

**STRENGTHENING INDIGENOUS PEOPLES LAND RIGHTS IN HONDURAS:
THE MISKITU PEOPLE’S EXPERIENCE OF COLLECTIVE LAND TITLING,
LESSONS LEARNED AND MAIN CHALLENGES FOR THE FUTURE**

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Abstract

The paper will discuss a new model of indigenous people's collective land titling in Honduras: the *Inter-Community* Land titling. This model, which is based on the International Labour Organization's ILO Convention No. 169, which the Honduran government approved as a legally binding instrument, which establishes the government's obligations regarding the recognition of the rights of indigenous peoples. Specifically, the Convention 169 states the indigenous people's rights of ownership and possession over the lands, which they have traditionally occupied, but also to the lands to which "*they have traditionally had access for their subsistence and traditional activities*".

In addition, the applied model, was also based on the principle of *Free, Prior and Informed Consultation*, through which the the indigenous people's will and joint decision making with the Government is expressed over the recognition of this rights.

Derived of the initiative from 2012 to 2016, the results reflect the Intercommunity titling of the Miskito's people's and other indigenous people's community land through the intercommunity land titling model of 14 thousand square kilometers equivalent to 12.5% of the country's territory.

Accordingly, the paper will: (a) Describe the Miskitu people's and the Government's efforts for the recognition of the Miskitu peoples land rights; (b) identify the main political, institutional and technical lessons that have contributed to the obtained results and joint efforts to overcome the main challenges; (d) present the main challenges for the future.

Key Words: Honduras, indigenous peoples, Miskitu, participatory mapping, communal Land titling

Introduction

Honduras is a country with an area of 112,492 km² located in the heart and center of Central America. It has wide variety of plants and animal species and is part of a trans boundary system of protected areas. The Mesoamerican Biological Corridor consists of 91 protected areas, which in Honduras corresponds to 19% of its total territory. Moreover, 48% of the country's territory is covered by forests, while 40% of these forests are located in protected areas.

The country is also home for people of diverse indigenous and ethnic ancestries, which has influenced its culture, art and architecture. Its multicultural population of 9 million inhabitants (estimated in 2015) is composed mostly of people from mestizo descent (Indigenous and European), . There are, at the same time, 720,000 people in the country that are indigenous or afro-descendants (or 9% of the total population), living in approximately 28,000 km² (25% of the national territory). The 9 main groups among this population include: Miskitu, Lenca, Garífuna, Tolupan, Nahua, Maya-Isleños, Chortí, Pech, Tawahka.

Since 1984, the Government of Honduras has titled over 20% of its territory in favor of indigenous and afro-descendant people, through 612 titles (INA, 2016)

1. The Muskitia and the Miskitu People

The Miskitu people in Honduras are located in the department of Gracias a Dios, better known as "La Muskitia", an area rich in ecosystems and rain forests. The Miskitu people are approximately 90,000 (1% of the national population). The department of Gracias a Dios has an area of 17,000 km² (15% of the country), has six municipalities (Juan Francisco Bulnes, Brus Laguna, Ahuas, Wampusirpi, Puerto Lempira y Villeda Morales) and it is a multi-ethnic territory (5 ethnic groups). The Miskitu people live on bordering areas in the neighboring Republic of Nicaragua, sharing in common a wide cultural and natural resource area.

The history of the Miskitu people is widely documented in several published and unpublished documents, all of which describe their origins, their culture, their organizational structure and processes of free, prior, and informed consent, their customs and socio-cultural perception of the world (cosmovision). These studies have also documented the Miskitu people's vision about land, their property rights, and the sustainable use and management of natural resources,. All of these have contributed to the establishment of a "Bio-cultural Protocol" of the Miskitu Indigenous People through its umbrella organization, Miskitu Asla Takanka (MASTA).

The Organizational Structure of the Miskitu People

MASTA, which means “Unity of La Muskitia” is the main federation representing the Miskitu people in Honduras. It was established in 1976, deriving from the teacher and student unions of the Department of Gracias a Dios, and obtained legal personality in 1987.

Despite the country’s ‘departmental and municipal’ sub-national political division, in 1997, MASTA began to organize its base into territorial units initially known as federations. Since 2010, these units evolved into twelve territorial councils (KATAINASTA, AUHYA YARI, WAMAKLISCINASTA, TRUKSINASTA, WATIASTA, LAINASTA, BAMIASTA, BAKINASTA, BATIASTA, DIUNAT, RAYAKA and FINZMOS Federation). The lands of these TCs consider, as established by ILO Convention 169, not only areas that Miskitu communities have traditionally occupied, but also the lands to which “*they have traditionally had access for their subsistence and traditional activities*”.

The functional habitat of the Miskito includes large open areas including several communities. The boundaries between communities have been traditionally flexible and permeable. Conflicts over boundaries have been resolved using traditional decision-making processes based on consuetudinary rights. In 1997, the communities grouped within each territorial council are not only in geographical proximity, but also in shared areas of natural resource management and cultural ties. MASTA’s aspiration had been from the beginning for these groups of communities to obtain titles as territorial councils. This modality in Honduras is called ***Inter-Community*** Land titling.

Figure 1: Map of areas of the 12 Miskitu Territorial Councils



Furthermore, MASTA’s mission and vision stated in the "Bio-cultural Protocol" of the Miskitu Indigenous People (2012), is “to be the maximum authority of territorial politics, vindication, and defense of the individual, collective, ancestral rights, and identity of the Miskitu people in pursuit of strengthening the indigenous autonomy and governance of the territory in La Musquitia, revitalizing the culture and guaranteeing the legalization, administration, and collective control of its lands, territories, and natural resources”.

Historical Claims for the Recognition of the Miskitu Peoples' land rights

The Miskitu people had a historical claim on the lands they have traditionally occupied for their livelihoods. However, before 2012 the Miskitu peoples have not made any progress toward the recognition of their land rights despite the fact that Honduran legislation actively recognizes these rights and claims, and that the country had made significant efforts regarding the recognition of the communal collective property rights of other indigenous and Afro-American groups.

It was not until the establishment of MASTA, that the Miskitu people's claims began being voiced, and federations and territorial councils were established; and eventually their historical claims for the recognition of their collective land rights formalized. In the 1990s several efforts were made in this respect, and in 2001 the Intersectorial Commission for the Land Titling of the Lands of the Garifuna and Miskitu peoples was created under the coordination of the National Agrarian Institute (INA).

Lack of political will hindered the efforts made by the Miskitu People through MASTA and the Territorial Councils. Two main factors affecting political will were: i) the changing political agendas due to change of governments, and ii) the lack of application of the ILO Convention 169. Despite that by 2010, Honduras had already incorporated some of the basic principles of the Convention 169 into legislation relevant to the titling of indigenous lands, its implementation had not reached adequate levels. This was due to the lack of acceptance of the Convention by decision makers, who perceived the Miskitu aspiration of Inter-Community Titling as a potential separatist push. Such perception, at the same time, reflected the decision makers' lack of knowledge of the indigenous sociocultural context.

2. Main recent efforts for the recognition of the Miskitu peoples land rights

Recognizing many of its challenges regarding Property Rights Administration, in 2004 Honduras started a major legal and institutional reform process, which also pushed a clearer road for the recognition of indigenous people land rights with the creation of a Property Institute and delimited competencies with the Agrarian and Forestry Agencies.

Additionally, the Government set forth two main initiatives through World Bank Financed projects: the First Land Administration Project (2004-2010) and Second Land Administration Project (2010-2017), which supported the efforts for the collective Titling of Miskitu Peoples' lands.

Although substantial technical progress was made during the First Land Administration Project, many challenges remained, especially in bringing together and building up trust between the Miskitu people and the Honduran Government. The Miskitu people's aspiration was of an "Inter-Community" Land Titling based on the ILO Convention No. 169

Since the modality of inter-communal titling was unprecedented in Honduras, there were many legal uncertainties that had to be resolved before any field activities could start. As

mentioned, INA had previous experiences with the titling of indigenous communities, but never before as territorial entities.

Identifying the remaining challenges, the Government through the Second Land Administration Project, together with the Miskitu people community leaders, implemented in n 2010 a new initiative with the support, technical assistance and financing of the World Bank. This initiative consisted of a South-South Exchange of knowledge and experiences on processes of collective titling of indigenous lands with Nicaragua and Colombia.

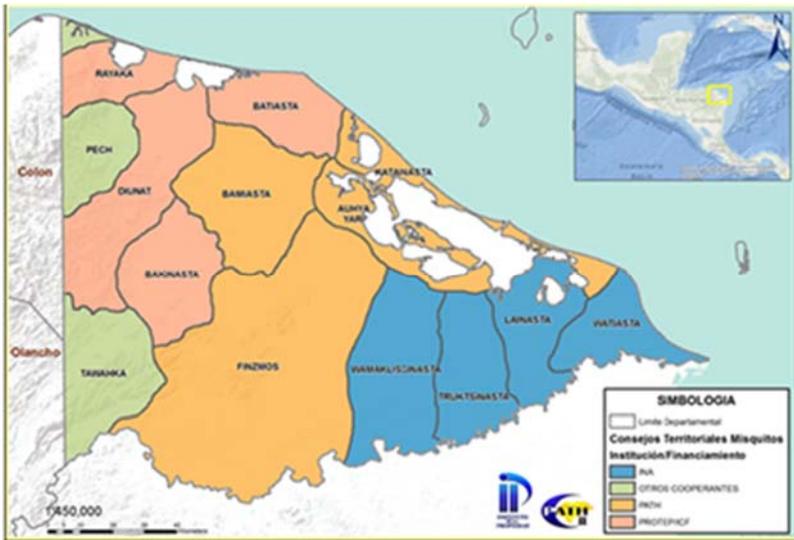
With this exchange, Government officials and Miskitu leaders traveled to both countries and exchanged with their respective officials, experiences on demarcation and titling of indigenous people's lands, alternative mechanisms for conflict resolution, participatory natural resource management, climate change participatory management, territorial development plans, community development, governance and interagency coordination, among others.

This exchange included a series of internships and workshops in both countries: i) in Nicaragua, specifically in the communities of the Nicaraguan Moskitia, with the participation of local leaders, Territorial Councils and authorities of the Autonomous North Atlantic Region (RAAN); And ii) in Colombia, with all the authorities that manage and are involved in the processes of titling of indigenous lands, their governance and management of natural resources.

Derived from these exchanges and the building of trust and knowledge, in 2010, President Porfirio Lobo Sosa (2010-2014), decided to promote intercommunity titling in fulfillment of the wishes of the Miskito People and in alignment with the ILO Convention 169,. Thus, the Inter-sectorial Commission for Titling of the Lands of the Garífunas and Miskitu Communities of Honduras (according to Executive Agreement Number 035-2001) was re-activated. The Commission composed of the National Agrarian Institute (coordination agency), the Property Institute, the Forestry Conservation Institute, the Second Land Administration Project and MASTA, among others, became the main body for coordination of policies and strategies related to the titling process.

On October 2011, the Inter-Sectorial Commission established a Miskitu Titling Subcommittee, also chaired the INA, to (i) plan with the Second Land Administration Project, and (ii) operationalize the inter-institutional procedures and work with the Territorial Councils, in order to carry out the process of delimitation, titling and registration of collective titles. The Subcommittee also agreed on the distribution of institutional responsibilities, distributing in each institution / project the work as per their respective mandate, agreeing the following distribution, as shown in figure No.2:

Figure 2: Map of areas of influence by institutions / cooperating agency



The discussions held in the Sub-Commission revealed a potential conflict among various laws in the upcoming process concerning the territorial council of KATAINASTA, which was chosen as the first council to be demarcated and titled. The Agrarian Reform Law, the Agrarian Transformation Law, the Property Law and the Forestry Law had provisions related to the recognition of indigenous land rights. This situation created confusion as to whether these provisions were alternative routes to the titling of indigenous lands or whether the laws and regulations needed to be revised in order to establish a specific process towards titling of indigenous people’s lands.

The situation at the time did not only require a substantive review of the legal framework to come up with an orderly procedure. It also required the building of consensus between government agencies and with the indigenous leaders.

Free, Prior and Informed Consultation of the Miskitu People

Honduras also had no precedent and no specific legislation regarding the systematic implementation of the Free, Prior and Informed Consultations, so one of the main challenges of the Sub-Commission, was to establish a procedure to be implemented initially in the CT of Katinasta and potentially in all of La Muskitia.

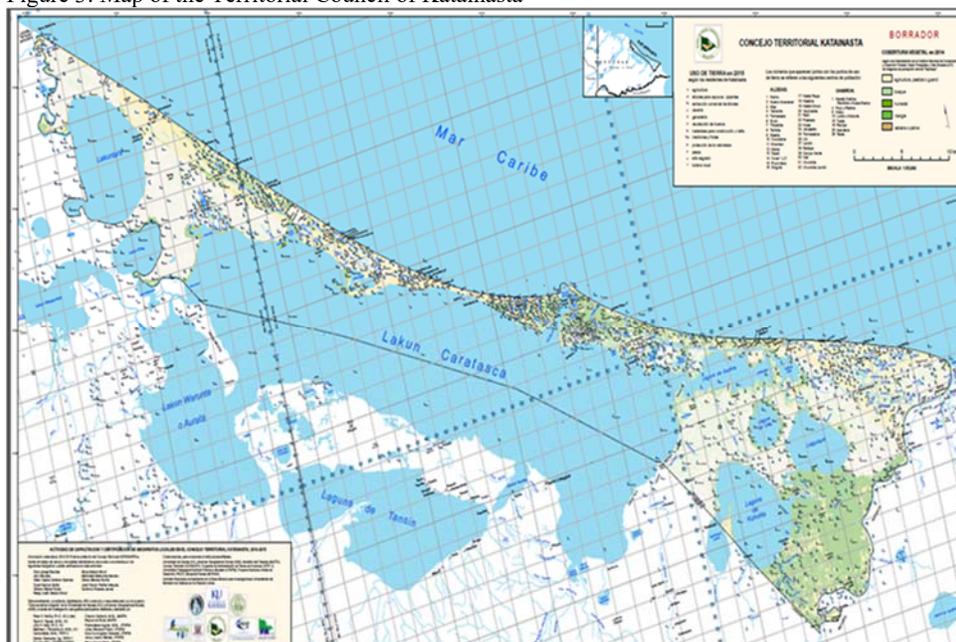
The institutions worked out a procedure and the consultations were successfully conducted in the CT of Katinasta More than 100 consultations were held and documented for the Inter-Communal Titling process, at the general regional and community level with the participation of more than 5,000 leaders.

Main Results

In 2012, the Territorial Council of Katinasta was titled and registered as the first “inter-community” collective title in “La Muskitia”. This result reflects the overcoming critical challenges through the building up of trust, improved technical and legal coordination, and a

Presidential-Level and institutional political will, , Katainasta includes 39 communities in an area of 53,293 hectares,, for a total of 1,351 families or 7000 people as beneficiaries.

Figure 3: Map of the Territorial Council of Katainasta



In addition to all the above efforts, with the leadership of the the Honduran Government in collaboration with the World Bank, a “cooperation table” was established to support and finance the land titling of the rest of “La Muskitia”, to continue the the efforts made under the Second Land Administration Project.

In 2013, one more title was issued, and since 2014, ten (10) new Territorial Councils or co-managed “inter-community” Territorial Councils, and eleven (11) collective forestry intercommunity titles have been issued and registered by the Honduran Government in favor of the Miskitu people and other ethnic groups in “La Muskitia”. These adds up to 1.4 million hectares, or 14 thousand km², equivalent to 12.5% of the Honduran national territory.

Chart 1: List of Titles issued by the Honduran Government in La Muskitia

No.	Beneficiario	Institución Emisora	Pueblo Indígena	Tipo de Titulo	Área en Hectáreas
1	Concejo Territorial de KATAINASTA	INA	Miskitu	Intercomunitario	55,299.46
2	Concejo Territorial de AHUYA YARI	INA	Miskitu	Intercomunitario	52,024.31
3	Concejo Territorial de FINZMOS	INA	Miskitu	Intercomunitario	373,295.20
4	Concejo Territorial de WAMAKKLISINASTA	INA	Miskitu	Intercomunitario	115,844.93
5	Concejo Territorial de TRUCKSINASTA	INA	Miskitu	Intercomunitario	56,588.40
6	Concejo Territorial de LAINASTA	INA	Miskitu	Intercomunitario	53,820.31
7	Concejo Territorial de WATIASTA	INA	Miskitu	Intercomunitario	52,265.84
8	Concejo Territorial de BATIASTA	INA	Miskitu	Intercomunitario	51,107.49
9	Concejo Territorial de BATIASTA B)	INA	Miskitu	Intercomunitario	16,648.38
10	Concejo Territorial de BAMIASTA	INA	Miskitu	Intercomunitario	118,835.49
11	Concejo Territorial de BAKINASTA	INA	Miskitu	Intercomunitario	102,705.49

No.	Beneficiario	Institución Emisora	Pueblo Indígena	Tipo de Titulo	Área en Hectáreas
12	Concejo Territorial de DIUNAT	INA	Miskitu	Intercomunitario	18,697.06
13	Concejo Territorial de DIUNAT B)	INA	Miskitu	Intercomunitario	47,843.88
				Total INA	1114,976.24
1	Concejo Territorial de BAKINASTA	ICF	Miskitu	Intercomunitario	65,344.10
2	Concejos Territoriales de BAMIASTA, DIUNAT y BASTIASTA	ICF	Miskitu	Intercomunitario Tripartito	12,354.00
3	Concejo Territorial de BASTIASTA	ICF	Miskitu	Intercomunitario	495.00
4	Concejo Territorial de BASTIASTA	ICF	Miskitu	Intercomunitario	240.00
5	Concejo Territorial de DIUNAT	ICF	Miskitu	Intercomunitario	79,848.00
6	Concejo Territorial de DIUNAT	ICF	Miskitu	Intercomunitario	50,811.00
7	Concejo Territorial de RAYAKA	ICF	Miskitu	Intercomunitario	17,364.00
8	Concejo Territorial de RAYAKA	ICF	Miskitu	Intercomunitario	37,488.00
9	Concejo de tribu de Las Marías	ICF	Pech	Intercomunitario	11,999.49
10	Concejo de tribu de Las Marías	ICF	Pech	Intercomunitario	15,868.00
11	Concejo de tribu de Las Marías	ICF	Pech	Intercomunitario	269.00
				Total ICF	292,080.59
				TOTAL GLOBAL	1407,056.83
	24 Títulos Indígenas al Pueblo Miskitu			KM2	14,070.57

Source: UCP/INA/ICF

3. Main lessons learned

Some of the main political, institutional and technical lessons that gave way to overcome the main challenges for the successful “inter-community” land titling of the Miskitu people’s lands identified are:

- **Legal Framework Analysis:** Government Agencies and the Miskitu people representatives, analyzed the Honduran existing National and International Legal Framework that duly applies in the recognition of the indigenous people’s collective land Rights, which include:
 - Honduran Constitution
 - International Labor Organization (ILO) Convention 169 (ratified on September 1994)
 - Modernization of the Agricultural Sector Law (1992)
 - Property Law (2004)
 - Forestry Law (2007)
 - Municipalities Law (1994)
 - Declaration on the Rights of Indigenous Peoples (Honduras voted in favor on 2007)

- **Political will:** The political will at the highest level of Government generated the necessary trustworthiness between the parties, especially in the Miskitu people, to push forward the process.
- **World Bank and other financing agencies support:** the World Bank provided the basis for building trust between the Miskito people and the Government through the South-South knowledge Exchange of experiences on collective titling of indigenous lands. It also provided financing for titling processes of the first four territorial councils, through the First and Second Land Administration Projects. This included KATAINASTA Territorial council as a learning pilot, which was critical to the subsequent efforts and the success in achieving results. The “cooperation table” was established and support and financing was built to expand the land titling to the rest of “La Muskitia”.
- **Inter institutional coordination:** Coordination was achieved with the participation of all institutions and organizations involved pursuing the same objective and using the same instruments.
- **Technical capacity:** The World Bank funded Second Land Administration Project, provided leadership and helped develop all the technical instruments needed for the process, such as delimitation, demarcation, titling, conflict resolution, natural resource management, Free, Prior and Informed Consultation Consent by laws and manuals, combined with leadership training programs, including the systematization of every step.
- **Community participation:** the parties involved agreed that this was a Miskitu people’s decision through the free, prior and informed consultation, based on the national legal framework and the 169 ILO Convention, and for the first time, a process such as this was implemented in Honduras. More than 100 consultations were done for the titling process, at the general regional and community level with the participation of more than 5,000 Miskitu community leaders.

4. Main future challenges

Although the “inter-community” collective Land Titling of the Miskitu people’s lands has been deemed as successful, many challenges “post titling” have been jointly identified by both the Miskitu people and Honduran Government. These are:

- **Land Remediation:** The Miskitu people has ancestral occupation, use and now legal certainty of their land, but in many of these lands other non-indigenous people known as “terceros” (*ladino or mestizo*) have settled as well. Many of these settlers have integrated into the indigenous communities. However, there is a growing trend of temporary occupation by *terceros* who settle the land and tend to pursue uncontrolled extraction and exploitation of natural resources (logging, hunting, fishing, farming, etc.). The Miskitu people are pursuing the drafting of new legislation regarding land remediation of indigenous people’s lands

- **Land Governance:** land governance includes among others the following aspects:
 - (a) **Sustainable management of natural resources**, as “La Moskitia” is a very rich region in this regard,
 - (b) **Managing conflicts regarding territorial issues**, among each other within a TC, and between neighboring TCs.
 - (c) **Economic development planning**, thus the Government is boosting the “Alliance for the Moskitia” as a means for economic development of the region
 - (d) **Strengthening community participation and organization**, as the Honduran Government is boosting the Law for the Free, Prior and Informed Consent, and
 - (e) **Strengthening territorial identity**, culture and ancestral worldview.

5. Conclusion

The scope of the Inter Communal land Titling demonstrates the willingness and support of the Honduran State to the process of strengthening the human rights of indigenous people, with the recognition of collective land rights. The titling of indigenous lands the beginning of a process of integral development, economic social, environmental and cultural, from their Miskitu Peoples’ worldview.

It is hoped that the established institutional bases will continue to provide a framework for maintaining dialogue and cooperation. Although it is too early to assess the impact of government actions in La Moskitia, it is possible to suggest that indigenous communities have been empowered to exercise greater control over their lands and natural resources, and thus their own development.

Political will and close coordination between government agencies, indigenous organizations and external cooperation made this historic achievement possible. The formalization of tenure rights opens a new chapter of land governance in La Moskitia. Local indigenous organizations are officially becoming the new administrators of these territorial entities. It will be necessary to define in more detail in the current legal and institutional framework the relationship between these new formalized entities and the levels of government established by the Constitution (such as municipalities).

Although it is too early to evaluate the effect of the Government actions in La Moskitia, it is possible to suggest that the indigenous communities have been empowered to exercise greater control over their land and natural resources. With increased pressure on natural resources and the advent the “Alliance for la Moskitia” with the support of the bilateral and Multilateral Financing Agencies, as well as NGOs, the new Government initiatives will be vital for the sustained development of this indigenous people.

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