strengthen their own political and economic institutions, and to pursue their own form of development. Considering that both initiatives are still in their early stages, there is a real possibility that both may incorporate mechanisms and commitments to help strengthen the recognition of these rights. It is therefore important that indigenous representatives in both processes actively participate and contribute to designing REDD+ and FLEGT-VPA systems that help move in this direction.

In addition to the support that these two initiatives could provide in the implementation of their rights, CONPAH believes that it is crucial for REDD+ and the FLEGT-VPA to provide financial support to indigenous governance efforts. Financial assistance is needed to establish territorial surveillance systems, to provide legal resolution to territorial conflicts (*saneamiento*), to hire legal assistance services, to build their own forest management experiences, and to travel within

<sup>10</sup> REDD+ is the acronym for Reducing Emissions from Deforestation and Forest Degradation, in which the "plus" refers to an expanded concept that includes conservation and enhancement of forest carbon stocks as well as sustainable management of forests. FLEGT-VPA is the acronym to indicate a Voluntary Partnership Agreement (VPA) within the scope of the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan of the European Union. For a brief description of REDD+ and the FLEGT-VPA in Honduras see a previous Forest Trends Information Brief: [http://www.forest-trends.org/publication\\_details.php?publicationID=4799](http://www.forest-trends.org/publication_details.php?publicationID=4799)

their territories and to the capital or other cities in the country. The lack of resources is one of the major constraints to develop these measures, and the ability to access state funding is very limited and cumbersome. According to CONPAH, it is important that REDD+ and the FLEGT-VPA help to provide – via supporting projects or other funding mechanisms – the necessary resources to sustain these efforts.<sup>11</sup>

## Conclusions

This article discussed some key implications of the titling process in the Honduran Mosquitia. The core message of this document is that much more has to be done to put into practice the rights of Indigenous Peoples in the country, including the right to autonomy and self-government. This implies the construction of a new relationship between the state and indigenous peoples, particularly in the design, implementation, monitoring and evaluation of public policies and government projects in their territories.

Additionally, there is a need to reorganize public institutions that have been operating in their territories for more than a century. Relationships between government agencies and indigenous self-government structures should be based on greater transparency and accountability, buttressed by mechanisms of checks and balances, and shaped by intercultural understanding and mutual respect.

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<sup>11</sup> An upcoming Forest Trends Information Brief, prepared also in collaboration with CONPAH, will try to explore and describe certain specific aspects where REDD+ and the FLEGT-VPA could help address the challenges described in this document.

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