

Strengthening indigenous resguardos in the Colombian Amazon

Recommendations for CSOs



Summary

In Colombia, deforestation is high in areas where large-scale landowners are expanding agricultural plantations and pastures. In contrast, deforestation has slowed down in areas where indigenous peoples have received collective rights over their territories, known as resguardos. Colombia's resguardos cover around 27 million hectares—about a quarter of the country. They provide political and administrative autonomy, and are supported by the central government's legislation. Although deforestation within resguardos is low, there are threats in terms of illegal activities, such as logging, mining and encroachment. We consulted representatives of indigenous communities, academia and civil society organisations (CSOs), and discussed how indigenous communities can be further empowered to shape their own path of sustainable development. This resulted in the recommendation to designate resguardos as non-municipalised areas that are managed by indigenous Councils, which will increase their political and administrative autonomy. Simultaneously, CSOs need to help strengthen the capacity of indigenous organisations in matters of public policies, territorial management and public administration, in order to face the new governance challenge.

Introduction

Deforestation driven by large-scale landowners

During the last five years, Colombia has lost about 200,000 hectares of tropical forest per year. There is a law that states that the colonisation of forest (i.e., converting forest to agriculture or pasture) can be awarded with a formal land title (Forest Reserve Zone, Law 2 of 1959). Although recently new regulations have been developed that allow titling without cutting down the forest, this law still serves as an incentive for people to deforest. Deforestation in Colombia is often thought to be driven by small-scale farmers who are looking to secure land titles. However, evidence shows that this is often promoted by large-scale landowners, who pay small-scale farmers to convert forest lands

(see, e.g., Borras et al., 2011; Giraldo, 2015). In this way, large-scale landowners seek to accumulate more land, often for speculation in the land market, and in hopes that these areas will be titled in the future.

Legal recognition of indigenous territories

Since 1986, the Colombian state implemented at a large scale a mechanism for the recognition of rights to collective land for indigenous communities, under a legal model of colonial origin, known as indigenous Resguardos. Resguardos provide indigenous communities with broad political-administrative autonomy over their traditional territories. They include the right of access, withdrawal, management and

exclusion, but extractive activities for commercial purposes (e.g., logging) require special permits from the national environmental authorities. Resguardos are inalienable, which ensures the collective right to the land in perpetuity, and protects indigenous communities from expropriation by external actors. It does, however, limit the possibilities to receive credit on the basis of land property. In the Colombian system, the state maintains control over sub-soil resources. This exposes these territories to mining and fossil fuel exploitation, under the requirement of an environmental license, and an administrative consultation process with the communities, based on free prior and informed consent. This consultation process does not mean that communities can use a veto to prevent exploitation, but they can negotiate the conditions and compensations.

The recognition of territorial rights to indigenous people occurred alongside the recognition of their cultural rights, as part of Colombia's ambition to form a pluriethnic and multicultural nation. Resguardos are considered to contribute to the cultural strengthening of indigenous peoples, because their culture and territory are closely related. Since the mid 1980s, almost 27 million hectares of resguardos have been assigned to more than 50 indigenous peoples that inhabit the Amazon. Most of these are so-called macro-resguardos, which means they are larger than 300,000 hectares. The largest resguardo even reaches a size of more than five million hectares—almost twice the size of the Netherlands. These areas are heavily forested, contributing to biodiversity conservation, the delivery of ecosystem services, and the stability of the regional and global climate. Besides the macro-resguardos, there are several small resguardos along the colonisation frontier. The smaller resguardos can play an important role in the development and implementation of intercultural agreements between indigenous communities and their peasant neighbours, for better management of the forest on the frontier. Colombia's recognition of the territorial rights and the political-administrative autonomy of indigenous peoples has become an example for other countries in the region.

Approach

In order to better understand the role and potential of resguardos as mechanisms for decentralised forest governance, we reviewed literature and conducted ten open interviews with indigenous leaders and elders belonging to various resguardos. In addition, we organised a workshop with participants from academia, CSOs and indigenous organisations to discuss ways forward. Below we highlight some of the main results, focussing on conservation and livelihood outcomes of the resguardos, and possibilities to further strengthen indigenous governance.

Results

Conservation

There is consensus among respondents and workshop participants that the system of resguardos in Colombia has helped to slow down deforestation and forest degradation due to logging and agricultural expansion. The declaration of around 27 million hectares as resguardos—together with the declaration of more than 10 million hectares as protected areas—is considered one of the greatest contributions to the conservation of the tropical rainforest in the Amazon basin.

Although resguardos have relatively low deforestation rates, there are several threats, both from the outside and from within. Public policies promote the construction of roads, opening up the forest areas near resguardos for development based on expansion of commercial crops and livestock farming. This creates new risks to resguardos, such as forest fires and the expansion of illegal activities, including logging, mining and encroachment. The presence of the Colombian state in these areas is typically poor, while local communities themselves have insufficient means to monitor illegal activities and enforce regulations.

The smaller, less remote, resguardos, are often already completely surrounded by pastures, so ecological connections with other forest areas have been lost. Also, peasants surrounding these resguardos often allow their cattle to wander, damaging indigenous communities' shifting cultivation plots (chagras) and water sources.

Livelihoods

Within resguardos, small-scale logging and non-timber forest product extraction are allowed for the local market, while medium-scale extraction activities require special permits from the national environmental authorities. With the right permit, resguardos can commercialise timber, but only up to a limited amount and under a strict forest management plan. This generates income for some communities, but it is only feasible for the less isolated resguardos, close to urban centres with a demand for timber.

For some of the resguardos, compensation payments by mining and fossil fuel projects are an important source of income. Also, several indigenous communities have entered into contracts for carbon sequestration under the REDD+ framework, usually with companies that cater to voluntary markets. However, benefits from these schemes have so far been limited. Ecotourism is another promising alternative, but this is still in an early phase as well.

In addition to the collective income-earning opportunities mentioned above, individuals and

households in less remote resguardos are typically involved in the sale of agricultural products, wage employment, and handicraft production. It has been observed that within some resguardos, a growing number of people are turning to cattle raising themselves, or rent out lands to cattle ranchers from outside. Also, there are worries that many young people are no longer interested in traditional forms of forest management, and leave their territories in order to find new opportunities in the cities.

Overall, respondents and workshop participants agree that more needs to be done to improve sustainable livelihood options within resguardos, through the promotion of forestry, agroforestry, ecotourism and payments for environmental services, as well as the development of forest restoration proposals based on traditional knowledge.

Strengthening governance

Respondents and workshop participants agree that it is necessary to further strengthen the autonomy and capacity of indigenous governments to define sustainable development models in their own territories, rooted in indigenous traditions. New legislation (Decree 632 of 2018) now gives resguardos (and associations of resguardos) the possibility of establishing themselves as so-called non-municipalised areas with an indigenous council. It places resguardos at the same level as municipalities, while associations of resguardos can become equivalent to provinces. This greatly improves their ability to decide autonomously how to spend their budget, and enables them to make their own decisions regarding the territory's administration. Within a non-municipalised area, the indigenous council is appointed as the highest figure of representation, and is registered with the Ministry of the Interior as the official public authority. This is widely considered an

important opportunity that could strengthen indigenous governance.

Respondents and workshop participants further agree that the non-municipalised area could be an intermediate step towards a new political-administrative model in the form of indigenous territorial entities. This would give the indigenous council the right to receive and manage resources of the state, and to participate in decision-making. However, as of yet, indigenous organisations and authorities are not yet fully prepared to assume the responsibilities that come with the status of a non-municipalised area, so this is a major area for CSO assistance.

Recommendations for CSOs

CSOs have been, and still are, important in the process of consolidating indigenous territories in the Amazon region. They facilitate communities with writing territorial development plans, set up intercultural education and health programmes, and facilitate management agreements with neighbouring communities and governmental institutions. In addition to these activities, workshop participants agreed that CSOs will need to focus on improving the conditions that will enable indigenous communities to pursue sustainable development on their own terms. The recommendations that came out of the discussions are mentioned below.

Documentation and action research

- Analysing public policies related to indigenous resguardos and how these policies play out in practice.
- Developing and piloting alternatives to the use of the forest that allow the generation of income through the sustainable use of wood, non-timber forest products, ecotourism, and Payments for Environmental Services.



Capacity and organisation

- Strengthening the capacities of indigenous organisations and authorities in the areas of public administration, indigenous legislation and indigenous rights, prior consent mechanisms, institutional structure of the state, mechanisms of self-governance and customary law, and accounting and budget management.
- Strengthening of traditional governance mechanisms, to ensure that decisions are based on traditional knowledge and customary rules for the wise use of natural resources, and that elders are actively involved in decision-making processes.
- Strengthening the participation of women and youth in the decision-making mechanisms of indigenous councils, as these groups are currently underrepresented.
- Strengthening networks and interaction platforms of indigenous organisations, and creating associations of indigenous authorities, to increase their negotiation power at the national level.
- Establishing a platform for interaction between indigenous organisations and CSOs, as well as relations between indigenous authorities and the National Parks system, to define new conservation models.
- Facilitating the formulation of proposals for cultural and ecological connectivity between resguardos, and the execution of intercultural agreements between small resguardos and their neighbours, such as peasant settlements and Juntas de acción comunal (community action boards).
- Strengthening the capacity of indigenous authorities to take legal action in the event of illegal activities (illegal mining, deforestation and coca cultivation) within their territories, among others by strengthening the relations between indigenous authorities and government law enforcers, for better protection of the territorial integrity of the resguardos.

Lobby and advocacy

CSOs need to engage in lobby and advocacy efforts, aiming to:

- Adjust legislation, modifying the existing restrictions on the use and commercialisation of timber and non-timber forest products, and incentivising sustainable forest management.
- Establish a monitoring and early warning network for illegal activities and forest fires with indigenous communities.
- Halt the construction of infrastructure that increases deforestation, and transform the government's development vision, away from expansion of extractive businesses at the expense of the forest, toward a mode of development that is based on the sustainable use of the forest.
- Accelerate the implementation of the non-municipalised areas with indigenous councils, and establish public finance mechanisms that allow the functioning of indigenous councils.

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This briefing paper is based on a review conducted by Tropenbos Colombia, and supported by Tropenbos International. It has been produced within the framework of the Green Livelihoods Alliance - Millieudefensie, IUCN NL and Tropenbos International - funded under the 'Dialogue and Dissent' strategic partnership with the Ministry of Foreign Affairs of the Netherlands.

The opinions and views expressed in this publication are the sole responsibility of the authors and do not necessarily reflect those of Tropenbos International or its partners.

Published by: Tropenbos Colombia, Bogota, Colombia & Tropenbos International, Wageningen, the Netherlands, 2020.

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Author: Maria Clara van der Hammen and Carlos Rodríguez.

Suggested citation: : van der Hammen, M.C. and C. Rodríguez. 2020. *Strengthening indigenous resguardos in the Colombian Amazon — Recommendations for CSOs*. Briefing paper. Bogota, Colombia: Tropenbos Colombia. Wageningen, the Netherlands: Tropenbos International.

Issue date: September, 2020