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Advancing the Land Rights of Afro-Colombian Communities

A Qualitative Evaluation of Efforts to Implement Colombia's Law 70 of 1993

Caroline White-Nockleby, Benjamin Villa, Maria Daniela Castillo, Luis Gilberto Murillo-Urrutia, Marcela Angel, and Juan Camilo Osorio

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A Qualitative Evaluation of Efforts to Implement Colombia's Law 70 of 1993

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Abstract

- Colombia's Law 70 of 1993 was a groundbreaking law that created a legal pathway for Afro-Colombian communities to receive collective title to historically occupied territories in rural river-basin areas. However, though the Law has served as a model for similar initiatives across Latin America, the Law has not yet been fully operationalized and implemented in Colombia.
- We conducted semi-structured interviews with 15 individuals engaged in Law 70's formulation, operationalization, or implementation, including members of Afro-Colombian communities and employees in the nonprofit, academic, private, and government sectors, to evaluate the *objectives*, *achievements*, and *challenges* of Law 70, its operationalization, and the Prior Consultation Processes it mandates, as well as to develop *recommendations* for its successful operationalization. We also asked interviewees to discuss the primary *reasons for the delay* in the Law's full implementation.

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- Overall, interviewees agreed that the most important *objectives* of Law 70 were granting collective land rights to and advancing the visibility of, Afro-Colombian communities. These objectives also corresponded to the Law's greatest *achievements* thus far. Economic development and environmental conservation were somewhat less highlighted, in part due to the strong interconnections between issues of conservation and land rights within Afro-Colombian communities.
- The *challenges* of Law 70 and its implementation most emphasized were, first, a lack of community autonomy to govern and delimit permitted activities in collectively titled land, due in part to the difficulty of limiting illicit activities, jurisdictional overlap with other governance authorities, and instability in the rights and legality of granted titles. Interviewees also highlighted a lack of inclusion of communities in national decision-making processes, though participation also emerged as a key achievement of the Prior Consultation Process. Less discussed challenges, which were still important to some interviewees, were a lack of both funding and intra-community organizational capacity.
- The *reasons for the delay* in the Law's implementation included, most prominently, a lack of political will and transparency among many of the stakeholders involved. Also emphasized by some interviewees were the influences of lobbying, as well as a clientelistic relationship between the government and some private sector institutions.
- The *recommendations* most emphasized were, first, the need for greater funding from the national government and the private sector. Interviewees also highlighted the need for shifts in the Prior Consultation Process structure, including clearer rules to facilitate the consultation process, changes to make the process less costly and more efficient, more external research to inform the process, and greater engagement by third party participants such as academic researchers and members of the private sector. Overall, interviewees expressed a mix of optimism and pessimism about the future of the Law.

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1 Introduction

In recent decades, Colombia has become a regional and global leader on policies to further the autonomy of Afro-Colombian communities, promote sustainable livelihoods, reduce deforestation, and protect biodiversity. Among other innovative policies, in 1993 the country passed Law 70, which created a legal pathway for Afro-Colombian communities to receive collective title to historically occupied territories in rural areas. This groundbreaking law offered an innovative way to advance four key goals: racial justice, economic autonomy, biodiversity conservation, and climate change mitigation. Yet due to a number of challenges, the Law has been only partially implemented. Thus, its potential to advance these crucial goals has not been fully realized.

This report summarizes the results of 15 interviews conducted with individuals who have worked closely with Law 70 of 1993, including members of Afro-descendant communities, local and national government officials, nonprofit employees, one academic researcher, and one representative from the private sector. In the interviews, these experts reflect on the challenges and achievements of the Law thus far and offer recommendations for its successful operationalization. Together with a bibliographic review of existing academic research on the effects of Law 70 of 1993 (referred to as Law 70 in this report) conducted by the authors in the Fall of 2021, these insights offer a roadmap that might guide the Law's effective implementation.

When passed in 1993, Law 70 set a historic precedent. Colombia was the first country to encode the ability for non-indigenous ethnic minority groups to receive collective land titles—including Afro-descendant communities in the Amazon and Pacific coast established as early as the 16th century.^a Though Colombia's 1961 agricultural reform had enabled the formal titling of Indigenous land, prior to 1991 any entity with sufficient funds, such as a mining company or a tourism enterprise, could in theory occupy, develop on, or extract resources from lands inhabited by Afro-Colombian peoples—already one of the most marginalized and vulnerable groups in the country by economic, sociopolitical, and health metrics.^b The passage of Colombia's Law 2 of 1959, which established a forest reserve area in Colombia's Pacific Coast, put in place an additional obstacle preventing the substantial Afro-Colombian communities in this region from receiving formal land titles.

In a framework shaped by Afro-Colombian social movements for racial equity, with support from allies in the National University in Bogota and the public sector, Article 55 of the Constitution sought to ameliorate these legislative injustices by recognizing the right of Afro-Colombian communities to receive collective land title. With additional support from the World Bank, which had begun to promote collective titling of territories as a sustainable

^a Maria Alejandra Velez, "Collective Titling and the Process of Institution Building: The New Common Property Regime in the Colombian Pacific," *Human Ecology* 39, no. 2 (April 2011): 117-29.

^b History of collective titling: Alejandra Velez, "Collective Titling and the Process of Institution Building"; Allen Blackman and Peter Veit, "Titled Amazon Indigenous Communities Cut Forest Carbon Emissions," *Ecological Economics* 153 (November 2018): 56-67. Metrics of vulnerability and marginalization of Afro-Colombian communities: World Bank, "The Gap Matters: Poverty and Well-Being of Afro-Colombians and Indigenous Peoples" (Washington, D.C.: Environmentally and Socially Sustainable Development Unit Latin America and The Caribbean Region, the World Bank, July 20, 2005), <http://documents1.worldbank.org/curated/en/337791468242365622/pdf/330140CO.pdf>; "Humanitarian Needs Overview: Colombia" (UN Humanitarian Country Team, UN Office for the Coordination of Humanitarian Affairs (OCHA), November 2018), <https://reliefweb.int/report/colombia/2019-humanitarian-needs-overview-colombia-nov-2018>.

development strategy, in 1993 Colombia passed Law 70, which elaborated this right.^c Since its passage, Colombia's collective land titling program has inspired the formulation of similar initiatives in Ecuador, Panama, and Brazil.^d

Broadly, Law 70, alongside decree 1745 of 1995, details the processes by which Afro-Colombian communities can apply for collective land titling.^e The law defines Afro-descendant communities on the basis of culture, history, livelihoods, and geography.^f Before applying for a collective land title, postulates must establish a community council.^g For both Indigenous and Afro-Colombian communities, collective titling confers the right to access land, engage in certain sustainable economic activities such as small-scale logging and resource extraction, govern forest management, and be consulted prior to the implementation of any public or private development, infrastructural, or extractive initiatives within the titled territories.^h However, titled lands cannot be sold, nor can specific property rights be transferred to other holders.ⁱ Since the Law was instituted, significant tracts of land have entered into collective title. Between 1996 and 2008, 156 Afro-Colombian communities, comprising 62,000 families across six departments, received collective title for lands where they had had a historical presence.^j As of 2016, Colombia was home to 323,000 km² of indigenous reserves and 56,000 km² of Afro-Colombian collective territories (Figure 1).^k

^c Alejandra Velez, "Collective Titling and the Process of Institution Building"; for description of the confluence of World Bank initiatives and Afro-Colombian organizing that contributed to the collective titling program, see also: Karl H. Offen, "The Territorial Turn: Making Black Territories in Pacific Colombia," *Journal of Latin American Geography* 2, no. 1 (2003): 43-73; for further description of process of formulating Act 70, see: Bettina Ng'weno, "On Titling Collective Property, Participation, and Natural Resource Management: Implementing Indigenous and Afro-Columbian Demands. A Review of Bank Experience in Columbia," *World Bank*, 2000, 825826-654.

^d Alejandra Velez, "Collective Titling and the Process of Institution Building."

^e Ng'weno, "On Titling Collective Property, Participation, and Natural Resource Management: Implementing Indigenous and Afro-Columbian Demands. A Review of Bank Experience in Columbia," 22.

^f Ng'weno, 22.

^g Alejandra Velez, "Collective Titling and the Process of Institution Building."

^h Blackman and Veit, "Titled Amazon Indigenous Communities Cut Forest Carbon Emissions."

ⁱ Blackman and Veit.

^j Alejandra Velez, "Collective Titling and the Process of Institution Building."

^k Leonardo Bonilla-Mejía and Iván Higuera-Mendieta, "Protected Areas under Weak Institutions: Evidence from Colombia," *World Development* 122 (October 1, 2019): 585-96.



FIG 1: Collectively-titled lands in Colombia and Afro-Colombian Community Claims. *Agencia Nacional de Tierras, 2020. Elaborated on 08/09/2021 by Jairton Habit Díez.*

Despite the Law's achievements, however, significant obstacles to its full implementation remain. In Colombia, there are four kinds of laws: ordinary law, framework law, organic law, and statutory law.¹ Law 70 is a statutory law because it elaborates an article from the constitution. After a statutory law is passed by Congress, before it can be fully implemented it must be operationalized via a series of executive orders issued jointly by the President and at least one Minister (director of a Ministry, or Department of the national government). These

¹ There is no clear consensus on the translations for these forms of law because, since most Anglophone countries use Common Law systems, English does not have the terminology to articulate concepts in countries that use Civil Law such as Colombia.

orders define the mechanisms and particularities of the Law's implementation.^m This process, which in Spanish is known as “reglamentación,” does not have an exact translation in English because no corresponding legal process exists in the U.S. legal system or in those of other anglophone countries.ⁿ Therefore, for the purposes of this paper, we define *operationalization* as the process of defining the Law via executive order (i.e. reglamentación). We define *implementation* as the subsequent material enactment of the operationalized law via particular projects and initiatives. The law's implementation may require additional funding sources and resources and may engage actors not involved in the operationalization process itself.

A key obstacle to the successful implementation of Law 70 is its incomplete operationalization.^o Chapter III of the Law, which makes provisions for Community Councils and for a Technical Commission (to evaluate requests for collective land titles, among other responsibilities), was operationalized in 1995 by National Decree 1745.^p Article 40 of the Law's Chapter V, meanwhile, which recognizes and protects Colombia's ethnic and cultural diversity via, among other provisions, expanding educational opportunities for Afro-Colombian communities, was operationalized in 1996 by National Decree 1627.^q Yet the majority of the Law has not been operationalized, which has led to confusion, conflict, and delay in efforts to expand collective titles and to implement other aspects of the Law.

This report builds on a bibliographic review of 38 relevant academic articles, spanning economics, ecology, and sociology, that evaluate the challenges and achievements of four different environmental policy tools in Colombia influenced by Law 70: natural protected areas, collective titling of Afro-descendant territories, payment for environmental services, and community sustainable management training (particularly to promote silvopastoral methods). These tools were evaluated against four objectives: (1) Preserve biodiversity; (2) Avoid and Limit Deforestation; (3) Support the inclusion, wellbeing, and autonomy of Afro-descendant communities; and (4) Confront the impacts of conflict and further peace.

The bibliographic review and existing studies find that among the four policy tools analyzed, collective land titling shows the strongest evidence of meeting all four goals: it not only facilitates conservation and biodiversity preservation, but also advances racial justice. Lands owned collectively by either Indigenous or Afro-Colombian groups have lower rates of deforestation and present evidence of greater conservation of forest ecosystems and biodiversity than non-protected areas, though they have had less success limiting illicit

^m Antonio Ramirez, “An Introduction to Colombian Governmental Institutions and Primary Legal Sources,” Hauser Global Law School Program, NYU Law School, May 2007, file:///Users/carolinewhite-nockleby/Zotero/storage/NFUGYL6D/Colombia.html; see also Antonio Ramirez and Hernando Otero, “UPDATE: An Introduction to Colombian Governmental Institutions and Primary Legal Sources,” Hauser Global Law School Program, NYU Law School, April 2019, <https://www.nyulawglobal.org/globalex/Colombia1.html>.

ⁿ The lack of a precise translation can be seen in Spanish-English translation discussion forums; e.g. “Reglamentación,” *WordReference Language Forums*, April 22, 2009, <https://forum.wordreference.com/threads/reglamentaci%C3%B3n.2593304/>; “Reglamentación de Leyes,” *WordReference Language Forums*, January 19, 2016, <https://forum.wordreference.com/threads/reglamentacion-de-leyes.3125187/>.

^o Lawrent Suelta Guerra, “Ley 70 de 1993” (Colombia: Ministry of Agriculture, July 4, 2018), <https://www.minagricultura.gov.co/Normatividad/Leyes/Ley%2070%20de%201993.pdf>.

^p “Decreto 1745 de 1995 Nivel Nacional” (1995), <https://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=7389#1>.

^q “Decreto 1627 de 1996 Nivel Nacional,” 1627 § (1996), <https://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=7286#1>.

activities, as well as related deforestation and violence.^r Collective land titling can also increase the autonomy and socio-economic wellbeing of Afro-Colombian communities.^s Protected areas, meanwhile, are highly effective in furthering environmental conservation, but require participatory planning and multi-use flexibility to advance economic and racial equality objectives. Compensation for environmental services and community conservation management programs are relatively more recent and decentralized compared to the other tools. Both mechanisms, however, show potential to further all four objectives. Ultimately, all four tools have an important place in Colombia's policy landscape, though each will need to be carefully adjusted to reflect local contexts and histories (see Appendix E for policy tool scorecards).

The review, however, also found that existing research indicates that realizing the multifaceted benefits of collective land titling will be a challenge. In addition to the history of slavery, racial and ethnic discriminations and its modern manifestations, Colombia's decades-long conflict with the far-left guerrilla group the Revolutionary Armed Forces of Colombia (FARC) had a disproportionate impact on Afro-Colombian communities, which were affected by systemic violence and related activities including drug trafficking, illegal crops and illegal mining.^t These activities are often undertaken by external actors, including former guerilla fighters and private corporations, and continue to be difficult for local communities to control, particularly within collectively titled areas.^u Such informal enterprises tend to cause multivariate socio-environmental damage: they can contribute to deforestation, contamination, and habitat destruction; limit long-term land sustainability; and infringe upon local autonomy.^v

^r Reduction of deforestation rates: Dolores Armenteras, Nelly Rodríguez, and Javier Retana, "Are Conservation Strategies Effective in Avoiding the Deforestation of the Colombian Guyana Shield?," *Biological Conservation* 142, no. 7 (July 2009): 1411-19; Bonilla-Mejía and Higuera-Mendieta, "Protected Areas under Weak Institutions"; Nelly Rodríguez, Dolores Armenteras, and Javier Retana, "Effectiveness of Protected Areas in the Colombian Andes: Deforestation, Fire and Land-Use Changes," *Regional Environmental Change* 13, no. 2 (April 2013): 423-35; Armenteras, Rodríguez, and Retana, "Are Conservation Strategies Effective in Avoiding the Deforestation of the Colombian Guyana Shield?"; Maria Alejandra Velez et al., "Is Collective Titling Enough to Protect Forests? Evidence from Afro-Descendant Communities in the Colombian Pacific Region," *World Development* 128 (April 2020): 104837; carbon mitigation: Blackman and Veit, "Titled Amazon Indigenous Communities Cut Forest Carbon Emissions"; Wayne Walker et al., "Forest Carbon in Amazonia: The Unrecognized Contribution of Indigenous Territories and Protected Natural Areas," *Carbon Management* 5, no. 5-6 (December 2015): 479-85; economic stability and development: Ximena Pena et al., "Collective Property Leads to Household Investments: Lessons From Land Titling in Afro-Colombian Communities," *World Development* 97 (September 2017): 27-48; inclusion in state processes: Alejandra Velez, "Collective Titling and the Process of Institution Building"; challenges in enforcing titling rights and limiting illicit activities: Marcela Velasco, "Confining Ethnic Territorial Autonomy in Colombia: The Case of the Naya River Basin," *Journal of Environment & Development* 20, no. 4 (December 2011): 405-27; Bonilla-Mejía and Higuera-Mendieta, "Protected Areas under Weak Institutions."

^s Pena et al., "Collective Property Leads to Household Investments"; see also Alejandra Velez, "Collective Titling and the Process of Institution Building."

^t Alejandra Velez et al., "Is Collective Titling Enough to Protect Forests?"

^u Gustavo Canavire-Bacarreza, Julian Eduardo Diaz-Gutierrez, and Merlin M. Hanauer, "Unintended Consequences of Conservation: Estimating the Impact of Protected Areas on Violence in Colombia," *Journal of Environmental Economics and Management* 89 (May 1, 2018): 46-70; see also: Carlos Andres Duran, "Governance in Colombian National Parks: Reflections on the Case of the Orika Community and its Participation in Environmental Conservation in Parque Nacional Natural Corales del Rosario y San Bernardo," *Revista De Estudios Sociales*, no. 32 (April 2009): 60-72; for examination of state support in enforcing rights of communities in collectively titled lands, see, Velasco, "Confining Ethnic Territorial Autonomy in Colombia."

^v e.g. Viviane Weitzner, "Between Panic and Hope: Indigenous Peoples, Gold, Violence(s) and FPIC in Colombia, through the Lens of Time," *Journal of Legal Pluralism and Unofficial Law* 51, no. 1 (2019): 3-28; Luis Eduardo Sandoval, Margarita Marín, and Ana María Almanza, "Explotación de recursos naturales y conflicto en Colombia," *Revista de Economía Institucional* 19, no. 37 (2017): 201-25; Irene Velez-Torre and Hildebrando Velez Galeano, "Conflicting plexus: a territorial and historical view of environmental conflicts in the upper Cauca river basin," enforcing rights of communities in collectively *Revista Colombiana De Sociología* 42, no. 1 (June 2019): 177-206; Irene Velez-Torres et al., "Mercury Pollution and Artisanal Gold Mining in Alto Cauca,

Additionally, though the conflict with FARC officially ended in 2016, violence has reemerged.^w In 2020 alone, the UN recorded 375 conflict-related deaths, many of them Afro-Colombian leaders and activists.^x

Finally, the bibliographic review found that the scope and depth of existing research is limited. Most existing research evaluates the collective titling of Indigenous lands. Moreover, the studies that do investigate collective titling of Afro-descendant territories focus primarily on territories in the Colombian Pacific region.^y However, Afro-descendant communities also live in the Caribbean coast and the Amazon.^z Thus, overall there is a need for more varied and robust studies to examine the Law's impact on a variety of communities across Colombia. Moreover, to the authors' knowledge, none of the existing studies has systematically examined the successes and challenges of the operationalization process itself.

This study, therefore, aims to help fill this gap in knowledge, to develop recommendations for further research, and to contextualize the conclusions of these previous research studies within the experiences of policymakers, practitioners and community members currently engaged with Law 70. Developing detailed knowledge of the Law's achievements and limitations will, ultimately, contribute evidence-based knowledge to maximize its potential to advance racial and environmental justice.

2 Methods

To gather data for this research, we conducted semi-structured qualitative interviews with 15 individuals that lasted between one and three hours.^a Interviews were conducted in Spanish using the video conferencing platform Zoom; they were recorded using Zoom's internal recording capacity. The interviewees had a range of occupations; five were employed in national or local government, four were in nonprofit or academic areas, one was in the private sector, and six were members of Afro-Colombian communities (who, in turn, had various professional and community leadership positions). The interviewees were chosen for their familiarity with Law 70; all participants had engaged with it in some capacity and many in more than one. These engagements include assisting with the Law's formulation, operationalization, or implementation; conducting independent research on its effectiveness; interacting with the Law as a member of an Afro-Colombian community; or tangential involvement via

Colombia: Woman's Perception of Health and Environmental Impacts," *Journal of Environment & Development* 27, no. 4 (December 2018): 415-44.

^w See, e.g. Colombia Reports, "Illegal Armed Groups (Maps) | Colombia Reports," *Colombia News | Colombia Reports* (blog), September 3, 2020, <https://colombiareports.com/colombia-illegal-armed-groups-maps/>.

^x UN Human Rights, "UN Documents 375 Killings in Colombia in 2020, Urges Government Action," *UN News* (blog), December 15, 2020, <https://news.un.org/en/story/2020/12/1080082>.

^y e.g. Alejandra Velez, "Collective Titling and the Process of Institution Building"; Pena et al., "Collective Property Leads to Household Investments"; Velasco, "Confining Ethnic Territorial Autonomy in Colombia"; Alejandra Velez et al., "Is Collective Titling Enough to Protect Forests?"

^z "Afro-Colombians," *Minority Rights Group*, accessed December 1, 2020, <https://minorityrights.org/minorities/afro-colombians/>.

^a For description of the qualitative semi-structured interview method, see Hanna Kallio et al., "Systematic Methodological Review: Developing a Framework for a Qualitative Semi-Structured Interview Guide," *Journal of Advanced Nursing* 72, no. 12 (2016): 2954-65.

employment in adjacent fields such as nonprofit work with Indigenous communities (see Appendix A for a table of interviewee professions and engagements with Law 70).

We asked each interviewee about his or her personal involvement with Law 70 and its operationalization and about their views on the objectives, challenges, achievements, and recommendations for Law 70 and its operationalization. We also elicited comments on the challenges related to processes of Prior Consultation, a process that gives communities the opportunity to approve or reject any proposed governmental or private-sector projects that take place on their territory, as well as to offer their recommendations for improving these participatory programs. Finally, we asked participants to share their outlook on the future of the Law and, more generally, to describe their hopes and goals for Afro-Colombian communities. Following the semi-structured methodology for qualitative interviews (See Kallio et al. 2016 for a discussion of the semi-structured interview method), we used a list of questions as a guide but asked participants follow-up questions to clarify and explore their particular perspectives and experiences (see Appendix B for a full list of guiding questions). The content of these questions were informed by the authors' prior review of current literature on Law 70.

To analyze the interviews, we transcribed the recordings and uploaded the transcriptions to the qualitative coding software Dedoose, which allows for cloud-based collaboration between multiple researchers. Three members of our research team coded each interview using a rubric that reflected the structure and format of the guiding interview questions (see Figure 2 for a diagram of the overall structure of the codes; see Appendix C for a full list of codes). To ensure standardization between researchers, we coded in the interviews in two rounds. In the first stage, one researcher identified all instances in each interview in which a given code appeared.

In the second stage, a different researcher reviewed each coded interview and, for most codes, selected one representative quotation. The selected excerpts were translated into English using Google Translate with additional adjustments by the researchers to ensure clarity and accuracy. For a few codes, including Additional Policies and Future Vision, all excerpts from each interview were preserved to capture the full range of insights from each participant. In the results and conclusion sections, coding keywords are bolded and capitalized.

Researchers also assigned a weight between one to five (with 1 being relatively less important and 5 being relatively more important) to each code applied to the interview under review; weights were based on the number of times a particular code appeared, as well as emphasis granted to a particular coded topic by the interviewee. The average weights for each code were then used to rank the relative importance of different factors within a given topic—for instance, to compare the relative importance of different objectives of Law 70 (see Appendix D for a chart displaying code counts and weights). These weights are based on subjective interpretations by the researchers and therefore are valuable primarily as indicators of the relative importance of a given code for an interviewee.

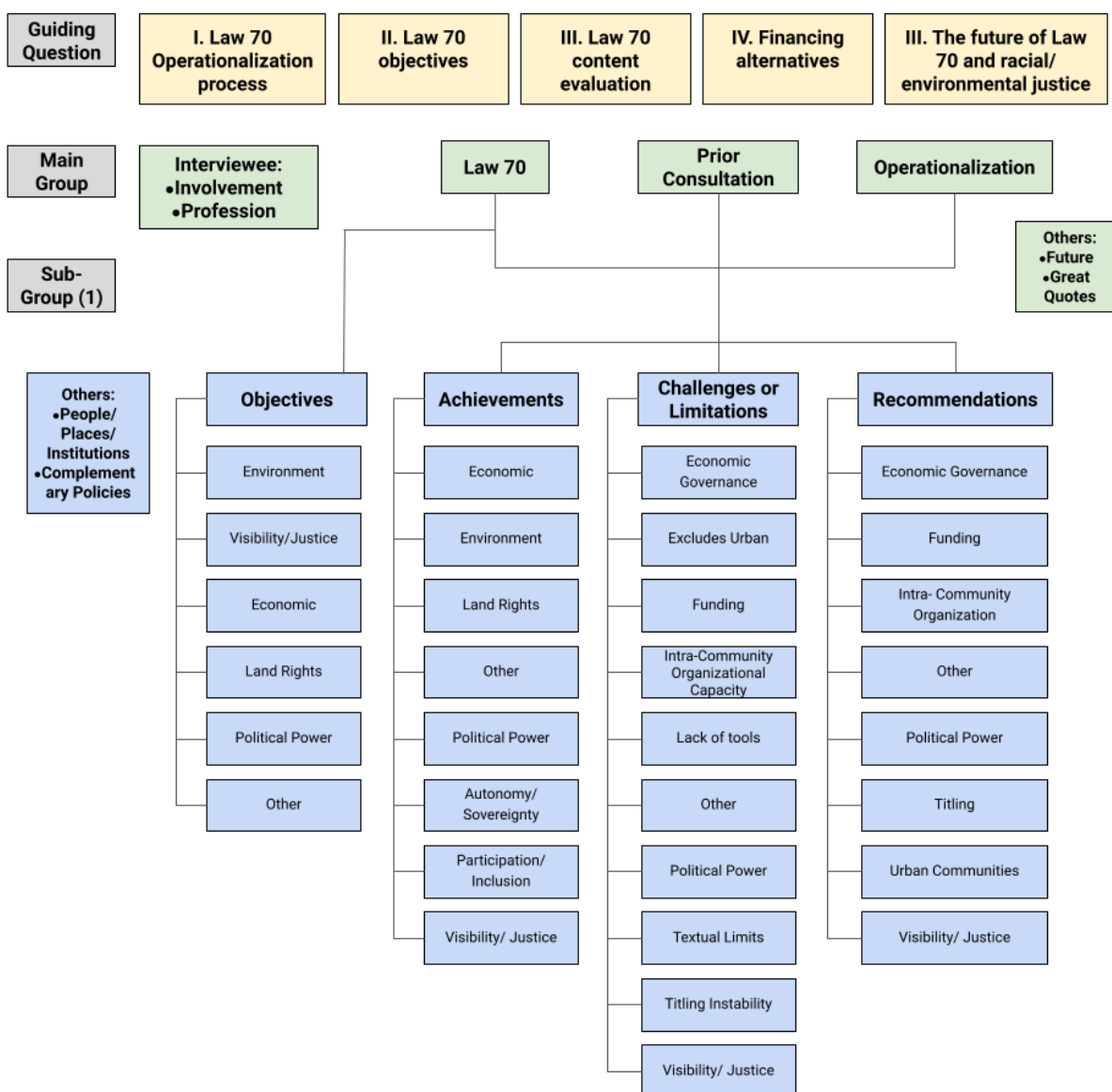


FIG 2: Summary of semi-structured qualitative interviews and main categorizations for analysis.

3 Results

This section summarizes the results of the qualitative interview analysis, synthesizing, first, interviewee perspectives on the *Objectives*, *Achievements*, and *Challenges* of, as well as *Recommendations* for, *Law 70*. We then discuss the *Achievements*, *Challenges* and *Recommendations* for the process of *Prior Consultation*, as well as the *Challenges* of and *Recommendations* for the *Operationalization* of the Law. Finally, we describe interviewees’ *Future Vision* for the Law and for Afro-Colombian communities more broadly.

The most highlighted objectives and achievements of *Law 70* were *Land Rights* and *Visibility/Justice*. However, interviewees also discussed multiple challenges to the Law, most prominently *Political Power*, *Economic Governance*, and *Titling Instability*, revealing a collective understanding that Law 70, as it stands, requires further operational conceptualizing and regulation. Interviewees also discussed a number of challenges that had delayed the Law's *Operationalization*, including a lack of *Political Will* and *Transparency*, an inefficient process of collecting *Community Input and joint decision-making to materialize agreements*, and lobbying by the *Private Sector*. The most discussed recommendation for Law 70 and its Operationalization was to increase *Funding*—though interviewees diverged on whether this funding should be generated primarily from *Community Activities*, the *National Government*, the *Private Sector*, or *International* sources. The main recommendations to improve the Law's operationalization were related to adjusting its *Structure*, incorporating additional *Outside Actors*, and making available additional evidence and *Information*.

In the *Prior Consultation* process, interviewees spent little time discussing *Achievements* and primarily elaborated the *Challenges* of the process, particularly with regard to participation. The majority of the recommendations to improve Prior Consultation concerned its structure, namely proposals to make the process more transparent, cost-effective, and efficient by, among other suggestions, increasing the clarity of the process for all involved.

Overall, each interviewees expressed a mix of optimism and pessimism in his or her *Future Vision*. Reasons for pessimism included the ongoing armed conflict, lack of funding, and limitations in the text of Law 70 itself. Reasons for optimism included the hope that communities would continue to gain autonomy and that they might join and support a global movement to advance the rights of Afro-descendent peoples worldwide.

3.1 *Law 70*

3.1.1 *Objectives*

Overall, interviewees discussed five primary objectives for Law 70, with the most emphasis placed on Land Rights and Visibility/Justice, and relatively less emphasis on Political Power, Economy, and Environment. However, five interviewees did not highlight these objectives as key, or only mentioned one of the five. Overall, there were no significant differences among the three primary groups of respondents (i.e. government, community, and academic/NGO/private).

The most important objectives discussed by interviewees were Land Rights and Visibility/Justice. *Land rights refers to the goal of establishing or strengthening territorial control and autonomy among Afro-Colombian communities*, while *Visibility and Justice describes how Law 70 contributes to racial justice, such as by elevating the visibility of Afro-Colombian communities and by recognizing their historical experiences of marginalization, unique cultures and traditions, and environmental stewardship practices*. Over two thirds of the interviewees (12 and 11, respectively) mentioned these objectives, and overall the two were emphasized as the Law's most important aims. As one interviewee from the national government sector put it, "without territories there is no way to move forward with the ethno-development proposals, there are no natural resources to project, there is no autonomy. The backbone of Law 70 and of the demands to the

National Constituent Assembly was the fight for the territories.” Another member of the national government highlighted the fact that “*one of the main problems was recognition—formal, legal recognition—because this recognition as an ethnic group in the country undoubtedly creates a new citizenship.*”

About half of the interviewees, meanwhile, highlighted the objectives of *Political Power*, *Economic Development*, and *Environmental Conservation*. Respectively, these goals refer to: 1) strengthening political recognition and autonomy within Afro-Colombian communities and/or political inclusion and participation of Afro-colombian individuals at the district and national scale; 2) providing additional opportunities for livelihoods, economic support, or other income-generating activities among Afro-Colombian communities; and 3) natural resources management, biodiversity preservation, and climate change mitigation.

It is worth noting that for many interviewees these categories were not mutually exclusive. For instance, within the *Political Power* category, many interviewees emphasized both *Autonomy/Sovereignty* and *Participation/Inclusion*. Though these two subcategories in some ways represent opposing goals, they can also complement each other. Both refer to ways in which Afro-Colombian communities govern their territories and resources. While *Autonomy/Sovereignty* concerns internal governance, *Participation/Inclusion* advances similar objectives at the national level; by holding positions of power, Afro-descendant individuals can, among other potentials, formulate initiatives that engage whole communities. Thus, while many interviewees recognized the need for autonomy, many also explained that autonomy could, in turn, facilitate more robust and equitable inclusion in local and national decision-making processes. As one individual put it, “recognition as an ethnic group guarantees rights to participation—to decide what to do, how to do it, with which groups and with whom it is done, and with what resources it is done.” *Political Power* for many interviewees was also an important prerequisite for achieving environmental goals: “[Black] people never had a right to participation as broad as the one achieved in Law 70. And also the right to prior, free and informed consultation, which allows them to decide on natural resources in their territories.”

Finally, some interviewees mentioned objectives not included in the main categories. One interviewee focused on education, explaining that the Law aimed to facilitate access to culturally-specific educational opportunities that recognize and reflect the unique cultures of Afro-descendant peoples. Several interviewees also noted the limitations of the law’s focus on rural communities, as well as its and conservationist orientation. While most interviewees mentioned conservation when discussing the *Environment* or *Economic* goals of Law 70, two interviewees described this as a goal in itself. Both individuals emphasized the harmonious relationship between traditional practices and land conservation, noting, respectively, the goals of maintaining ancestral food practices and of fostering traditional production techniques.

3.1.2 Achievements

The *Achievements* highlighted by interviewees were similar to the *Objectives*, with particular emphasis placed on *Land Rights* (eight mentions), *Visibility/Justice* (seven mentions), and the *Environment* (seven mentions). According to one interviewee, for example, the titling goal in the Pacific Coast had been reached: “Out of the 5.6 million hectares, we have now titled 5.7 million hectares ... even if the goal was low, it has been exceeded at about 102 percent.” However, it is

worth noting that this goal has not been met in the rest of the country. Outside of the Pacific region in Colombia, requests for collective land titles comprising over 2 million hectares have yet to be granted. One interviewee described a less quantifiable achievement, stating that Law 70 “made people and leaders visible who were previously invisible,” because the Law requires these community authorities (e.g. community councils) to be consulted before the initiation of certain kinds of territorial activities.

As with the objectives, many interviewees described the interlinkages between Law 70’s various achievements, in this case highlighting that the ability to control and limit the types of activities that take place on territories has also affected the Law’s environmental impacts. As one interviewee put it: *“These [close to] 6 million hectares are an instrument to allow the conservation of natural resources. In reality, they are a new category of protected areas in the country and an extremely valuable instrument of environmental conservation.”*

Political Power (Autonomy/Sovereignty and Inclusion/Participation), *Economic*, and *Other* categories were less emphasized but also had two to four mentions each. Access to seats in Congress; the establishment of the University of the Pacific; and the organization of Cocomacia, a municipality in the central Atrato that is “the single Community Council [with more authority than] a municipality in territorial terms,” were discussed as advancements related to participation or autonomy. Many interviewees also described the achievements of objectives related to *Economic* and *Political Power* as interdependent, though for some these categories merited further research. One interviewee argued that the “REDD+ resources have made all the difference for communities to be able to really manage and govern the territory.” In the *Other* category, in addition to a slight improvement in education through the implementation of forgivable loans, interviewees highlighted how Law 70 had contributed to the well-being of collectively-titled areas as compared to untitled ones by encouraging families to invest more in their homes and territories. These improvements manifested in myriad ways, including increased incomes, better housing conditions, more access to primary education, greater long-term land use planning, and the improved ability to limit and prevent illicit activities.

Within the pool of interviews, individuals from the *Government* sectors (both local and national) mentioned more achievements than those from the *Community* or the *Academic/NGO/Private* sectors (i.e. 16 vs. 9 and 10 mentions, respectively). However, three of the 15 interviewees did not name any achievements. The remaining 12 mentioned between one and five achievements (with an average of three each). The distribution of mentions among different achievement categories was relatively similar across the three groups of interviewees.

3.1.3 Challenges

A central theme of the interviews was the challenges that Law 70 currently faces in advancing its stated objectives. These limitations were brought up more frequently than any other topic, with each interviewee mentioning *Challenges* between 4 and 14 times. *This finding reveals a collective understanding that Law 70, as it stands, is deficient and requires further operationalization and implementation.* The most important Challenges identified were related to *Political Power* (20), *Economic Governance* (26), and *Titling Instability* (23). *Political Power* refers to the ongoing difficulties of both strengthening political recognition and autonomy within Afro-Colombian territories and increasing the political inclusion and participation of Afro-Colombian individuals at the district and national scale. Although *Political Power* received fewer mentions

than either *Economic Governance* or *Titling Instability*, it was emphasized by the 11 subjects who did mention it.

The most relevant aspects of *Political Power* that the interviewees mentioned were *Lack of Autonomy* and *Lack of Inclusion*. The fact that insufficient power, or an insufficiently broad array of rights, has been granted to titled communities—either via the text of the Law itself or via the Law as implemented or put into practice—appeared in 11 interviews, with interviewees mentioning, “We were supposed to be an authority in our territory and honestly [we] are not, because there is no operationalization” and “... communities are lacking empowerment ...to face their possibilities [to] make their own nature-based solutions.” With respect to Lack of Inclusion, which was less emphasized than Lack of Autonomy, interviewees argued that Law 70 has not effectively increased the level of involvement of Afro-Colombian communities in national political processes, either via individuals holding positions of power or via initiatives that engage whole communities. “We have not had any participation,” one interviewee related, “when the legalization of a meeting is needed, they invite Afros and pretend to collect signatures and photos of the meeting.”

In relation to *Economic Governance*, the most recurrent concern was *Illicit Activities*, or the challenges communities face when controlling or limiting illegal activities, conflict, and the actors involved. Although most interviewees mentioned different aspects of illicit activities, all of them agreed that additional mechanisms were needed to support communities in controlling these activities. The communities successful in limiting illegal activities, one individual explained, had, “very strong community organization and collective leadership... but ...against armed actors promoting illicit crops, resistance can still be very fragile and [can] break at any moment, simply because it is dangerous [to resist].” Another interviewee related that the illicit actors operating in territories promote extractivist activities and take “the wealth of the territory without generating the benefit of royalties. [The wealth],” this individual explained, “leaves illegally; 90% of [extraction] activities are illegal.”

When discussing *Economic Governance*, interviewees mentioned concerns regarding a lack of community ability not only to control illegal activities, but also to shape regulations about the economic activities or actors permitted on collectively titled land. Some thought that greater restrictions should be placed on the permitted activities or actors: after being granted “both the indigenous [titles] and the collective titles of black communities,” one individual explained, communities “are asking for [a national] park [designation] because otherwise the protection category is not sufficient [to mitigate] the threat of national interest [projects], such as the construction of ports or mines.” Others had the opposite recommendation, stating that regulation was too strict and that communities should be granted more autonomy to determine what is permissible. One interviewee, for instance, argued that “our communities develop their productive activities around mining...[which is] a crucial point in the development of community life.” In this context, the individual argued, unclear and overly strict rules about mining place communities “in permanent confrontation [not only] with private entrepreneurs, but also with the government, because the government has penalized mining.” The above comments may reflect broader tensions between different visions of development for Afro-Colombian territories, perhaps a pressing challenge in itself.

The third most mentioned and emphasized *Challenge/Problem* of Law 70, *Titling Instability* (23), primarily concerned the difficulties of *Jurisdictional Overlap*. Jurisdictional Overlap refers to the ways in which existing titles and/or the specific rights that titles are meant to confer overlap

with other jurisdictions or authorities such as Regional Environmental Authorities (CARs for its acronym in Spanish), national parks, or municipalities. Some interviewees, for instance, described a lack of clarity about the rights held by communities vis a vis those held by other parties in the same area: “We have about 17 community councils that have not been titled due to Law 2 of 1959, which establishe[d] national parks. Some collective territories are near park areas or border parks, and those limitations have made it impossible to move towards legal security for those territories.”

In addition to *Jurisdictional Overlap*, interviewees also mentioned *Existing Titles Threatened* and *Titles Not Granted* as challenges of Law 70 related to *Titling Instability*. Some requested titles, interviewees related, had not been granted at all: “the policy of collective ownership...shows very poor results, no advancements, and really no developments worth mentioning. In practice, it is paralyzed.”

Other interviewees explained that some titles already granted to Afro-Colombian communities are being jeopardized by real estate and hotel development projects that threaten to infringe upon either the rights that the title confers or the legal validity of the title altogether. One individual predicted that developers would “overthrow the titles in...Barú, Ararca, Santana, Pasacaballo, and...Tierra Bomba, Ararca, Caño Loro, Boca Chica.” Nearly all of the titles in Cartagena, this individual asserted, “are at risk, largely because these areas are being used by a hotelier to launch hotel projects.”

Many of these legal challenges, a number of interviewees explained, capitalize on the requirement that lands eligible for collective title be rural. As cities continue to expand, lands formerly considered rural have increasingly gained characteristics that might place them in urban, or peri-urban, categories. For some interviewees, therefore, *Law 70’s circumscription to rural territories is one of its key weaknesses: it makes the legitimacy of community ownership in part contingent on the land’s legal status within a classification system that is neither historically nor geographically stable*. The dispute between communities and hotel developers in Cartagena demonstrates that the status of even well-established community land titles may become susceptible to being challenged in court by those with the resources to do so.

The recent events in La Boquilla, an area close to the urban area of Cartagena but designated as rural, demonstrate this risk. One interviewee recounted how 250 hectares in this region had been titled in 2016, in an event attended by both President Santos and President Obama. However, the title was revoked in 2020: “the community registered the title, and had been exercising traditional practices of provision and enjoying their collective territory. However, a developer related to Las Americas Hotel brought a suit against the title, alleging it was located in an urban area and not in the rural area of Cartagena. [So] the Administrative Tribunal of Bolivar produced a ruling revoking the title of La Boquilla, agreeing with the developers of Las Americas Hotel [who] alleged that the title was located in the suburban area of Cartagena.” The interviewee explained that the community decided to appeal this ruling on two grounds. First, Article 2 of Law 70 excludes the urban perimeter but not suburban areas or areas of urban expansion. Second, if this decision stands, it will set a precedent that all the collective titles for “territories that are in suburban areas or areas of urban expansion are going to be revoked.” The erosion of titling rights based on the shifting classification of land parcels is a growing threat, one that merits community mobilization and state action.

The coupling of territorial rights and rurality, moreover, both reflects and can re-entrench broader assumptions that Afro-Colombian people primarily live in rural areas, though over 70 percent now live in urban areas.^a As one interviewee reflected, “today a big part of the Afro-Colombian population is no longer in rural contexts, but in cities. We are in Bogotá; we are in Cali; we are in Cartagena; we are in Barranquilla. So we need to understand this new reality to incorporate it rather than ignore it.” This assumption, indeed, can have its own negative implications; it can contribute to the political, economic, and social marginalization of urban Afro-Colombian communities and, in the process, render invisible efforts to advance racial justice in cities .

This disjuncture also evidences a broader rift that a few interviewees mentioned between the rural and urban Afro-Colombian social movements for racial equity. While rural movements have often highlighted Afro-Colombian communities’ unique and traditional relationships to the land, urban Afro-Colombian movements have more often been framed within a language of racial justice, anti-racism, and representation in mainstream Colombian life.

Finally, *Funding* and *Intra-Community Organizational Capacity* were other frequently mentioned challenges. *Funding* refers to a lack of sufficient resources to achieve the goals of Law 70, and/or to otherwise advance the rights, autonomy, economic opportunities, or wellbeing of Afro-Colombian individuals and communities. However, interview perspectives on these themes were more varied than with other challenges. Six interviews placed great importance on funding, while 9 did not mention funding as a challenge at all.

3.1.4 Recommendations

Of all the recommendations, *Funding* received the most mentions (34; over twice as many as the second most-discussed category, Political Power. Indeed, 14 out of 15 subjects explained that additional funding is needed to support the implementation of Law 70.

There was no consensus, however, on the sources of funding. Some interviewees suggested that the expansion of *Community Activities* posed a promising source of future funding, asserting “that our territories [should] become strategic locations [for] nature tourism, that we [should] talk about ethno tourism in our territory, that we have our own right to exercise our own authority.” Others, meanwhile, thought that funding should come from the National Government, from an expansion of national programs such as National Environmental Licensing Agency (ANLA for its acronym in Spanish) projects, related compensations, royalties from extraction projects, direct budget allocations, or other national programs: “We must also recover the special line of credit, FinAgro, a tool created by Law 70...to lend to members of communities to promote productive projects,” one individual explained. A minority of subjects believed that *Local Government* entities such as the municipality should provide more funding; that “there must be coordination with the Regional Environmental Authorities [CARs] and

^a “World Directory of Minorities and Indigenous Peoples - Colombia : Afro-Colombians” (Minority Rights Group International, 2008), <https://www.refworld.org/docid/49749d3cc.html>; For marginalization of Afro-Colombian peoples in urban areas, see, e.g.: José Santiago Arroyo Mina et al., “Afrocolombianos, discriminación y segregación espacial de la calidad del empleo para Cali,” *Cuadernos de Economía* 35, no. 69 (2016): 753-83, <https://doi.org/10.15446/cuad.econ.v35n69.54261>; Jaime Arocha et al., “Elegguá y respeto por los afrocolombianos: una experiencia con docentes de Bogotá en torno a la Cátedra de Estudios Afrocolombianos,” *Revista de Estudios Sociales*, no. 27 (2007): 94-105.

there should be a delegation and a system to share resources in some way.” Finally, in 12 interviews, *International Funding* was also identified as an important source of support.

The second most common category of recommendations was *Political Power* (16 mentions), ideas to strengthen political recognition and autonomy within Afro-Colombian communities and increase participation by Afro-Colombian individuals at the district and national scales. Some interviewees advocated for an increase in institutional support and capacity-building to help *Increase Autonomy*: “we believe it is fundamental to recognize community councils as owners of the territory—ethno-territorial authorities...That is important not only to us, but to the nation, because [then] the bodies of control [would be able to] oversee [the councils] in a rigorous manner; [the councils would] assume a real responsibility in public light...as an environmental authority.” Other interviewees, meanwhile, described the need to *Increase Inclusion*, either by placing more Afro-descendant individuals in positions of power or via initiatives to better incorporate entire Afro-Colombian communities in nation-wide political processes: “I believe the inhabitants of the territories themselves in some way could serve as officials or representatives in these regional environmental institutions.”

Titling and *Economic Governance*, two interrelated areas, were the third and fourth most common recommendations (14 and 12 mentions, respectively). Individuals discussed a need for greater coordination between communities and other governing bodies by protecting property rights and more clearly demarcating the rights conferred by land titles from the powers granted to other environmental authorities: “[in these territories] the permit to exploit wood, forests, jungle, [and] timber is exclusive to black communities...as titled holders of private property...a third party shouldn’t [be able to] come here to Chocó or to the Pacific and apply for an exploitation permit from an environmental authority.”

Some individuals also proposed adjustments to land governance, particularly the types of economic activities and actors permitted within titled territories. Perspectives on the specific changes needed, however, varied. One government official, for instance, wanted to *Expand Permitted Activities* in ways that fostered sustainability, “I think communities can undertake all the activities that they want in their territories...if they do so with principles of conservation of their natural wealth and [with] principles of equity.” Such activities, the individual elaborated, could include “forest harvesting, fishing, ecotourism, [the] planting of agricultural products and activities related to livestock.” An interviewee from the private sector, in contrast, highlighted the need to *Enforce Regulations* on permissible economic activities and actors: “These communities are [located] in areas that are very environmentally sensitive, so the impact of mining activities has to be very controlled and monitored.” Although the tension between expanding permitted activities and enforcing regulations was evident in the range of interviewee opinions, no individual recommended the further restriction of the economic activities undertaken by communities themselves.

There was significant overlap between the *Challenges* and *Recommendations*: in both sections, *Political Power*, *Titling Instability*, and *Economic Governance* emerged as central themes. *Funding*, however, although not identified as one of the most important Challenges, was identified as a crucial Recommendation, though there was significant variation in its importance for different interviewees.

3.2 Operationalization of Law 70

3.2.1 Challenges

Most interviewees highlighted the operationalization of Law 70 as both crucial and as a key challenge. When asked why the operationalization process had been delayed, nine interviewees mentioned *Political Will*, eight mentioned *Transparency*, six mentioned *Community Input* and five mentioned the *Private Sector*. However, none discussed *Lack of Information*. Conversations about *Political Will* centered around both political compromises and the national government's short-term leadership cycle. One interviewee stated that “for public policies, for different legal instruments, for policy, for legislation, [and] for special regulations, a very simple thing is needed: political will from the executive,” adding that “the regulatory power in Colombia is held by the executive [branch] of the national government...[and] that's what is needed for the operationalization of Law 70.”

Beyond *Political Will*, the interviewees attributed the delay of operationalization and implementation of Law 70 to administrative inefficiency, clientelism, and corruption across almost all stakeholders. Some attributed the delay to lack of *Transparency* (8) in government more broadly. Donations by individuals in the private sector to political campaigns, as well as individual influence over ministers and other high-level officials, one interviewee asserted, preempts the decision-making power of the public such that “there is no advancement on these issues; so there is no progress on these issues of operationalization.” Others, meanwhile, attributed the lack of *Political Will* to either clientelism and corruption within the *Private Sector* (5) or *Intra-Community Rent Seeking* (3) in Afro-Colombian communities.

When discussing the clientelism, some interviewees also pointed to delays due to both the influence and veto power of the *Private Sector* and collusion of some individuals in the private sector with illegally armed actors—particularly in relation to resource extraction. Although the *Private Sector* was only mentioned 5 times, in these mentions the issue was imbued with significant importance. One individual stated, “[Law 70] is not fully operationalized mostly because there are already sectoral interests, primarily private [ones],” while another argued that relationships exist between illegally armed actors and some members of the private sector with an interest in resource extraction, “illegally armed actors are always or almost always associated with natural resources, forestry or mineral resources.”

Delays due to *Intra-Community Rent Seeking*, for some, could be particularly counter-productive to advancing the Law; that “the community councils have become an important site of administrative corruption of resources in the country,” one individual stated, “has weakened their territorial power because communities no longer trust them.” Another individual asserted that too much emphasis had been placed on operationalization and not enough on internal processes of organization: “the way in which participation is organized in Black communities is a phenomenon that requires considerable analysis because it turns out to be complex, first because of the historical organization of communities...[historically], different people came and joined a single territory, but each had a [different] way of seeing the world. That [diversity] is reflected in the Pacific, and it is reflected in the organization process.”

3.2.2 *Recommendations*

There were a total of 32 mentions of *Recommendations* to improve Law 70's operationalization. The most emphasized suggestions had to do with *Structure* (9), *Outside Actors* (7), and *Information* (6). Those related to *Structure* largely concerned the need for better institutional arrangements both within the government and with respect to the interaction between government representatives and Afro-Colombian communities. Two individuals discussed changes in structure involving the Ministry of Interior. One recommended that the Ministry establish a more robust team for and earmark more economic funds to the process "[The Ministry needs] to put the right people on their team, and has to designate the economic resources. It has to form an interdisciplinary and interinstitutional team that can accomplish [this]." The other suggested the Ministry of Interior take a more prominent leadership role in the Law's operationalization: "First, I would propose that the consultation process be coordinated by the Ministry of the Interior." Alternately, this individual explained, another potential proposal would be to create a new "Ministry of Ethnic Affairs," which would have "the capacity and the resources to advance the consultation processes and the [Law's] operationalization without the participation of other entities."

Only slightly less discussed was *Outside Actors* (7 mentions), the recommendation that the implementation process incorporate participation and input from additional stakeholders such as the private sector, academics, or experts. Yet the scope of this proposed participation varied among interviewees. Some highlighted the need for additional highly-trained participants; as one individual explained, "I think we have to rely on those that were once high-level consultants; those that have been in spaces of representation; those that have held seats in congress representing Black communities; those that have been in the Senate." In contrast, other interviewees advocated for making the implementation process as inclusive as possible: "I believe that every man or woman that has stood in a [street] corner and screamed 'Long live Blacks' has the right to participate as we continue building, winning, and advancing on this. I don't think there should be [any] exclusions." This counterpoint reflects the complexity of defining the scope, size, and depth of the participatory process.

The third most emphasized category of recommendation concerned *Information*, or the need to incorporate independent input and advice based on academic analysis and outside evidence. One interviewee, for instance, stated that information is needed "to be able to understand and adjust [Law 70] to the current realities." These comments are related to calls for additional *Outside Actors* engagement, as it can be inferred that this information would come from stakeholders currently not taken into account. Other recommendations, although related to *Political Will* (4) and *Transparency* (4), would require changes in institutional structures. For example, one individual proposed the establishment of new positions that would be tasked with various enforcement activities, including conducting "disciplinary investigations [to] enforce compliance of duties by public servants."

3.3 *Prior Consultation*

The *Prior Consultation* process was established by Law 70 and Article 330 of the National Constitution, and derives from the ILO covenant 169 ratified by the Colombian Law 21 of 1991, which mandated that any activities pertaining to the exploitation of natural resources or other

development on Afro-Colombian territories that might impact the cultural, social, or economic integrity of the communities must be made in consultation with representatives of the affected communities. Though Prior Consultation has the potential to yield benefits to both communities and the outside actors involved, it also presents challenges. To elucidate these complexities, we asked interviewees to comment on the *Achievements* and *Challenges* of the process, as well as to offer *Recommendations* for its improvement.

3.3.1 *Achievements*

In discussions of Prior Consultation one main achievement emerged: *Increased Participation* by the Afro-Colombian population in decision-making or related processes. The three interviewees who discussed participation highlighted the fact that Prior Consultation gives communities a vote. In cases related to National Parks, for instance, communities now have the opportunity to participate in the formulation of the key policies that affect park-community relations. This increased participation, interviewees emphasized, has created more balanced power dynamics in the Pacific region, empowering Afro-descendant leaders. Additionally, one interviewee mentioned that the Prior Consultation Process not only advances key environmental and territorial autonomy goals but also makes space for the consideration of “the rights of identity, development, and participation in decisions that affect [Afro-Colombian] communities.”

3.3.2 *Challenges*

While only four interviewees discussed the achievements of the Prior Consultation Process, there were 46 mentions of *Challenges*. Overall, community members (from both the Amazon and Chocó regions) mentioned more *Challenges* than other interviewee groups, though the distribution of the kinds of limitations discussed was similar across all groups. Over half of the mentions (24) related to *Participation*, specifically, to both *Input not Incorporated* (when community input is not taken into account; 7 mentions) and *Actors Excluded* from the process (5 mentions). One interviewee asserted that “there is a lack of real representation of Black communities in National Governmental Institutions” and that “Prior Consultation does not take place within the territories but rather stays within the group of experts, self-proclaimed Black representatives ... But others who have many ideas and propositions of how things should be done do not participate.”

The *Challenges* of *Too Few Actors* and *Lack of Information* (the latter referring to instances where the process has been hindered by a lack of access to relevant information on the part of some or all actors involved) were less frequently mentioned but for some interviewees remained important concerns. In some cases, interviewees explained, Community Councils were not consulted prior to negotiations (as the Prior Consultation Process mandates), but rather engaged only perfunctorily at the end of negotiations. Additionally, those authorities that did visit communities, some interviewees explained, did not always have a nuanced understanding of either a community’s needs and desires or its organizational and legislative structure. In some cases, indeed, authorities did not even have clarity on the timing and phases of the Prior Consultation Process itself.

In contrast, to a lesser extent some interviewees discussed the challenge of involving *Too Many Actors*, explaining that the process as currently structured was logistically complex due both to

the high number of delegates (close to 250) and to community requests for in-person meetings in territories, which is “extremely costly and requires moving too many people by car, plane, etc.” *The number and range of actors and stakeholders who should be involved in the Prior Consultation Process, it is clear, remains a contentious issue.* The appropriate number of delegates is a topic of particular controversy because, as one interviewee explained, “they represent communities that have been historically marginalized or underrepresented.” Moreover, these disagreements can themselves hinder the participation process. Opposing opinions have at times led to mistrust between communities, authorities, and other stakeholders, as well as a reluctance to fully engage on the part of both the private sector and communities themselves.

Fewer interviewees mentioned the process being *Too Slow* or issues of rent seeking and capture (*Corruption*) as challenges, though those interviewees who did highlighted their importance. Interviewees explained that debate about how the process should be organized can consume time that could have been dedicated to solving other issues and that such debate often does not generate clear solutions. Attempts to address disorganization, in turn, can make the process too transactional, with both authorities and communities turning the process at times into an exchange of money rather than an opportunity to share perspectives and build consensus.

Some interviewees also mentioned other limitations related to the inability for communities with pending collective land titling applications to participate in the process. Some explained that in certain areas, agreements between companies and communities were signed before the Prior Consultation Process had been legally instated. Therefore, not all communities had been guaranteed equal opportunity to fully engage in these decision-making processes.

Lastly, interviewees also spoke about the *Lack of Institutional Support*, a lack of agreement on the part of government agencies as to whether and where processes of Prior Consultation should take place, as well as the extent to which these processes should be operationalized. Lack of government support could also manifest as a failure to comply with resulting agreements. Some interviewees suggested that the lack of sufficient funding for Prior Consultation was related not only to the process’s extensive costs, but also to corruption. A few participants explained that some funds allocated for Prior Consultation had disappeared or never materialized. These limitations, in turn, have impacted participation: lack of support and funding can hinder participatory activities, delay decision-making processes, generate additional costs, and erode trust between communities and governmental authorities.

3.3.3 Recommendations

In total, there were 26 recommendations for improving the process of Prior Consultation (these were separate from the recommendations for Law 70 as a whole). *These suggestions mostly concerned process Structure (II mentions), namely the needs for a more realistic institutional arrangement and additional rules to increase transparency.* Within this category of recommendations, interviewees discussed the broader need to create clearer rules to facilitate consultation processes (e.g. the number of participants per region; the duration of the consultation process) and to take more concerted action to fulfill commitments made to communities during the process. Others recommended adding seats earmarked for communities to the Senate and House of Representatives, as well as establishing an institute dedicated to assisting Black communities.

Three other categories had fewer mentions but were highlighted by some interviewees: *Outside Actors*, *Information*, and *Political Will*. Some individuals called for the incorporation of more *Outside Actors*, or more direct participation of and input from both from academic researchers/institutions and relevant or interested representatives from the private sector. One interviewee asserted that “[making] a tripartite agreement between business people, governments and communities” would mean “there [wouldn’t] be a need to regulate anything,” implying that facilitating dialogue and multi-stakeholder would, in turn, make the resulting agreements more respected. Along similar lines, another interviewee highlighted that “at the union level, rather than at the individual company level, there are strong unions ... and their presence would help legitimize the process considerably.”

A few interviewees had suggestions related to Information, the need for better and more rigorous independent research and analysis to support and inform decision-making processes. Such research included additional information on land (e.g. the cartography, geology, and geophysics of community territories) and culture (e.g. the distribution of communities in different territories, as well as their specific traditions). Finally, a few interviewees discussed *Political Will*, the need for more political support and assistance from the government in carrying out the process. Interviewees asserted that improving the process is “definitely [the responsibility] of the State” and that the process of establishing an “agreement with the [community authorities in the] territory prior to licensing should be carried out by the State.”

The least discussed recommendation was the need for more *Funding* to support the process. However, this category is also partially encompassed by *Structure*, *Political Will*, and *Outside Actors*. For instance, one interviewee’s recommendation to “agree on a methodology that is financially possible,” directly pertains to the need for State support to improve the structure of the process. Another recommendation was to identify community authorities so that it is clear who other stakeholders (such as National Parks) should negotiate with. *At the national scale, meanwhile, one interviewee asserted that “the State has to adapt organically and functionally to reaffirm its status as an ethnically and culturally diverse State.”*

3.4 Future Vision

In the final section of the interview, individuals were asked to characterize their *Future Vision*, or their outlook for the future of Law 70 for Afro-Colombian communities more broadly. Interviewees were also asked to explain their reasons for optimism or pessimism. Overall, interviewees expressed varied outlooks towards the future, expressing a mix of optimism and pessimism. On a 1 to 5 weighted scale, with 1 indicating strongly pessimistic and 5 indicating strongly optimistic, the lowest score was 2, the highest was 5, and the mean was 2.83. There was no notable difference in the levels of optimism or pessimism among interviewees with different relationships to Law 70; the future visions varied individually and in some cases the same person expressed multiple sentiments, hopes, and fears. To capture this intra-interview variability, this section was not coded exclusively; in other words, multiple quotations from a single interviewee, sometimes with different levels of optimism, were coded. Nevertheless, *a few key themes emerged: some interviewees related fears about ongoing threat of the armed conflict and about a lack of funding to implement the programs and goals of Law 70, while others shared hopes that Afro-Colombian communities would gain increased autonomy and help advance global movements for the rights of Afro-descendant people.*

When asked about their *Future Vision*, many interviewees reiterated their recommendations for Law 70 and its operationalization (these recommendations are described in greater detail in previous sections). In total, eight interviewees mentioned specific reasons for maintaining a pessimistic outlook, while five discussed particular sources of optimism. Among those who expressed a sense of pessimism, three people discussed the armed conflict as a reason to be worried about the future. As one interviewee put it: “The next step is...how do you improve quality of life, how do you prevent violence in these territories and, basically, how can you accomplish these vital projects within the collective [territories]. I think it's possible to achieve both of these things... [but] I think the challenge that lies ahead is [supporting] these projects, these collective territories”

Five people, meanwhile, discussed concerns about budget, funding, and tools for communities, many of which are described in greater depth in the above sections. In reflecting on the future, however, some interviewees offered broader critiques on the systemic sources of inequity. One interviewee, for instance, a community member and government employee, asserted that “neoliberal capitalism is definitely going to have to be reinvented into a new form.”

Finally, one individual, a community advocate working for an NGO, expressed doubt that Law 70, even if fully implemented, would achieve its goals due to the textual limitations in the Law itself: “I don't want to be pessimistic about Law 70's operationalization, but if you ask me, I really don't have much hope for the issue of reform...because it is framed within the same structure of the legal system. To make the changes that communities demand, more than regulation, what is needed is constitutional reform. But constitutional reform is a process; it is difficult.”

Interviewees, including some who expressed pessimism, also described a sense of optimism that their hopes for the future might be realized. Four people discussed the importance of maintaining a sense of collectivity and strengthening autonomy among Afro-Colombian communities. As one community member put it: “In the long-term future [my hope] is that we are recognized as a territorial entity; that [municipal] mayors in Black territories disappear; that municipal councils in Black territories disappear... so that the mayor, the governor, the assembly, and the municipal councils [recognize that]... we are the community, we are 82% of the population, and using community councils we can manage our territory.”

One person, a community member who had been involved in drafting the Law itself, discussed the hope that Afro-descendent communities in Colombia could be an example for the world, and could form and join a broader global movement of Afro-descendent and indigenous peoples. Indeed, this potential for Law 70, alongside broader advocacy by Afro-Colombian communities to advance visibility and racial justice and to help further global advocacy efforts, was iterated by a number of other interviewees throughout the course of the research. This individual in particular expressed the hope that Afro-descendent Colombians in the Pacific, alongside other communities, might “put [themselves] on the national and global agenda as Indigenous peoples have done.”

4 Conclusion

4.1 Summary of Findings

- The most important *Objectives* and *Achievements* discussed by interviewees in terms of both number of mentions and emphasis given were *Land Rights* and *Visibility/Justice*. Out of the 15 interviewees, 12 described at least one achievement, but interviewees from the government sector were slightly more optimistic, mentioning more achievements than those from the communities or academic/NGO/private sectors.
- However, interviewees also discussed multiple challenges to the Law, most prominently *Political Power*, *Economic Governance*, and *Titling Instability*. Indeed, there were more mentions of challenges than any other topic related to Law 70 (with each interviewee mentioning Challenges between 4 and 14 times), revealing a collective understanding that Law 70, as it stands, is deficient and requires further regulation. Interviewees also discussed a number of challenges that had delayed the Law's *Operationalization*, including a lack of *Political Will* and *Transparency*, an inefficient process of collecting *Community Input*, and lobbying by the *Private Sector*.
- The most discussed recommendation for Law 70 and its Operationalization was to increase *Funding*—though interviewees diverged on whether this funding should be generated primarily from *Community Activities*, the *National Government*, the *Private Sector*, or *International* sources. The main recommendations to improve the Law's operationalization were related to adjusting its *Structure*, incorporating additional *Outside Actors*, and making available additional *Information*.
- In contrast to the relatively high number of achievements identified for Law 70 more broadly, there were only four mentions of *Achievements* related to the *Prior Consultation* process. Interviewees focused more on its *Challenges* (46 mentions), particularly with respect to *Participation* (24 mentions). Interviewee recommendations primarily concerned making the *Structure* of the process more efficient and transparent. These recommendations, however, were closely related to other categories, including *Outside Actors*, *Information*, *Political Will* and *Funding*.
- Overall, interviewees expressed a mix of optimism and pessimism in their *Future Vision*. Reasons for pessimism included the ongoing armed conflict, lack of funding, and limitations in the text of Law 70 itself. Reasons for optimism included the hope that communities would continue to gain autonomy and that they might join and support a global movement to advance the rights of Afro-descendent peoples worldwide.

4.2 *Summary of Recommendations*

Category	Law 70	Law 70 Operationalization	Prior Consultation
<p>Funding & Resources</p> <p><i>Includes coding for: Funding, Economic Governance and Titling.</i></p>	<p>Expand community income-generating activities such as eco-tourism and ethno-tourism.</p> <p>Allow communities to use collectively titled land as collateral for loans.</p> <p>Expand programs such as ANLA compensations, Sistema General de Regalías, direct budget allocations, predial Afrocolombiano, and Finagro.</p>	<p>Increase funding and resources, especially through the Ministry of Interior.</p>	<p>Increase political support both inside and outside the government to invest in the process.</p> <p>Establish a process structure that is financially feasible.</p>
<p>Structure / Corruption & Transparency</p> <p><i>Includes coding for: Economic Governance, Intra-Community Organizational Capacity, and Other.</i></p>	<p>Create mechanisms to protect community councils' exclusive right to exploit or harvest their titled land, forests, and mines.</p>	<p>Create an interdisciplinary and interinstitutional team within the Ministry of Interior to advance operationalization goals.</p>	<p>Create clearer rules to facilitate consultation processes and to take more concerted action to fulfill commitments made to communities.</p>
<p>Autonomy & Visibility</p> <p><i>Includes coding for: Visibility/Justice, Political Power, and Urban Communities.</i></p>	<p>Recognize Community Councils as environmental authorities.</p>	<p>Create spaces that allow any willing Afro-Colombian individual to participate.</p>	<p>Increase participation of Afro-Colombians in the Senate, House of Representatives, Ministries, and other decentralized institutions.</p>
<p>Engagement & Participation</p> <p><i>Includes coding for:</i></p>	<p>Promote the participation of Afro-Colombians in regional environmental</p>	<p>Gather input from additional critical stakeholders, including high-level consultants</p>	<p>Include outside actors and create a tripartite agreement between business people,</p>

<i>Economic Governance and Intra-Community Organization.</i>	institutions. Strengthen the capacity of Afro-Colombian communities to organize.	and individuals who have held seats in Congress and Senate.	governments and communities.
Information & Research <i>Includes coding for: Economic Governance, Funding, Visibility/Justice and Other.</i>	Expand programs that allow Afro-Colombians to study in Universities.	Conduct research that can help better guide the operationalization of Law 70 to match current contexts and needs.	Make land studies and cultural information specific to titled territories available to interested stakeholders.
Recommendations outside the remit of Law 70 <i>Includes coding for: Political Power and Visibility / Justice.</i>	Establish legal devices to promote Affirmative Action, with national quotas for education and employment.	Create a Ministry of Ethnic Affairs with the capacity and resources to advance consultation processes.	Ensure that the State embraces and commits to supporting its ethnic and cultural diversity.

4.2.1 Law 70 – General

- Of all the **Recommendations**, **Funding** received the most mentions (34), with 14 out of 15 subjects asserting that additional financial resources are needed to support Law 70. There was no consensus, however, on funding sources. While some individuals suggested that funding could originate from **Community Activities**, others believed it should come from the **National Government** and, to a lesser degree, from the **Private Sector**. In 12 interviews, **International** funding was also identified as an important source of support.
- **Political Power** received the second most mentions (16), while **Titling** and **Economic Governance** were the third and fourth most important recommendations, with 14 and 12 mentions, respectively. **Visibility/Justice**, although not heavily discussed (6), when mentioned was emphasized as important.
- **Political Power**, **Titling Instability** and **Economic Governance** were central themes in discussions of both **Challenges** and **Recommendations**. **Funding**, however, although not identified as a primary Challenge, emerged as a crucial Recommendation, though the appropriate sources of this funding varied significantly among interviewees.

4.2.2 *Law 70 – Operationalization*

- Recommendations for improving the **Operationalization** of Law 70 focused on **Structure**, **Outside Actors** and **Information**. Proposals included either creating a Ministry of Ethnic Affairs with the capacity and resources to advance consultation processes or creating an interdisciplinary and interinstitutional team within the Ministry of Interior with increased funding and resources to advance operationalization goals.
- Interviewees who highlighted a need for more **Outside Actors** to operationalize Law 70 proposed either including Afro-Colombian former high-level consultants in spaces of representation, or creating opportunities for all interested Afro-Colombian individuals to participate and contribute to the process.
- More **Information**, many emphasized, is needed to operationalize the Law, particularly additional research to help adapt the process to reflect current contexts.

4.2.3 *Prior Consultation*

- **Recommendations** for improving the **Prior Consultation** process focused on the need to make its structure more realistic, transparent and fast. These proposals included making the rules of the process clearer for all stakeholders involved and making the process more efficient by streamlining participation.
- Some interviewees, however, advocated instead to expand the process to include a greater number and range of actors. Interviewee recommendations to include **Outside Actors** and incorporate more robust external **Information** highlight the need for third parties, including both **Academic Researchers** and the **Private Sector**, to be more closely involved in the process.
- **Political Will** and **Funding** recommendations emphasized the need for the **National Government** to take a leadership role in the process and to be held accountable to ensure that the process is properly carried out.

4.3 *How Results Compare to Literature*

- There were substantial commonalities between the results of a bibliographic review conducted by the authors in 2020 and the content of the interviews. In both, collective land rights emerged as a key objective and achievement of Law 70. Additionally, in both cases the ongoing armed conflict was highlighted as a key challenge to the Law's successful implementation that compromises its potential to have a positive effect on

communities; collective titling did not lead to cessation of violence, and titled communities were often not able to limit illicit activities.

- However, the two bodies of research also produced some divergent conclusions. Some existing research frames Law 70 as primarily an environmental law, with political and economic co-benefits for communities. However, the Law's environmental objectives and achievements were much less discussed by interviewees than its potentials to advance political autonomy, visibility, and inclusion of Afro-Colombian communities.
- Existing research also emphasizes the Law's potential to improve economic conditions for communities. However, in the interviews the need for more funding and resources to fully implement the Law was one of the main recommendations.
- Finally, interviewees highlighted both the major impact that the lack of operationalization has had on limiting the Law's positive effects, and the significant limitations of the text of the Law itself, particularly in advancing the rights of urban Afro-Colombian communities. These topics were less discussed in existing literature on Law 70, which placed more emphasis on the Law's potential rather than the realities of its implementation.

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6 Appendix A: Interviewee Occupations and Involvement in Law 70

<i>Interviewee</i>	<i>Profession</i>	<i>Involvement in Law 70</i>
1	Government - National	Advising/Drafting of Law 70 Operationalization Community Member - Titled Implementation/Governance of Law 70 Independent Advocacy or Research
2	Private Sector	Advising/Drafting of Law 70 Operationalization
3	Academic/NGO	Independent Advocacy or Research
4	Government - Local	Advising/Drafting of Law 70 Operationalization
5	Academic/NGO	Independent Advocacy or Research
6	Government - National	Advising/Drafting of Law 70 Operationalization Implementation/Governance of Law 70
7	Academic/NGO Community - Chocó	Community Member - Titled
8	Academic/NGO	Advising/Drafting of Law 70 Operationalization Formulation/Drafting of Law 70
9	Academic/NGO	Independent Advocacy or Research
10	Community - Chocó	Advising/Drafting of Law 70 Operationalization Community Member - Titled
11	Community - Amazon	Community Member - Titled Involved in Prior Consultation Process
12	Community - Chocó	Advising/Drafting of Law 70 Operationalization Community Member - Titled Involved in Prior Consultation Process Implementation/Governance of Law 70
13	Community - Chocó Government - National	Formulation/Drafting of Law 70 Implementation/Governance of Law 70
14	Academic/NGO Community - Chocó Government - National	Advising/Drafting of Law 70 Operationalization Formulation/Drafting of Law 70 Implementation/Governance of Law 70 Independent Advocacy or Research
15	Government	Advising/Drafting of Law 70 Operationalization Community Member - Titled

7 Appendix B: Guiding Questions for Interviews *[In Spanish]*

I. Proceso de la reglamentación de la ley de 70 de 1993 o Ley de Comunidades Negras, Afrocolombianas, Raizales y Palenqueras

- ¿Cómo evaluaría usted el proceso de la reglamentación de la Ley 70 de 1993?
 - ¿Qué realmente funciona, que no funciona, y por qué?
- Si pudiera, ¿Usted cambiaría algo sobre el proceso?
 - ¿Qué cambiaría?

II. Propósitos de la Ley 70/93

- ¿Cuáles son los principales problemas que la Ley 70/93 busca resolver?
 - Y específicamente, el capítulo IV sobre medio ambiente y recursos naturales?
- ¿Cómo se relaciona el capítulo cuarto con los desafíos que se tienen en materia de justicia racial en el caso de las comunidades afrocolombianas?

III. Evaluación del contenido de la Ley 70/93, especialmente el capítulo IV

- ¿Qué aspectos de la titulación colectiva a Comunidades Negras/Afrocolombianas considera usted han sido efectivos?
- Además de la Ley 70/93, ¿Qué otro tipo de herramientas, o iniciativas complementarias serían necesarias para facilitar la implementación completa y exitosa de dicha ley? (por ej., el pago por servicios ambientales, otras).

IV. Alternativas de financiación

- ¿Cuáles son las fuentes de financiación para las actividades ambientales previstas en la Ley 70/93?
 - ¿Existe la posibilidad de incorporar fuentes adicionales?
 - ¿Existe la posibilidad de ampliar las actuales fuentes de financiación?
 - ¿Cómo se relacionan estas fuentes con los recursos de regalías provenientes de la industria extractiva?

V. Preguntas sobre el futuro de la Ley 70/93 y la justicia racial/ambiental

- ¿Cuál es su visión sobre el futuro de los territorios colectivos de comunidades negras?

8 Appendix C: Full List of Codes

Title (parent group)	Title (subgroup 1)	Title (subgroup 2)	Title (subgroup 3)	Description
Future				Vision for the future, additional tools needed, other comments.
	Additional tools			What other tools/programs are needed to fulfill Law 70's aims?
		Additional laws		There is a need to complement law 70/93 with other legislation/ policy tools
		Government reform		Institutional reform of the government is needed.
		Information		There is a need for more research and analysis to improve the understanding of Afrocolombian dynamics in order to define an effective policy agenda.
		More programs		Specific funding and programs are needed, and/or a differential approach (affirmative action)
		Other		Other tools needed that are not captured in the existing codes.
		Representation		Empowerment is needed; i.e. more representation of Afro-Colombian individuals and communities within the government, academic, civil society, business organizations.
		Research		More research and analysis is needed to improve the understanding of Afrocolombian dynamics to define an effective policy agenda.
	Future vision			What is your vision for the future of Law 70 and titled communities? (1 = pessimistic; 2 = semi-pessimistic; 3 = indifferent; 4 = cautiously optimistic; 5 = optimistic)
		Other		Feeling about/vision for future is not captured by the 1-5 scale of pessimistic to optimistic.
	Questions			Any comments/questions that do not fit into other coding categories.
Great Quotes				
Involvement				Involvement with Law 70
	Advise/Draft Regulation			
	Community			
		Community - Titled		
		Community - Untitled		
	Consultation Process			
	Formulate/Draft			
	Implement/Govern			
	Independent Advocacy or Research			
	Other			

Law 70				Questions related to Law 70 specifically
	Achievements			Aspects of Law 70 that are currently effective; goals that Law 70 has achieved or advanced.
		Economic		Law 70 has helped to expand the funding opportunities, livelihood opportunities, or other economic opportunities for Afro-Colombian communities or individuals.
		Environment		Law 70 has advanced goals in natural resource management, biodiversity preservation, and/or climate change mitigation.
		Land Rights		Law 70 has led to some land rights being granted to Afro-Colombian communities, and/or an improved clarity of territorial rights among all jurisdictions or parties involved.
		None		Nothing is currently effective about Law 70; the Law has advanced none of its objectives.
		Other		Achievement of Law 70 that is not captured by other codes.
		Political Power		Law 70 has strengthened the political recognition and autonomy within Afro-Colombian communities, and/or increased political inclusion and participation on the part of Afro-Colombian individuals at the district and national scale.
		Autonomy/ Sovereignty		Achievement that Afro-Colombian communities obtained greater sovereignty or autonomy to internally govern their territories, systems, and resources.
		Participation/ Inclusion		Law 70 has strengthened political recognition and autonomy within Afro-Colombian communities, and/or has increased political inclusion and participation on the part of Afro-Colombian individuals at the district and national scale.
		Visibility/ Justice		Law 70 has contributed to racial justice, such as by elevating the visibility of Afro-Colombian communities or by recognizing their historical experiences of marginalization, unique cultures and traditions, and environmental stewardship practices.
	Challenges/ Problems			The current limitations of Law 70, and/or the challenges that Law 70 currently faces in advancing its stated objectives.
		Economic Governance		Limitations or challenges of realizing Law 70's objectives due to the governance of the economic activities and actors on titled territories.
			Illicit Activities	Communities face challenges controlling or limiting illicit activities, conflict, or related illicit actors. Additional mechanisms are needed to support communities in controlling these activities.
			Too loose	The governance of permitted economic activities or actors is too loose; greater restrictions should be placed on the permitted activities or actors.
			Too restrictive	The regulation of permitted activities or actors on titled territories is too strict; more activities and/or actors should be allowed. And/or, communities should be granted more autonomy to determine permissible activities/actors.
		Excludes Urban		Law 70 does not account for or support Afro-Colombian individuals who live in urban areas.
		Funding		Titled territories have insufficient funding to achieve the goals of Law 70, and/or to otherwise advance the rights, autonomy, economic opportunities, or wellbeing of Afro-Colombian individuals and communities.

		Intra-Community Organizational Capacity		There is a lack of internal community organization in some Afro-Colombian territories (titled or untitled), which has hindered community ability to advance the goals of Law 70 and/or take advantage of the Law.
		Lack of tools		Lack of capacity, infrastructure, specific tools, or expertise on the part of the community to implement the Law.
		None		Law 70 does not have any limitations or challenges at present.
		Other		Limitation not included in other codes.
		Political Power		Strengthening political recognition and autonomy within Afro-Colombian communities, and/or political inclusion and participation on the part of Afro-Colombian individuals at the district and national scale remain ongoing challenges.
			Lack of Autonomy	Insufficient power, or an insufficiently broad array of rights, has been granted to titled communities—either via the text of the Law itself, or via the Law as implemented or put into practice.
			Lack of Inclusion	Law 70 has not allowed Afro-Colombian communities to be further incorporated into nation-wide political processes, either via individuals holding positions of power or via initiatives that engage whole communities.
		Textual Limits		The potential improvements to Law 70 are limited due to limitations in the text of the Law itself.
		Titling Instability		Limitations or challenges of Law 70 related to the instability of titling rights, including both already granted titles and titles that are sought but have not been granted.
			Existing Titles Threatened	Titles already granted to Afro-Colombian communities are being threatened; ongoing developments threaten to infringe upon either the rights that the title confers or the legal validity of the title altogether.
			Jurisdictional Overlap	Existing titles, and/or specific rights that titles are meant to confer, overlap with other jurisdictions or authorities such as CARs, national parks, or municipalities. And/or, there is a lack of clarity about the rights held by communities vis a vis rights held by other parties in the same area.
			Not Granted	Titles sought by Afro-Colombian communities have not been granted.
		Visibility/Justice		Law has not fulfilled objectives or imperatives related to racial justice, such as elevating the visibility of Afro-Colombian communities or recognizing their historical experiences of marginalization, unique cultures and traditions, and environmental stewardship practices.
	Complementary Policies			
		Before Law 70		Policies or initiatives that took place prior to Law 70 and which helped further the rights of Afro-Colombian communities and/or created favorable conditions for the passage of Law 70.
			Policies/ Laws	Specific policies or laws—"hard" power.
			Relationships/ Initiatives	Social movements, relationships, recognition, or other kinds of "soft" power/policies that exist outside specific laws or policies.

		During/ After Law 70		Policies or initiatives that were implemented either during or after Law 70 was first formulated and passed—and that either have helped create favorable conditions for Law 70's success, and/or have helped to achieve Law 70's objectives or related objectives.
			Policies/ Laws	Specific policies or laws—"hard" power.
			Relationships/ Initiatives	Social movements, relationships, recognition, or other kinds of "soft" power/policies that exist outside specific laws or policies.
	Objectives			The problems that Law 70 aims to solve.
		Economic		Provide additional opportunities for livelihoods, economic support, or other income-generating activities among Afro-Colombian communities.
		Environment		Natural resource management, biodiversity preservation, climate change mitigation
		Land Rights		Establish or strengthen land rights among Afro-Colombian communities.
		Other		Goal for Law 70 not captured by other codes.
		Political Power		Strengthen political recognition and autonomy within Afro-Colombian communities, and/or political inclusion and participation on the part of Afro-Colombian individuals at the district and national scale.
			Autonomy/ Sovereignty	Objective that Afro-Colombian communities obtain greater sovereignty or autonomy to internally govern their territories, systems, and resources.
			Participation/ Inclusion	Objective that Afro-Colombian communities are further incorporated into nation-wide political processes, both via individuals holding positions of power and via initiatives that engage whole communities.
		Visibility/ Justice		Objective that Law 70 contributes to racial justice, such as by elevating the visibility of Afro-Colombian communities and by recognizing their historical experiences of marginalization, unique cultures and traditions, and environmental stewardship practices.
	People/ Places/ Institutions			People, places, and institutions that interviewees mention as important in the formulation or regulation of Law 70.
	Recommendations			Recommendations for how Law 70 could be improved to better achieve its objectives or support Afro-Colombian communities.
		Economic Governance		Recommendations for shifts in the governance of titled territories, particularly in the types of economic activities and actors permitted.
			Enforce regulations	Recommendation to more strongly enforce regulations on permissible economic activities/actors, such as by providing more government support or resources to communities.
			Expand permitted activities	Recommendation to expand the permitted economic activities or actors.
			Restrict permitted activities	Recommendation to restrict permitted economic activities/actors.

		Funding		Greater funding is needed to support Law 70. Child codes list potential sources of funding.
			Community Activities	The expansion of community income-generating activities poses a promising source of future funding.
			Government	More government funding is needed.
			Local	More funding is needed via local sources such as the municipality, CAR, etc.
			National	More funding is needed via an expansion of national programs such as ANLA projects-related compensations, Regalias, direct budget allocations, predial Afrocolombiano, or other programs.
			International	More funding is needed via international sources such as REDD+, Payment for Environmental Services, etc.
			Other	Any potential sources of funding that are not accounted for by the other listed codes.
			Private	Private corporations/sponsorships pose a promising source of future economic support for Afro-Colombian communities.
		Intra-Community Organizational Capacity		Recommendation to provide support so that communities can increase their internal organization and improve internal governance systems.
		None		No improvements needed; Law 70 is sufficient as-is.
		Other		Recommendations not covered in the other codes.
		Political Power		Recommendation that the political recognition and autonomy within Afro-Colombian communities, and/or political inclusion and participation on the part of Afro-Colombian individuals at the district and national scale be strengthened.
			Increase Autonomy	Recommendation that Afro-Colombian communities be offered institutional support or capacity so that they can achieve greater sovereignty or autonomy to internally govern their territories and resources.
			Increase Inclusion	Recommendation that Afro-Colombian communities be further incorporated into nation-wide political processes, either via individuals holding positions of power or via initiatives that engage whole communities.
		Titling		Suggested changes to the process of granting titles to Afro-Colombian communities.
			Align Titling Policies	Need to align or synthesize Law 70 with other collective land titling policies and programs such as those for Indigenous communities.
			Autonomy	
			Jurisdiction	More coordination with other governing bodies or authorities needed (eg CARs, municipalities, etc)
		Urban Communities		Recognize and incorporate urban Afro-Colombian communities in Law 70 programs.
		Visibility/Justice		Recommendation that regulation of Law 70 prioritize advancing racial justice, such as by elevating the visibility of Afro-Colombian communities or by recognizing their historical experiences of marginalization, unique cultures and traditions, and environmental stewardship practices.

	People and places			
Prior Consultation				Codes and topics related to the process of Prior Consultation.
	Achievements			Descriptions of what is currently effective about the process of, and right to, Prior Consultation encoded in Law 70.
		Increased participation		The process of Prior Consultation has increased Afro-Colombian community participation in decision making or related processes.
		None		Nothing is working about the process of Prior Consultation.
		Other		Achievements in the process of Prior Consultation not accounted for in the other codes.
	Limitations			Notes about the limitations of, or challenges in, the implementation or structure of Prior Consultation.
		Corruption		There is corruption in the process/implementation of Prior Consultation.
		Funding		Process as currently structured/practiced is too expensive.
		Lack of Inst. Support		There is a lack of institutional support on the part of the government for the process of Prior Consultation.
		None		No limitations or challenges to the process of Prior Consultation.
		Other		Limitation of Prior Consultation Process not accounted for in other codes.
		Participation		There are problems related to participation in the process of Prior Consultation (detailed in child codes).
			Actors excluded	The process of Prior Consultation has not included relevant actors (private sector, etc).
			Input not incorporated	Community input from Prior Consultation not taken into account in the decision making process.
			Lack of Info	The process of Prior Consultation has been hindered by a lack of access to relevant information on the part of some or all actors involved.
			Too Few Actors	Too few community actors are involved.
			Too Many Actors	Too many community actors involved.
			Too slow	The process as implemented/structured is too slow or long.
	Recommendations			Recommendations for how the process of Prior Consultation could be improved.
		Funding		There is a need for more funding to support the process of Prior Consultation.
		Information		There is a need for better and more rigorous independent research and analysis to support and inform decision making processes.
		None		No improvements to Prior Consultation needed.
		Other		Recommendation for process of Prior Consultation not accounted for in other codes.
		Outside Actors		Need direct participation of and input both from academic researchers/institutions and from relevant/interested representatives of the private sector.

		Political will		There is a need for more political support and assistance from the government in carrying out the process of Prior Consultation.
		Structure		There is a need for a more realistic institutional arrangement and appropriate internal rules that build in transparency.
Profession				Interviewee's profession
	Academic/NGO			
	Community			
		Community - Amazon		
		Community - Chocó		
	Government			
		Local Government		
		National Government		
	Private Sector			
Regulation				Topics related to the regulation and operationalization process of law 70.
	Delay			Why do you think the regulation process has been delayed?
		Community input		The community input process has been too long/complex.
			Intra-Community disorg./ Intra-Community Rent Seeking	Delay in the regulation process due to internal disorganization or corruption within communities.
		Lack of Info		The process has been delayed due to a lack of independent input/analysis.
		Other		The process has been delayed due to reasons other than those captured by the existing codes.
		Political will		The process has been delayed due to political will, political compromises, and/or the national government political cycle.
		Private Sector		The process has been delayed due to influence or veto power by the private sector.
		Transparency		The process has been delayed due to administrative inefficiency, clientelism, and corruption.
	Recommendations			Suggestions for how the regulation/operationalization of Law 70 could be improved.
		Information		Independent input and advice based on rigorous analysis and academic evidence would help to improve the regulation process.
		Other		Other recommendations not covered by other codes.
		Outside Actors		Regulation process needs more participation and input from additional, critical stakeholders including the private sector, academics, and experts.
		Political Will		The regulation process would be improved if it had greater political support from the highest levels of government.

		Structure	There is a need for better institutional arrangements both within the government and with respect to the interaction between government representatives and Afro-Colombian communities.
		Transparency	There is a need for greater transparency in the regulation process, and for fighting corruption and clientelism within the process.

9 Appendix D: Code Counts and Weights

<i>Title (subgroup 1)</i>	<i>Title (subgroup 2)</i>	<i>Title (subgroup 3)</i>	<i>Count</i>	<i>Mean weight</i>	<i>Min weight</i>	<i>Max weight</i>	
<i>Law 70</i>							
<i>Objectives</i>	Environment		7	2.7	2	4	
	Visibility/Justice		11	3.8	2	5	
	Economic		6	2.8	0	5	
	Land Rights		12	4.1	0	5	
	Political Power	Autonomy/ Sovereignty		6	2.8	0	4
		Participation/ Inclusion		4	2.3	0	5
	Other		3	2	1	3	
<i>Achievements</i>	None		0	0	0	0	
	Visibility/Justice		7	3	0	5	

	Environment		8	2.5	0	5	
	Economic		4	2.8	2	3	
	Land Rights		7	3.6	0	5	
	Political Power	Autonomy/ Sovereignty	4	1.5	0	4	
		Participation/ Inclusion	4	1.8	0	4	
	Other		4	1.5	0	5	
<i>Challenges</i>	None		0	0	0	0	
	Lack of tools		8	2.8	1	4	
	Visibility/Justice		8	2.5	0	4	
	Textual Limits		5	3.4	1	5	
	Political Power	Lack of Autonomy		9	3.3	0	5
		Lack of Inclusion		9	1.8	0	4
	Economic Governance	Illicit Activities		12	2	0	5
		Too loose		6	2.5	0	5
		Too restrictive		7	3.1	1	5
	Titling Instability	Existing Titles Threatened		5	2.4	0	5
		Jurisdictional Overlap		10	2.6	0	5
		Not Granted		5	2	0	4

	Funding		10	2.6	0	5	
	Intra-Community Organizational Capacity		10	2.2	0	5	
	Excludes Urban		7	2	0	5	
	Other		8	2.6	0	5	
<i>Recommendations</i>	Intra-Community Organization		3	1.3	0	3	
	Visibility/Justice		6	2.8	0	4	
	Political Power	Increase Autonomy		7	2	0	5
		Increase Inclusion		7	2.6	0	5
	None		0	0	0	0	
	Titling	Align Titling Policies		5	2.2	0	5
		Autonomy		2	1.5	0	3
		Jurisdiction		5	2.6	0	5
	Economic Governance	Expand permitted activities		8	2.3	0	4
		Restrict permitted activities		0	0	0	0

		Enforce regulations	4	1.8	0	4
Funding		Community Activities	5	3.4	1	5
		Government	4	2	0	5
		Local	2	1.5	0	3
		National	5	3.4	1	5
		International	12	1.9	0	4
		Private	3	2	1	3
		Other	0	0	0	0
		Urban Communities	3	0.7	0	2
	Other	7	0.3	0	1	

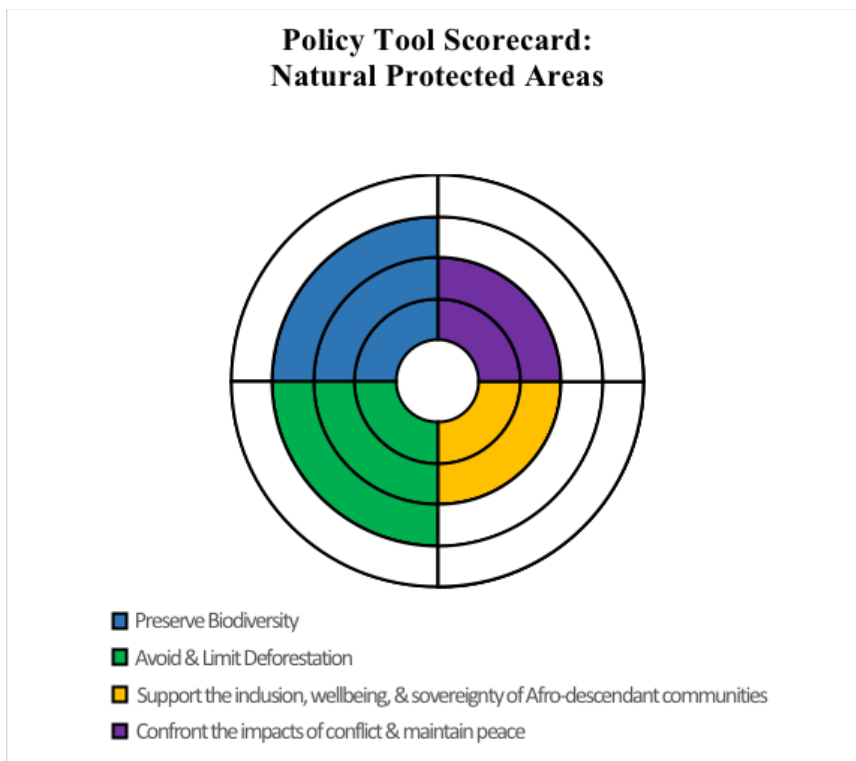
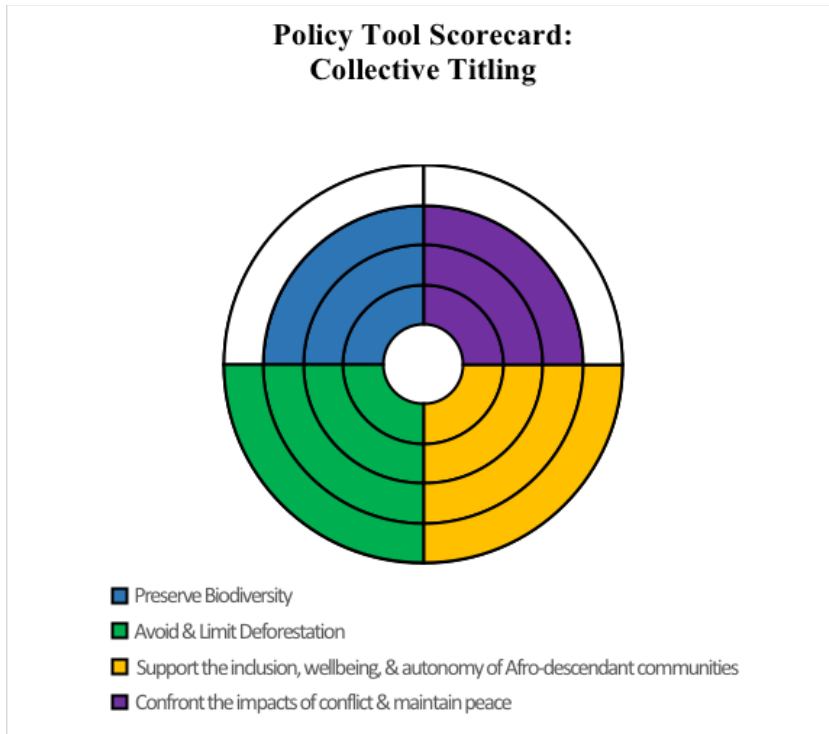
Law 70 Operationalization

Challenges	Political will		11	3.3	0	5	
	Lack of Info		0	0	0	0	
	Community input	Community Input - general		4	2	0	4
		Intra-Community disorg./Intra-Community Rent Seeking		3	2	0	4
	Private Sector		5	3	0	5	
	Transparency		8	2.6	0	5	

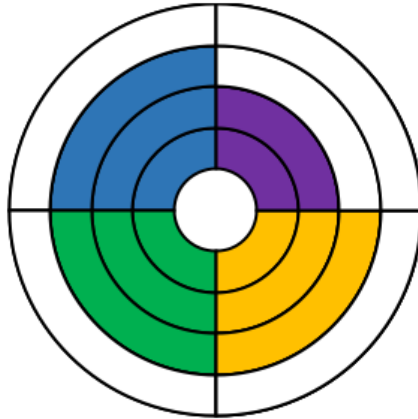
	Other		2	2	0	4
<i>Recommendations</i>	Political Will		4	3.3	0	5
	Outside Actors		7	1.6	0	3
	Information		6	1.5	0	5
	Structure		9	2.2	0	5
	Transparency		3	2	0	3
	Other		3	2	0	3
<i>Prior Consultation</i>						
<i>Achievements</i>	None		0	0	0	0
	Increased participation		3	4.7	4	5
	Other		1	0	0	0
<i>Recommendations</i>	None		0	0	0	0
	Information		3	3.3	2	5
	Funding		2	2.5	2	3
	Outside Actors		3	3.7	2	5
	Political will		4	3	0	5
	Structure		11	3	0	5
	Other		3	2.3	0	5

<i>Challenges</i>	None		0	0	0	0
	Funding		3	1.3	0	3
	Lack of Inst. Support		8	1.8	0	4
	Corruption		5	3.4	1	5
	Other		3	2.3	0	5
	Participation		2	3	3	3
	Lack of Info		3	2.7	1	4
	Input not incorporated		7	2.3	0	4
	Actors excluded		5	2.4	0	5
	Too Few Actors		2	3.5	3	4
	Too Many Actors		5	1.8	0	4
	Too slow		3	4	2	5
	<i>Future Vision</i>					
	Future Vision		18	2.8	2	5

10 Appendix E: Policy Tool Scorecards for Collective Titling; Natural Protected Areas; Payment for Environmental Services (PES); and Silvopastoral and Community Management Programs

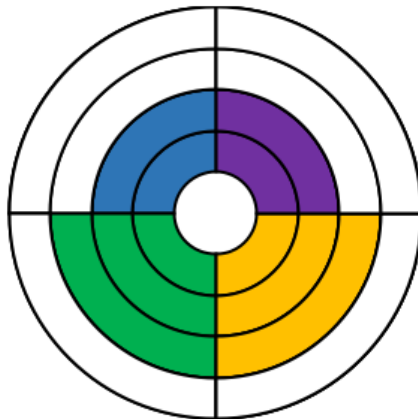


Policy Tool Scorecard: Payment for Environmental Services



- Preserve Biodiversity
- Avoid & Limit Deforestation
- Support the inclusion, wellbeing, & sovereignty of Afro-descendant communities
- Confront the impacts of conflict & maintain peace

Policy Tool Scorecard: Silvopastoral & Community Management



- Preserve Biodiversity
- Avoid & Limit Deforestation
- Support the inclusion, wellbeing, & sovereignty of Afro-descendant communities
- Confront the impacts of conflict & maintain peace