

**DELIMITACIÓN Y  
RECONOCIMIENTO  
DE TERRITORIOS  
INDÍGENAS Y  
AFRODESCENDIENTES  
DE AMÉRICA LATINA**



Amparo Cerrato y Fabrice Edouard, FAO



Organización de las Naciones  
Unidas para la Alimentación  
y la Agricultura

INTERNATIONAL  
**LAND**  
COALITION

AMÉRICA  
LATINA Y  
EL CARIBE



Tenure Facility



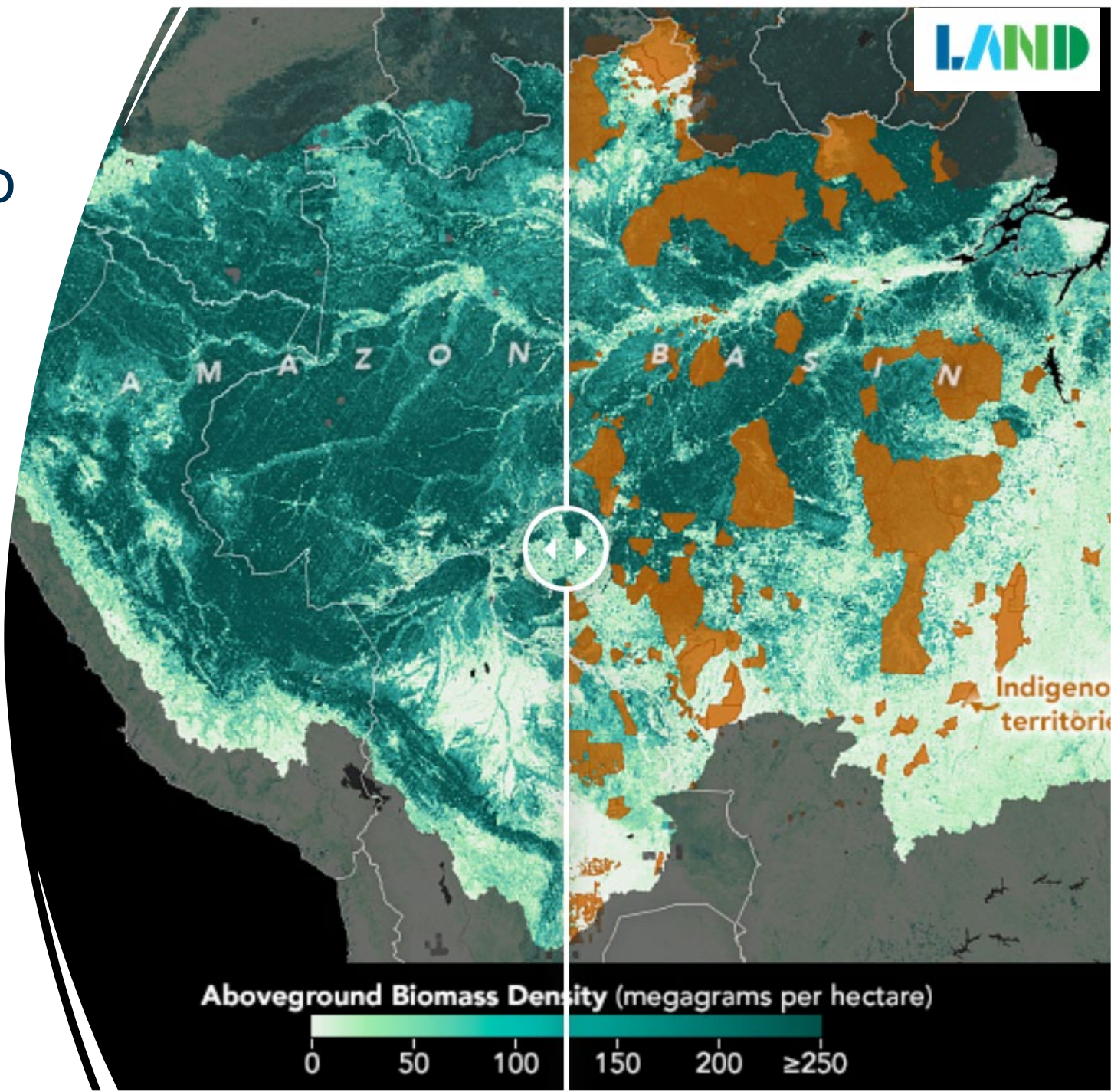
## Contexto y relevancia de los territorios de PIA en ALC:

- Población indígena: 58 millones
- Población afrodescendiente: 133 millones
- 860 PIA cuyos territorios ancestrales cubren 573 millones has.
- 350 millones de hectáreas de estos territorios son bosques (60% de los territorios ocupados)
- 40 millones de has ocupadas por afrodescendientes (43% es selva)

Fuentes: FAO& FILAC (2021) y BM (2023)

# PIA y mitigación del cambio climático

- **Los bosques en territorios de PIA contienen casi el 30 % del CO<sub>2</sub> almacenado** en los bosques de Meso-América y América del Sur, y el 14 % del carbono en los bosques tropicales a nivel mundial (FAO-FILAC 2021).
- **Entre 2001 y 2021, los bosques gestionados por PIA en ALC eran sumideros de CO<sub>2</sub>**, mientras que aquellos gestionados por otras instancias eran fuentes netas de emisiones de carbono (NASA, 2023; Veit, Gibbs y Reytar, 2023).





País	Área de comunidades de PIA (en millones de ha)
Argentina	15
Bolivia	52,54
Brasil	168,62
Chile	13,2
Colombia	49,27
Ecuador	7,9
Guyana	15,03
Perú	72,84
Surinam	10,5
Venezuela	46,13
<b>Total Sudamérica</b>	<b>451,03</b>

País	Área perteneciente de PIA (en millones de ha)
Costa Rica	1,13
Guatemala	6,19
Honduras	3,99
México	100,58
Nicaragua	7,36
Panamá	2,7
<b>Total Mesoamérica</b>	<b>121,95</b>

Resource Rights Initiative (RRI). 2023

**TOTAL LATINOAMERICA 573 MILLONES DE HAS**

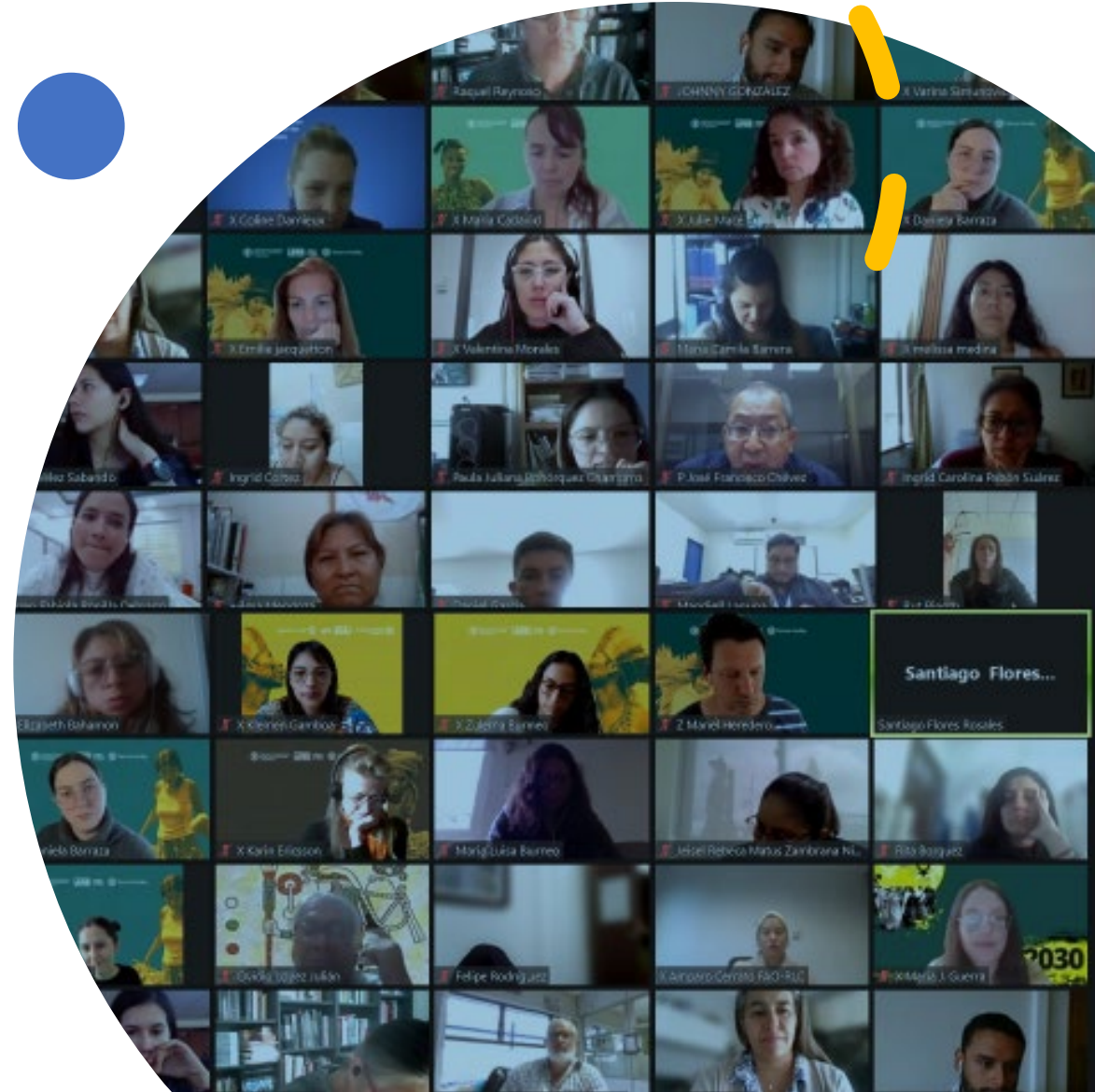
## Amenazas:



- Más de 175 mha (del total de 573 mha ) de los territorios de los PIA en AL, no cuentan con reconocimiento legal. Solo el 5% del territorio afrodescendiente cuenta con reconocimiento legal. (RRI 2023).
- Aún dentro de los territorios que cuentan con reconocimiento legal existen numerosos conflictos: límites imprecisos, presencia de colonos o terceros, superposición o contradicciones con intereses y políticas estatales o privadas y con actividades ilegales o no suficientemente reguladas (ej. minería, hidroeléctricas, turismo).
- En 2022, 150 líderes de PIA de AL fueron asesinados, especialmente defensores de derechos territoriales (Front Line Defenders 2022).

# ¿Por qué un Ciclo de Aprendizaje Regional?

- COP 26 Glasgow (CMNUCC): donantes se comprometieron a invertir USD 1,700 millones (2021-2025) para apoyar los derechos territoriales de los PIA y comunidades locales.
- El reconocimiento de los derechos de tenencia colectiva de los PIA y comunidades locales forma parte de los sistemas nacionales de administración de la tierra.
- Iniciativas de gran escala desarrolladas en los años 2010 y en la actualidad en la región.



# Objetivos del Ciclo

- Intercambiar experiencias y profundizar conocimiento legal y técnico sobre como se han enfrentado desafíos comunes.
- Reflexionar y construir conjuntamente conocimientos a partir de las lecciones aprendidas y prácticas desarrolladas.
- Generar orientaciones específicas y basadas en evidencias para promover más y mejores inversiones.
- Facilitar la cooperación entre diferentes países y actores de ALC sobre sistemas nacionales de administración de la tierra y los territorios de PIA.



# ORGANIZACION DEL CICLO

## GTA

- Formación de un Grupo Tecnico Asesor multisector (ONGs, PIA, gobiernos, academia)

## Casos

- Sistematización de 23 casos de delimitación y reconocimiento de derechos territoriales de PIA (Argentina, Bolivia, Colombia, Ecuador, Perú, Panama, Nicaragua, Honduras y Guatemala).
- Selección por el GTA de 12 casos para para ser presentados en los Webinars.

## Webinars

- Sesión introductoria: Contexto regional
- Sesión 1: Delimitación de territorios PIA en el contexto de Catastro multipropósito.
- Sesión 2: Uso de tecnologías y SIG para fortalecer los procesos participativos de delimitación y reconocimiento
- Sesión 3: Formas de reconocimiento y gestión de derechos territoriales de los PIA
- Sesión 4: Gobernanza e interculturalidad territorial para el manejo de derechos de tenencia colectivos

## Productos

- Una Plataforma web con los contenidos y discusiones de los webinars
- Publicaciones de los 23 estudios de caso.
- Memoria de los webinars y publicaciones de las recomendaciones (en edición)



## ARREGLOS INSTITUCIONALES:

### Buenas prácticas y recomendaciones

- Hojas de ruta y acuerdos formales de colaboración entre los distintos actores (PIA, IFIs, gobiernos, OSC , privados).
- Arreglos institucionales con relacionamiento diferencial e inclusivo, que valoren las diferentes perspectivas, intereses y capacidades de los actores locales.
- Procesos de CLPI incluyentes (PIA y comunidades campesinas).
- Plataformas/mesas de concertación y seguimiento a nivel de las áreas de intervención.
- Mecanismos financieros flexibles que permitan a las organizaciones de los PIA manejar más directamente recursos.
- Programas de fortalecimiento de conocimiento y capacidades para las instituciones y actores territoriales.

## PROCESOS DE DELIMITACIÓN Y RECONOCIMIENTO:

### Buenas prácticas y recomendaciones

- Generar entendimientos comunes sobre la cultura y el territorio entre actores: investigaciones históricas y antropológicas participativas.
- Conformar equipos técnicos multidisciplinarios que incluyan jóvenes y mujeres de los territorios y capacitados en enfoques de derechos humanos, género, intercultural e intergeneracional.
- Impulsar el uso de tecnologías geoespaciales y herramientas participativas que empoderen a las comunidades.
- Promover reformas con pertinencia cultural a los marcos políticos y jurídicos.
- Revisar y simplificar normas y procedimientos administrativos para reducir cuellos de botella.
- Gobiernos deben garantizar la seguridad de las actividades de delimitación y mapeo en los territorios.

## SISTEMAS DE GOBERNANZA:

Buenas prácticas y recomendaciones.

- Fortalecer y respetar los procesos comunitarios de estructura/organización interna (ej. normas internas de gestión territorial y mecanismos de manejo de conflictivos).
- Acompañar con programas e inversiones públicas y/o privadas que garanticen condiciones de vida digna conforme a las cosmovisiones y prioridades de las comunidades.
- Establecer mecanismos de seguimiento nacional e internacional al cumplimiento de fallos o sentencias que garanticen los derechos territoriales de los PIA.
- Establecer acuerdos nacionales, binacionales y regionales para proteger, defender y conservar los territorios colectivos
- Operativizar y financiar mecanismos de protección de las personas defensoras de los territorios por parte de los Estados con apoyo de donantes y sector privado.

## MEJORANDO LAS INVERSIONES:

Buenas prácticas y recomendaciones para Gobiernos y Donantes.

- Presupuestos más robustos para realizar investigaciones participativas, CLPI, estrategias de comunicación, monitoreo y seguimiento de acuerdos y fortalecimiento de capacidades locales.
- Apoyar a las comunidades en el desarrollo y autogestión de sus propios sistemas internos de administración territorial.
- **Costo-efectividad:** Territorios indígenas en Brasil que recibieron plenos derechos de propiedad colectiva (1982-2016) tuvieron un 66% menos de tasa de deforestación (FAO & FILAC 2021). Según análisis iniciales en Honduras y Nicaragua el costo promedio fue USD 6.20 por ha titulada y delimitada (Datos de Banco Mundial). En la Amazonía, entre 1.35 y 1.58 USD por ha (WRI).
- **Reto:** difícil encontrar información sobre los costos de los procesos sistematizados en los casos de estudio.

## MENSAJES FINALES Y PRÓXIMOS PASOS

- Crear y fortalecer arreglos institucionales diferenciales e inclusivos entre los diversos actores, aparece como factor clave en casi todas las iniciativas sistematizadas.
- Realizar análisis costo-beneficio de los procesos de delimitación y reconocimiento de los derechos territoriales colectivos, como de los costos de inacción, como herramienta útil de incidencia política con gobiernos y donantes.
- Es una necesidad sentida de los actores contar con redes locales, nacionales y regionales para el aprendizaje conjunto e intercambio de experiencias sobre estos procesos.
- El Ciclo de Aprendizaje 2024 en preparación en el marco de la Cooperación FAO-Gobierno de Brasil.

# CICLO DE APRENDIZAJE

SESIÓN INTRODUCTORIA

TEMA 1

TEMA 2

TEMA 3

TEMA 4

CASOS DE ESTUDIO

RECURSOS

**LECCIONES APRENDIDAS  
PARA LA INVERSIÓN  
EN DELIMITACIÓN  
Y RECONOCIMIENTO  
DE TERRITORIOS INDÍGENAS  
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Plataforma Web: <https://learn.landcoalition.org/es/ciclo-de-aprendizaje/>



**INDIAN LAW**  
RESOURCE CENTER

# The Case of the Maya Q'eqchi' Agua Caliente Community v. Guatemala:

Challenges and Opportunities in Indigenous Land Titling  
under the Framework of International Court Ruling

(May 17, 2024)

By Leonardo A. Crippa  
[www.indianlaw.org](http://www.indianlaw.org)

# The Agua Caliente Community

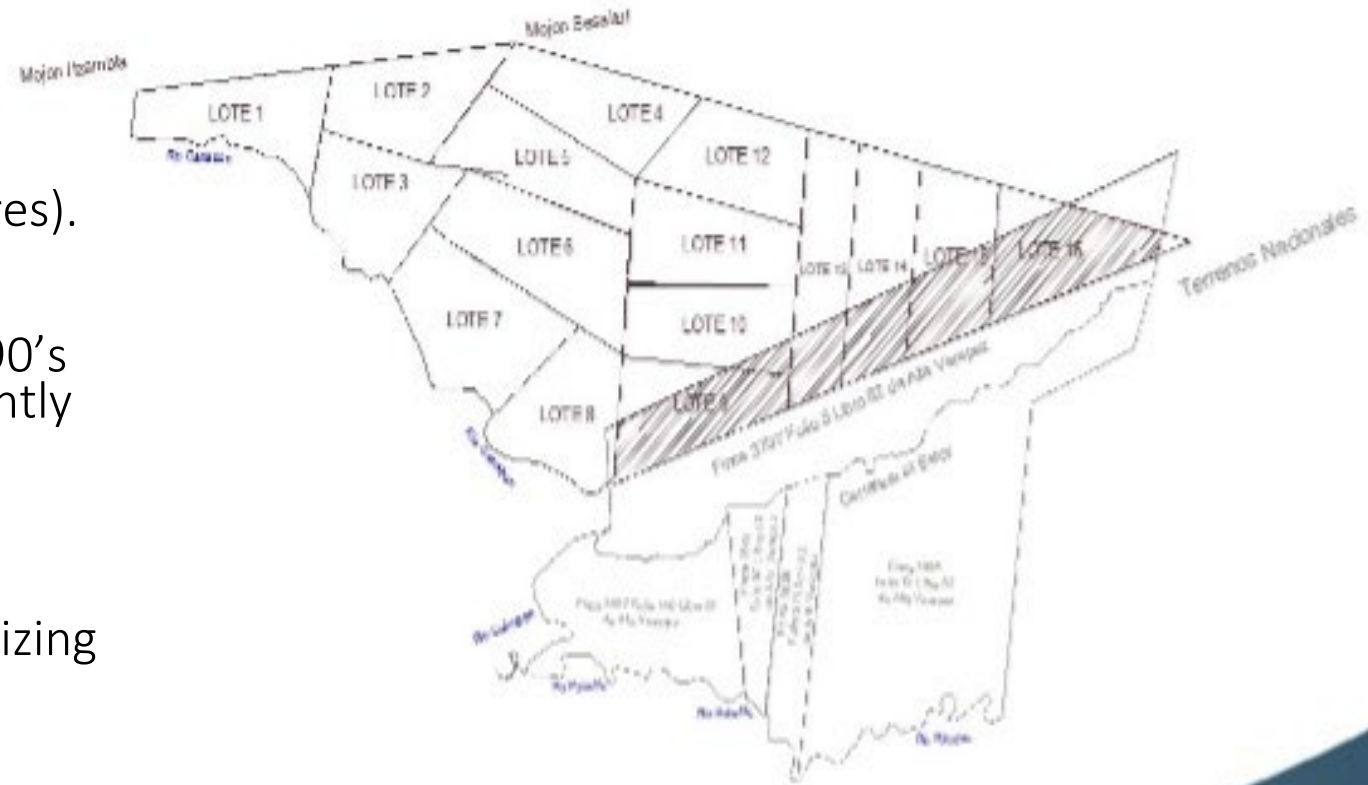
- Agua Caliente is a Maya Q'eqchi' monolingual, isolated community of about 360 members (about 66 families).
- Agua Caliente is located in the Izabal Department (Northeast Guatemala), next to the Izabal lake.
- Lake Izabal, the largest lake in Guatemala, and its surrounding land in El Estor, are places of vital importance to the indigenous Q'eqchi people. Descendants of the ancient Maya, the Q'eqchi make their living by farming and fishing.
- Agua Caliente has a strong spiritual connection to the land (*ralch'och'*), which is based on full respect, harmony and balance with nature (*Tzuul Taq'a*).
- In 1978, Agua Caliente created the Pro-Improvement Committee, a self-determined institution tasked with taking actions to achieve legal security over collectively-held lands and resources.





# The overlap and the issues at stake

- Cadastral & registry overlap: The Fenix mining project overlaps (947 hectares) with lands possessed by Agua Caliente, lot 9 (1353 hectares).
- Survey & demarcation: Original location of 1890's concrete boundary markers were altered recently to expand mining project area.
- Land titling: Existing land titling system only provides indigenous peoples with titles recognizing an individual diminished form of property, not collective ownership.
- Registry: Records of registered provisional title were removed from the books to avoid the issuance of definitive title to Agua Caliente.



Strip of registry and cadastral overlap affects lands possessed by six communities, including Agua Caliente.



# Land survey, title and registry records

- 1891: the government identified and surveyed the community land.
- 1974: Agua Caliente requested land title by filing a complaint with land titling agency.
- 1984: the government issued a provisional land title for 64 “peasants without lands” members of Agua Caliente.
  - Individual co-ownership rights were recognized.
- 1998: pages proving the registry of the title were removed from the books.
- 2002: Agua Caliente completed the fulfillment of all requirements to gain definitive land title.
- 2018: the government (survey, titling & registry agencies) recognized “the existence of a strip of registry and cadastral overlap.”
- 2019: the government issued a definitive land title in favor of 104 “peasants” member of Agua Caliente.
  - Individual co-ownership rights were recognized
  - Title issued without resolving the overlap.

# Environmental assessment and mining permits-related facts and issues

- In 2004, the Ministry of Mining issued permit to company explore nickel in lands pertaining to the Izabal and Alta Verapaz Departments for a three-year period.
- In 2005, the company presented the environmental impact assessment to Ministry of Environment.
- In 2006, the permit to exploit for a 25-year period was issued.
- In 2021, government carried out a questionable consultation process.

Asociación Nacional para el Desarrollo Ambiental  
ANADE  
ASOCIACIÓN PARA EL DESARROLLO AMBIENTAL  
4 AVENIDA EL ESTOR

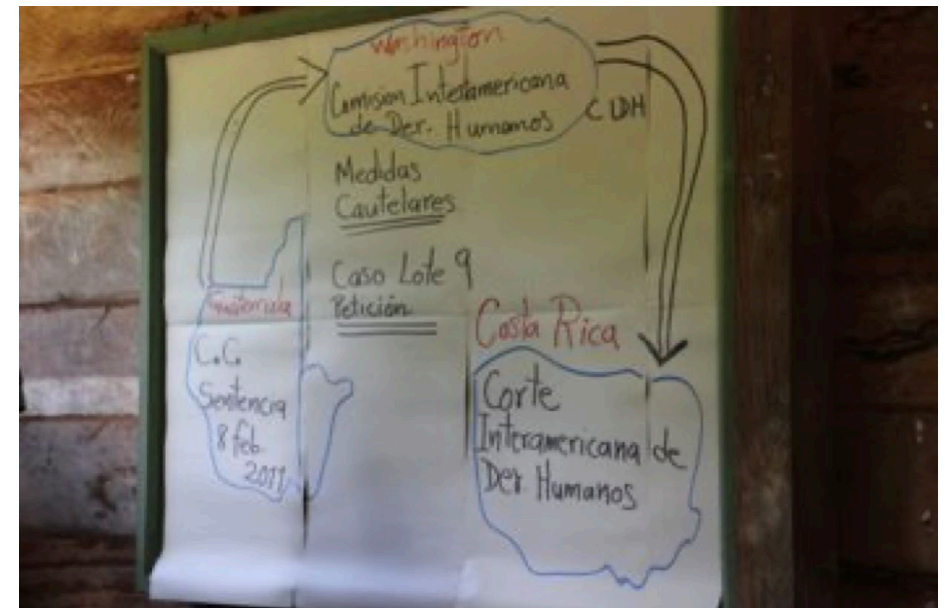
RECIBÍ DE: *Fundación Raxche*  
LA CANTIDAD DE: *Treinta y ocho mil quinientos Con octavo* EN QUETZALES.  
POR CONCEPTO DE: *Aporte para el fortalecimiento del Consejo de Comunidades Indígenas Maya A'ch'ij'*  
El Estor, *23* de *Diciembre* del 202*1*

Deducible del Impuesto Sobre la Renta: Artículo de la República y sus Reformas.  
Decreto No. 14-2004 del Congreso de la República.  
Resolución 2020-1-61-1489943 de fecha 03-08-20



# Victories in Domestic Courts and the Bodies of Inter-American Human Rights System

- 2011: the Constitutional Court ruled in favor of Agua Caliente, and ordered the land titling agency to take all necessary actions to replace the pages that were removed from the registry books and issue definitive land title.
- 2019: lower court ruled in favor of Agua Caliente ordering land titling agency to comply with 2011 Court decision, immediately issue definitive title and register it properly.
- 2020: the Commission adopted the Report on the Merits of the Case stating the treaty rights violations and recommended Guatemala take action to remedy them.
- 2020: because of non-compliance with recommendations, the Commission referred the case to the Court.
- 2023: the Court adopted the judgment on the merits, reparations and costs.



# The Court's main land titling-related orders

## Agua Caliente-centered orders

1. A new title recognizing Agua Caliente's full collective land ownership and permanent use and enjoyment of the land and natural resources must be issued.
2. The overlap must be resolved, and Agua Caliente's property must be adequately delimited and demarcated.
3. A new independent environmental impact assessment must be conducted and presented to Agua Caliente to decide on mining activities.

## Non-repetition orders

1. A new law recognizing and providing legal legal security to indigenous peoples' collective land ownership must be adopted.
2. A new law regulating prior consultation proceedings with indigenous peoples must be adopted.  
(State must ensure the full and effective participation of all indigenous peoples of the country, not only Agua Caliente)





# Thanks!

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# World Bank Land Conference 2024: Securing Land Tenure and Access for Climate Action



## ***Multipurpose Cadastre with Indigenous People***

Regional Workshop: Community Participation for Sustainable Land Governance –  
Regional experiences with Indigenous peoples.

May 17th, 2024

# INDEX



**Ethnic and cultural diversity context in Colombia**



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**Provisional Safeguards in the Context of the Multipurpose Cadastre Policy for Indigenous Territories and Territorialities**



**3**

**Prior Consultation, Free and Informed, for Multipurpose Cadastre with Indigenous People**

**4**



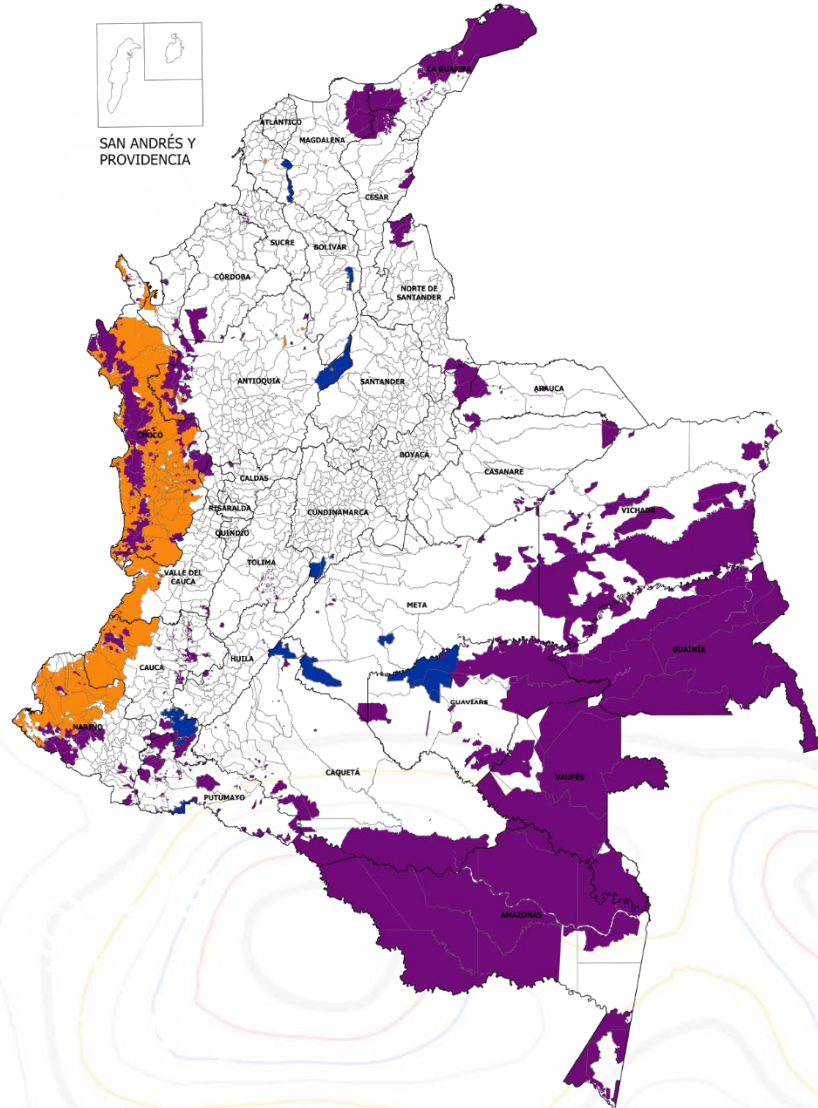
**Intercultural School of Geography for Life with Indigenous People**



# 1

## Ethnic and Cultural Diversity Context in Colombia

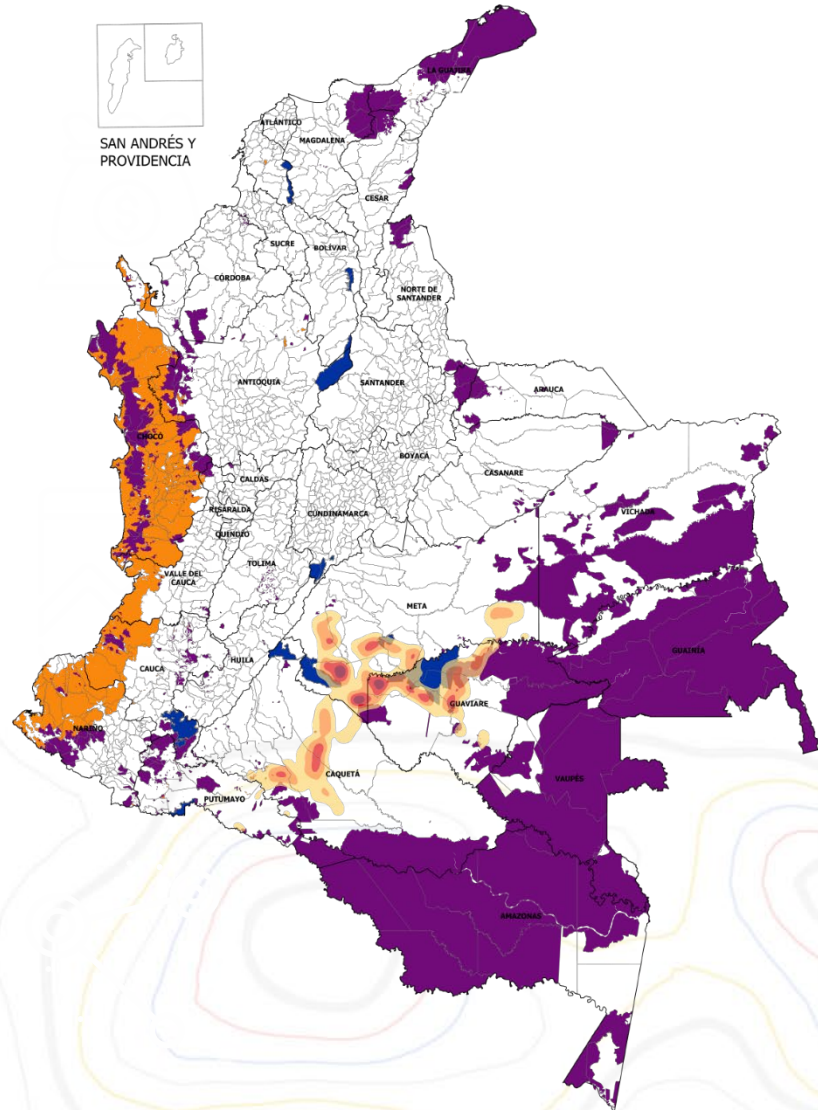
# 1. Ethnic and Cultural Diversity Context in Colombia



### Ethnic Territories and Peasant Reserve Zones

- Formalized Indigenous Reservations
- Titled Black Community
- Peasant Reserve Zone

# 1. Ethnic and Cultural Diversity Context in Colombia



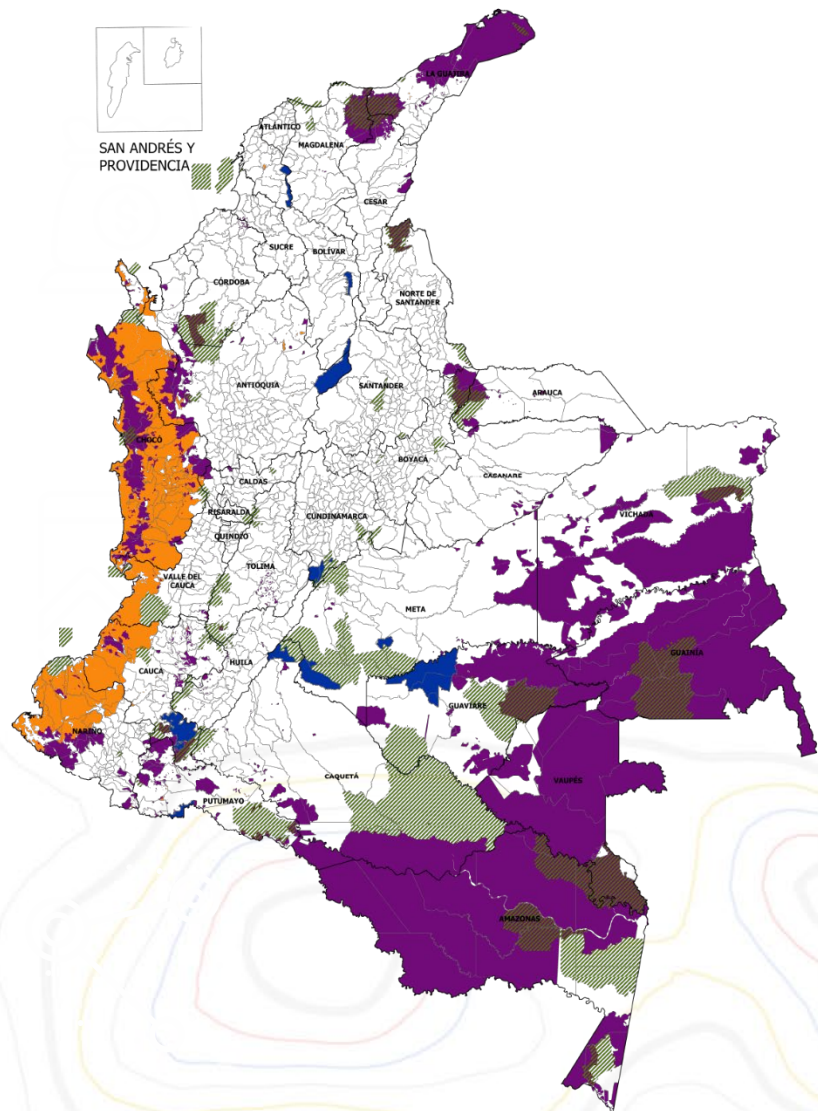
**Ethnic territories, peasant reserve zones and deforestation zone**

- Formalized Indigenous Reservations
- Titled Black Community
- Peasant Reserve Zone

**Deforestation**

- Very High
- High
- Medium
- Low
- Very Low

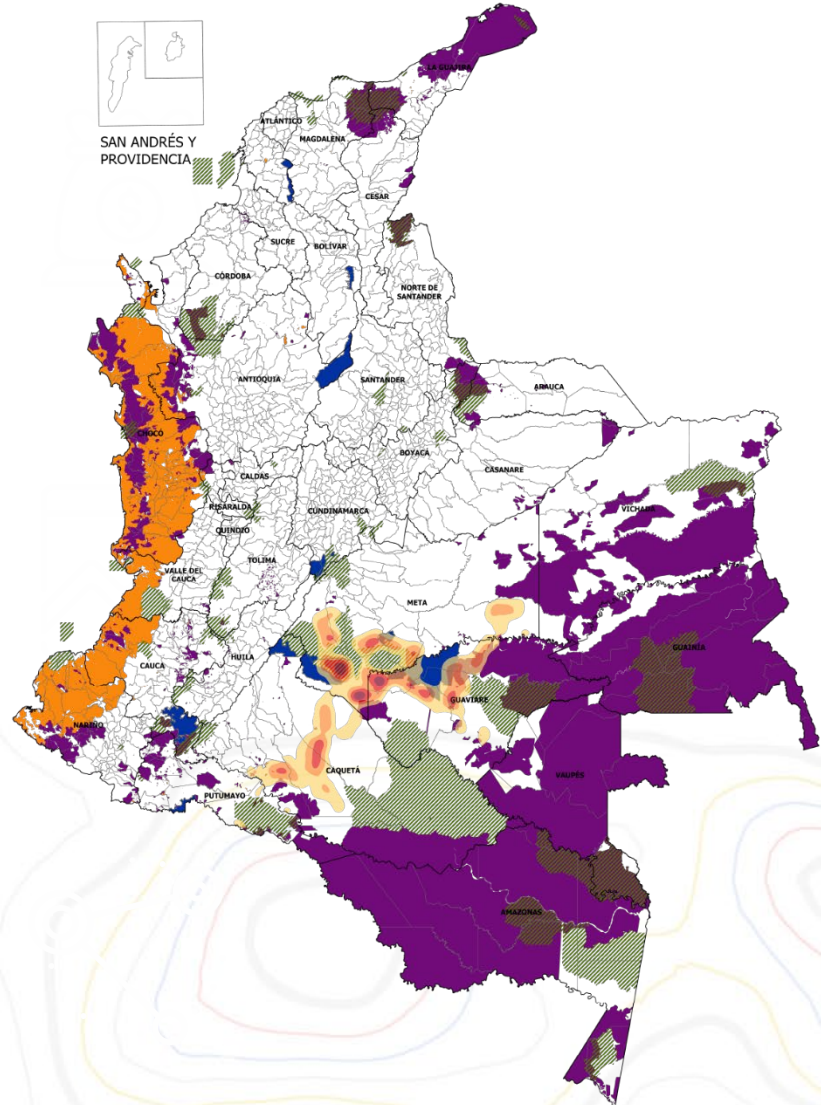
# 1. Ethnic and Cultural Diversity Context in Colombia



**Ethnic territories, peasant reserve areas and PNN**

- Formalized Indigenous Reservations
- Titled Black Community
- Peasant Reserve Zone
- Colombian National Parks

# 1. Ethnic and Cultural Diversity Context in Colombia



**Ethnic territories, peasant reserve areas, deforestation arc and PNN**

- Formalized Indigenous Reservations
- Titled Black Community
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- Colombian National Parks

**Deforestation**

- Very High
- High
- Medium
- Low
- Very Low

# 2

## **Provisional Safeguards in the Context of the Multipurpose Cadastral Policy for Indigenous Territories and Territorialities**

# Provisional safeguards for indigenous territories and territorialities

## BACKGROUND

- In 2023, adoption of transitory safeguards for the Multipurpose Cadastre Public Policy (Resolution 338).
- The transitional safeguards will be in place until the normative instrument is issued as a result of the prior consultation.



# Provisional safeguards for indigenous territories and territorialities

## BACKGROUND



- **How:** Through intercultural work sessions during the cadastral operation and/or capacity building spaces.
- **Objective:** to guarantee for the cadastral operation to be respectful of the rights of Indigenous Peoples.





# 3

## **Prior Consultation, Free and Informed, for Multipurpose Cadastral with Indigenous Peoples**

# Prior Consultation, Free and Informed, for Multipurpose Cadastre with Indigenous Peoples

The National Development Plan (2022-2026) establishes that special mechanisms with an intercultural focus should be in place for multipurpose cadastral management.

2020



In 2020, the methodological consultation route was formalized at the Permanent Coordination Table with Indigenous Peoples and Organizations (MPC).

PND 

2022-2026

In September 2023, as a result of dialogue between the Indigenous Government and the National Government, the normative instrument for multipurpose cadastre was agreed upon.

SEPTEMBER 2023



In December 2023, IGAC (Colombian Geographic Institute) managed to agree upon the operational instrument for special cadastral management.



2023 DECEMBER



# 4

## Intercultural School of Geography for Life with Indigenous Peoples



# Intercultural School of Geography for Life with Indigenous Peoples

Establishment of Intercultural Schools of Geography for Life, designed from and for Indigenous Peoples.

Joint processes for technical and managerial training for multipurpose cadastral operation.



Between 2023 and 2024, 139 individuals from Indigenous Peoples have been trained and certified as community promoters and field assistants.



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Gobierno de  
**Colombia**

**IGAC**  
INSTITUTO GEOGRÁFICO  
AGUSTÍN CODAZZI



@igaccolombia

# LEVERAGING PUBLIC HEARINGS FOR JUDICIAL PATHS IN THE GOVERNANCE OF INDIGENOUS LAND CONFLICTS

AUDIÊNCIAS PÚBLICAS COMO CAMINHOS NA GOVERNANÇA DE CONFLITOS DE TERRAS INDÍGENAS

Adriana Coningham  
Judge

May 13-17, 2024

Poder Judiciário  
Estado de Mato Grosso





## PRESENTATION STRUCTURE

- 1 . Permanent Program for Tenure Regularization in the Legal Amazon by the Brazilian Judicial Branch in cooperation with other public agencies
- 2 - The Regional Experience of the Judicial Branch of the State of Maranhão in titling indigenous territories



# THE BRAZILIAN JUDICIARY AND LAND GOVERNANCE

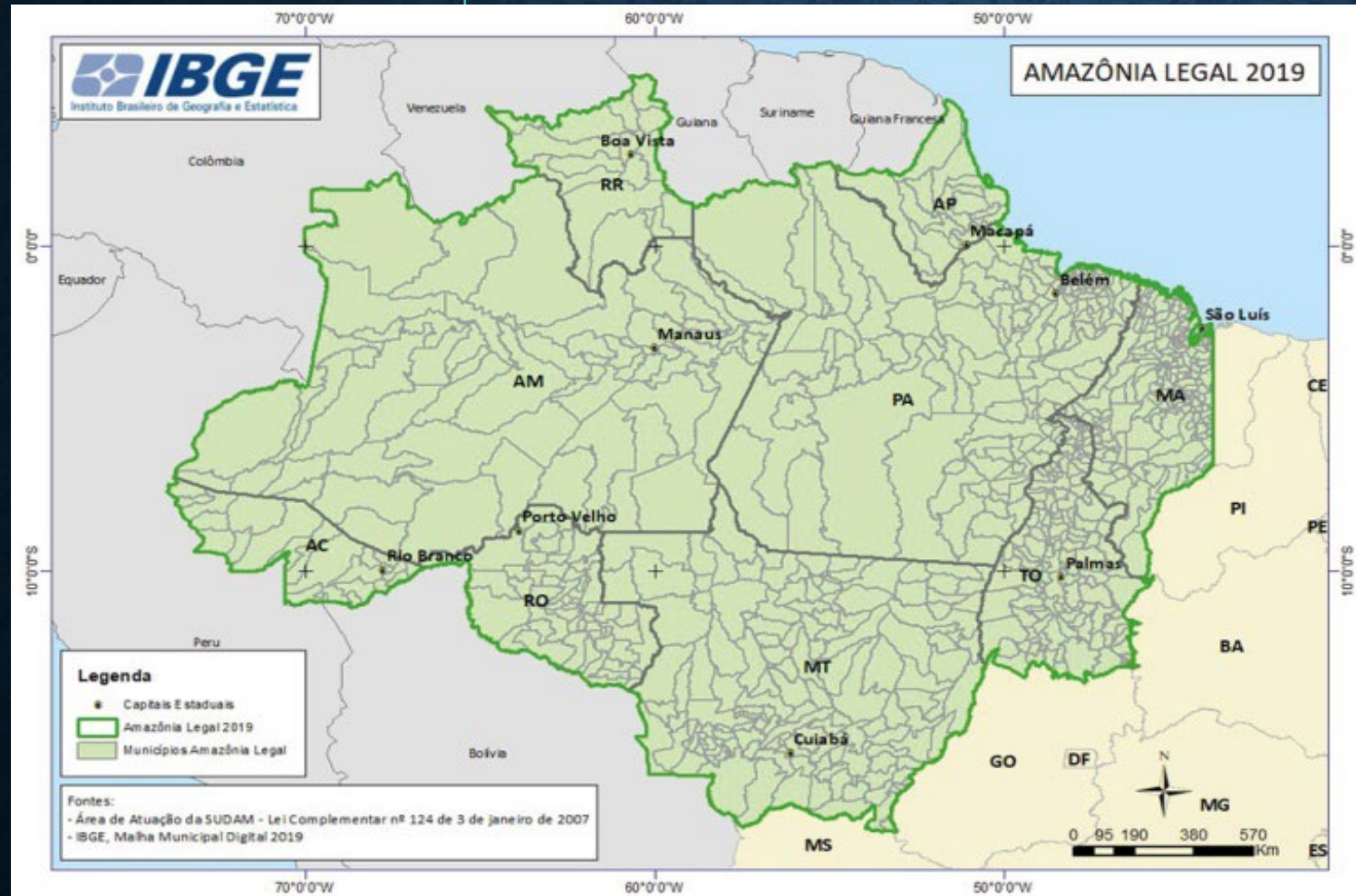
## 1 – TRADITIONALLY

- a) Analysis of land tenure, ownership rights and resolution of judicial conflicts;
- b) supervision and guidance of public records offices

## 2 – CURRENT APPROACH

- . More dynamic and participatory
- . Interinstitutional and participatory initiatives
- . Public hearings, commissions and debate forums
- . Development of public policies that include coordinating debates and create a Permanent Tenure Regularization Program in the Legal Amazon

# Legal Amazon



- **9 States:** Acre, Amapá, Amazonas, Pará, Rondônia, Roraima and Tocantins, Mato Grosso, in addition to part of Maranhão.
- With over 5,000,000 km<sup>2</sup>, that is, 58.9% of the national territory

## Indigenous population that inhabits the Legal Amazon

- Brazil has about 1,700,000 indigenous people
- distributed among 266 indigenous peoples
- communicate in 275 different languages
- the North region concentrates almost 45% of the country's indigenous population



Fonte: Censo IBGE (2022)

# PERMANENT TENURE REGULARIZATION PROGRAM IN THE **LEGAL AMAZON**

- **Objectives:** coordinate and accelerate efforts for urban and rural tenure regularization across the entire area of the Legal Amazon
  - **Dialogical approach:** public hearings, seminars, forums, symposia, workshops were held to discuss topics related to tenure regularization.
  - **Implementation:** Justice Inspectorate of each State, oversight and supervision activities of the Judicial Branch.
  - **Events and awards:** Established the National Tenure Regularization Week and awards for the main projects, as a way of encouraging the Courts.

Corregedoria realizará Audiência Pública em São Gabriel da Cachoeira para discutir governança fundiária, terras indígenas e sustentabilidade

07 Agosto 2023

*A audiência, marcada para o dia 10 de agosto, será a primeira com tradução para língua nheengatu.*



## Results of the Program in Safe Land Week

<b>Legal Amazon</b>	<b>Issued registered land titles</b>
<b>Acre</b>	3,700
<b>Amapá</b>	138
<b>Amazonas</b>	2,707
<b>Maranhão</b>	4,793
<b>Mato Grosso</b>	8,134
<b>Pará</b>	4,000
<b>Rondônia</b>	1,795
<b>Roraima</b>	2,474
<b>Tocantins</b>	3,523
<b>Total registered land titles issued solely during the "Solo Seguro" Tenure Regularization Week</b>	<b>31,264</b>

# Maranhão Judicial Branch Program

Expansion of the program's scope  
to include:

- a) indigenous territories
- b) quilombola communities – “are ethnic groups—predominantly composed of the rural or urban black population—that self-identify based on specific relationships with land, kinship, territory, ancestry, traditions, and unique cultural practices.” (INCRA)
- c) conservation units

Audiência pública: garantia de titulação de terras assegura direito de quilombolas

🕒 20 de novembro de 2023 - 📁 Notícias CNJ / Agência CNJ de Notícias



Source: CNJ

# STRATEGIC ACTIONS

## 1- NORMS

Creation of general and specific regulations to include tenure regularization in **indigenous communities and quilombolas**.

## 2 – PUBLIC HEARINGS

A public hearing was held in all partner municipalities to:

1. Discuss the topic
2. Invite community participation
3. Answer questions about the program

## 3 – COLLABORATION OF VARIOUS PUBLIC AGENCIES

1. Technical cooperation agreement with public agencies and municipalities;
2. Cooperation aims to facilitate tenure regularization, including assistance for technical surveys;
3. 145 of the 217 municipalities in Maranhão signed agreements;



# STRATEGIC ACTIONS

## 4 - Training and practice

Training of public officials, community members, and other stakeholders involved in the tenure regularization process through the School of the Judicial Branch.

1,012 individuals were trained in the first year.

Municipalities were encouraged by the Judicial Branch to select a community to initiate the regularization process, which concludes with hearings for the delivery of registered property titles.

### Projeto da Corregedoria garante registro para povos indígenas da comunidade Araribóia

26/06/2023

Leticia Araújo



# GUIDELINES FOR LAND REGISTRATION FOR INDIGENOUS PEOPLE

Issuance of specific provisions to **ensure clear guidance on the registration of indigenous lands**

Focus on areas already demarcated by the responsible federal agency, following the guidelines of the National Justice Board (Conselho Nacional de Justiça)

Guarantee to indigenous peoples of the land title, map of their territory, and all the services that the registry office provides

## IMPORTANCE OF INDIGENOUS LAND REGISTRATION

1. Legal Protection of Indigenous Territories, especially in contexts where there are possession conflicts - registration formalizes land ownership under federal protection, serving as a defense mechanism against invasions or illegal deforestation, which are common issues in indigenous lands
2. Territory management and planning
3. Registration in the name of the Federal Union
4. Transparency and publicity – it is enforceable against any and all individuals

## Maranhão State Results of the Tenure Program and Indigenous Territories and Quilombola Lands Registry

Category	Titles	Beneficiary Families
Urban	21,528	21,528
Rural	5,858	5,858
Quilombola Territories	8	1,204 (2,892 individuals)
Indigenous Territories	12	1,676 (14,326 individuals)
Reservation	1	782
<b>Total</b>	<b>27,407</b>	<b>31,048</b>

# TO CONCLUDE

1. Public hearings and discussion forums fostered an environment of transparency and community participation, allowing the voices of indigenous peoples, traditional communities, and local communities to be heard and considered in the formulation and implementation of land regularization policies.
2. The involvement of land management government agencies, public registry offices, universities, and municipalities through cooperation agreements with the Judicial Branch of Maranhão accelerated and improved the entire land regularization process from start to finish.
3. The results demonstrated that the Judicial Branch was strategically important in mobilizing government agencies, civil society, and interested communities for the execution of land regularization, making it a successful and uncommon experience of direct participation in land tenure regularization.

**THANK YOU!**

**[adriana.coningham@tjmt.gov.br](mailto:adriana.coningham@tjmt.gov.br)**