

Ethnic-territorial rights of Black Communities in the Colombian Amazon: The collective ownership of the Nelson Mandela Community Council of Miraflores, Guaviare*

Derechos étnicoterritoriales de las Comunidades Negras de la Amazonía colombiana: La titulación colectiva del Consejo Comunitario Nelson Mandela de Miraflores, Guaviare

Luis Fernando Rentería Copete**

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ABSTRACT

Thirty years after the enactment of Act 70 of 1993, which recognizes the ethnic-territorial rights of Black Communities in Colombia, including the right to collective ownership of their territories, there are still communities in different regions of the country that do not effectively benefit from this right, especially those located outside the Pacific region, such as the department of Guaviare. Until 2023, no Black Community in this region had collective ownership of its

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** Environmental Engineer and Master in Policy, Law, and Environmental Management from the National Open and Distance University (UNAD). Environmental Coordinator at the Afro-Colombian Agency Corporation Hileros, Bogotá D. C., Colombia. Lecturer at Pontificia Universidad Javeriana, Continuing Education, Cali, Colombia. Email: lfreteria@hileros.com ORCID: <https://orcid.org/0009-0004-2052-6912>

territory, despite having applied for it to the National Land Agency (ANT, *Agencia Nacional de Tierras*), several years earlier. The Nelson Mandela Community Council, in the municipality of Miraflores, obtained collective ownership of its territory on May 17, 2024. This event marks a historic milestone in the recognition and guarantee of the ethnic-territorial rights of Black Communities in this department of the Colombian Amazon region. This research analyzes the factors that made this ownership possible, explores the significance of this achievement for the community, identifies the good practices that facilitated the process, and points out the challenges faced by the Black Communities of Guaviare, to continue to gain ground in the collective ownership of their territories.

Keywords: Black Community, Collective Ownership, Ethnic Rights, Social Struggle.

RESUMEN

A más de treinta años de la promulgación de la Ley 70 de 1993, mediante la cual se reconocen los derechos étnico-territoriales de las Comunidades Negras en Colombia, entre ellos el derecho a la propiedad colectiva de sus territorios, aún existen comunidades en distintas regiones del país que no gozan efectivamente de este derecho, especialmente aquellas ubicadas fuera de la región Pacífica, como es el caso del departamento del Guaviare. Hasta 2023, ninguna Comunidad Negra en esta región contaba con el título colectivo de su territorio, a pesar de haber solicitado dicho trámite ante la Agencia Nacional de Tierras desde hacía varios años. El Consejo Comunitario Nelson Mandela, del municipio de Miraflores, logró la titulación colectiva de su territorio el 17 de mayo de 2024. Este hecho constituye un hito histórico en la garantía y reivindicación de los derechos étnico-territoriales de las Comunidades Negras que habitan en este departamento de la Amazonía colombiana. La presente investigación analiza los factores que hicieron posible esta titulación, explora el significado de este logro para la comunidad, identifica las buenas prácticas que facilitaron el proceso y señala los desafíos que enfrentan las Comunidades Negras del Guaviare para seguir avanzando en la titulación colectiva de sus territorios.

Palabras clave: comunidad negra, derecho étnico, lucha social, propiedad colectiva.

1. INTRODUCTION

The struggle of Colombia's Black communities in search of freedom and the recognition of their rights dates back to the 17th century, when several Afro-descendant women and men, under the leadership of Benkos Biohó, managed to escape from their slave owners in the city of Cartagena and settle in a territory they fought for with blood and fire against the Spanish crown, who, upon being unable to subdue them militarily, decided to grant said territory to them (Garcés, 2023d). This territory is known today as San Basilio de Palenque¹, the first free town in the Americas.

Until the 1991 Constitution, the Black Communities of Colombia had no legal instrument recognizing them as ethnic groups, much less guaranteeing their right to land, work, and a dignified life. The Constituent Assembly of 1821, which drafted the first Constitution of the Republic of Colombia, led by Simón Bolívar, Francisco de Paula Santander, and Antonio Nariño, did not rule on the abolition of slavery. Although this horrific practice was abolished thirty years later by Act 2 of May 21, 1851, it was the slave owners who were compensated by the state, while the Black Communities continued to drift, without land, without opportunities, and without the resources to support themselves economically. Therefore, they abandoned the populated areas where they lived and gradually became part of the social, cultural, and productive dynamics of the riverbanks, mainly in the Pacific and Caribbean regions. Although a new constituent assembly was organized in 1886, it did not grant any rights to the country's Black Communities either (Garcés, 2023d).

It was only with Transitory Article 55 of the 1991 Constitution that it became possible to recognize the ethnic-territorial rights of Black Communities in Colombia. This article ordered the Congress of the Republic to issue, within two years of the Constitution's enactment, an effective act recognizing the rights of Black Communities as an ethnic group, including the right to collective ownership of the

¹ San Basilio de Palenque is in the department of Bolívar, Colombia, near Cartagena. It was founded in the 17th century by enslaved Africans who escaped and established themselves in the territory. This Black Town has preserved its cultural identity, including its Palenque Creole language. In 2008, it was recognized by UNESCO as Intangible Cultural Heritage of Humanity.

territories they have historically inhabited. This constitutional order was implemented with the enactment of Act 70 of 1993.

This Act, in accordance with the provisions of Transitory Article 55 of the 1991 Constitution, shall apply both to the Black Communities that have ancestrally inhabited territories in the coastal areas of the Pacific Rim and to those that, through their traditional production practices, have exercised ownership over uncultivated lands outside this region. According to Act 70 of 1993, traditional production practices include “agriculture, mining, forestry, livestock, hunting, fishing, and gathering of natural products in general, which have been customarily used by Black Communities to ensure the conservation of life and self-sustainable development” (Article 2, Paragraph 7).

One of the most important achievements in the historic struggle of Colombia's Black Communities for the recognition of their rights as an ethnic group was the enactment of Act 70 of 1993. However, more than three decades after its entry into force, there are still communities in different regions of the country whose right to collective ownership has not been guaranteed by the State. This situation is the result of multiple factors, including the lack of political will on the part of governments on duty, the limited technical, operational, and financial capacity of the entities responsible for the collective ownership process, and the interests that political and economic power groups have in their territories (Reyes, 2019).

The Observatory of Ethnic and Farming Territories (OTEC, *Observatorio de Territorios Étnicos y Campesinos*) of the Javeriana University points out that, due to restrictive interpretations of Act 70 of 1993, of the constitutional regulatory framework, and because of a lack of knowledge of international agreements that impel the Colombian State to guarantee the rights of Black Communities, the institutions responsible for the collective ownership of their territories have limited the effective enjoyment this right. This has mainly affected communities located outside the Pacific region, as it has been interpreted that this Act only applies to those living within this macro-rim. This restrictive interpretation disregards the principle of equality granted to them by the national and international legal framework for the State to fully guarantee their right to collective ownership (OTEC, 2022a).

On the other hand, Hougaard (2022) states that in Colombia, racism, exclusion, and racial discrimination have been institutionalized practices that have long delayed the recognition of the rights of Black Communities, especially that of their collective ownership of the territories they have historically inhabited. This, together with the lack of technical, operational, and budgetary capacity of the National Land Agency (ANT), responsible for effectively guaranteeing this ethnic-territorial right, has been a major obstacle to the effective implementation of Act 70 of 1993.

According to Unfried (2022), collective landownership by Black Communities in the country has only made significant progress in the Pacific region, while in other regions this right has not been effectively guaranteed, mainly due to strong territorial pressures exerted by powerful economic and political groups. Said pressures cause governmental institutions to prioritize the implementation of mega-projects promoted by these hegemonic sectors rather than guaranteeing the rights of these communities.

As explained before, Black Communities in Colombia face multiple obstacles to effectively guaranteeing their right to the collective ownership of their territories. This reality has not been foreign to the Black Communities of Guaviare, since until 2023, none of them had collective ownership of their territory (ANT, 2025). However, the Nelson Mandela Community Council, in the municipality of Miraflores, managed to enforce this right on May 17, 2024. Therefore, this research revolved around the following question: What factors had an impact during the period between May 2022 and May 2024, when the Nelson Mandela Community Council in the municipality of Miraflores, Guaviare, achieved collective ownership for the Black Community?

In this paper we seek to raise awareness of the Black Communities living in the Colombian Amazon region, mainly those in the department of Guaviare, who have fought tirelessly for the Colombian State to effectively guarantee their ethnic-territorial rights. As a result of this struggle and as a concrete demonstration of the current government's political will to guarantee their right to collective ownership of their territories, five collective ownerships were granted to these communities in that department in 2024, including that of the Nelson Mandela Community Council. This event constitutes a

historic milestone in guaranteeing and vindicating the rights of the Black Communities living in this region of the Colombian Amazon, a territory traditionally conceived under the paradigm of being inhabited exclusively by Indigenous Communities. Similarly, this research seeks to contribute to the academic field, since, due to the recent occurrence of these events, scientific literature on the collective ownership of Black Communities in the department of Guaviare remains scarce.

2. METHODOLOGY

This study adopted a qualitative-descriptive design, employing an ethnographic approach and using research techniques and instruments such as participant observation, semi-structured interviews, and focus groups, to address the case of collective land ownership by the Nelson Mandela Community Council in the municipality of Miraflores, Guaviare. The application of the ethnographic² method was fundamental, as it allowed us to get closer to the social, environmental, and cultural reality in which the members of this community live, facilitating the exploration of aspects of their daily life, their traditional beliefs and practices, their socio-political organization, and their struggles for the recognition of their rights as an ethnic group.

The research process included field visits to the territory of the Nelson Mandela Community Council, which allowed for participant observations and the development of focus groups with community leaders and elders. Furthermore, semi-structured interviews were conducted with both community members and representatives of the Black Communities Process (PCN, *Proceso de Comunidades Negras*) and the Observatory of Ethnic and Farming Territories (OTEC) of Javeriana University.

² Ethnography is a qualitative research method that seeks to understand cultural practices, social behaviors, and interactions in specific contexts. Its application in studies with Afro-Colombian communities has become an essential tool for documenting their experiences, traditional practices, and struggles in vindicating their ethnic-territorial rights.

3. THEORETICAL FRAMEWORK

3.1. HISTORY OF THE TERRITORIAL POLICY OF BLACK COMMUNITIES IN COLOMBIA

Since their arrival on the American continent, to which they came after being dislodged, forcibly brought from Africa, and enslaved through the abominable transatlantic slave trade, Black people have fought tirelessly for their freedom and the conquest of their rights. In the specific case of those Africans who arrived in Colombia during the 17th and 18th centuries, it is important to mention that, from the outset, they began to challenge the colonial system that enslaved them and always resisted the inhumane conditions that had been imposed on them. This courage and bravery allowed them to constantly escape from their slave owners and begin to establish the Palenques [*settlements or palisades*] Cimarrones [*runaway slaves*], which were basically settlements of rebellious Black people who managed to flee the plantations in search of their freedom and their own territory, which they gradually gained thanks to consensus and agreements with the Spanish crown. The most emblematic case of this process of *cimarronaje* is San Basilio de Palenque. Over time, the *cimarronaje* continued to develop in different parts of the country, mainly in the Pacific coast region of Chocó (Garcés, 2023d).

According to Almario (2002), cited by Garcés (2023d), after the *cimarronaje* process, Black people remained enslaved, but as the process of manumission (regaining their freedom) progressed, they began to buy land, which they paid for with extra work. Manumission arose because of ruptures within the colonial system, which led to the loss of the order that had kept the slave system predominant in Colombia in the mid-18th and early 19th centuries. These events led to the emergence of a process known as ethno-genesis, through which Black people began to be considered a distinct ethnic social group, and new territorial spaces were created for them (Garcés, 2023d).

After the abolition of slavery in 1851, and already established in various regions of the country, mainly in the river rims of the Pacific and Caribbean regions, Black Communities faced serious territorial difficulties as a result of the legislation that was being developed in Colombia. Act 200 of 1936 decreed that rural properties that did not prove private ownership were vacant lands belonging to

the nation, many of which had been inhabited and used by these communities; however, under this act, they became the property of the State. Act 2 of 1959 declared the Pacific region, precisely where Black Communities had established themselves most strongly, a forest reserve area. Paradoxically, while this Act prohibited the collective or individual ownership of uncultivated land occupied by these communities, the State, by its legal powers, conducted successive instances of land grabbing totaling five million hectares, which were awarded as private property for the establishment of multiple mining and forestry companies, as well as for the creation of Indigenous Reserves, National Natural Parks, among other land use designations (Garcés, 2023d).

In addition, Act 135 of 1961 “On Agrarian Social Reform” promoted the colonization of the Colombian Pacific coast by families and companies that were individually awarded ownership to the nation’s vacant lands that had been inhabited by Black communities. Clearly, these laws limited the possibilities and conditions for these communities to establish themselves in the territory (Garcés, 2023d).

Faced with these difficulties and the lack of guarantees for their territorial development, beginning in the 1960s, Black Communities settled in the Pacific region began to organize with the aim of strengthening their presence for land, autonomy, and better development opportunities. This organizational strengthening, developed over more than thirty years, allowed them to collectively build a political agenda through which they consolidated the territorial demands of all Black Communities in the country. Even though these communities did not have a spokesperson to represent them, this agenda was negotiated in the 1991 National Constituent Assembly. However, thanks to the support of indigenous constituents Lorenzo Muelas and Francisco Rojas Birry, their demands were finally taken into consideration through the issuance of Transitory Article 55 (AT55) of the 1991 Constitution (Garcés, 2023d).

Currently, the territoriality policy of Black Communities is normatively framed by the provisions of AT55 of the 1991 Political Constitution. This Article allowed for the subsequent creation of Act 70 of 1993, “Whereby Transitory Article 55 of the Political Constitution is developed.”

After the arduous journey undertaken by the social movement of the Black People of Colombia to influence the 1991 Constitution, an achievement materialized in Transitory Article 55, which regulated Act 70 of 1993 and constitutes the main regulatory instrument of the territoriality policy of the country's Black Communities, the social organizations that participated in this legal victory from a more community-based approach, within the framework of the third national assembly of Black Communities, held in the municipality of Puerto Tejada, Cauca, in 1993, initiated the Black Communities Process (PCN) (Flórez, 2008). Throughout its history, the PCN, as a socio-territorial movement of the Black People of Colombia, has promoted the implementation of Afro-Colombian territoriality policy and the defense of their ethnic-territorial rights enshrined in Act 70 of 1993, managing and promoting processes of collective ownership of the territories they have historically inhabited in various regions of the country (Areiza, 2022).

Currently, the Black Communities Process (PCN) is a social organization that brings together more than 140 Afro-descendant associations in Colombia that work together to promote the recognition, guarantee, respect, and defense of their rights as an ethnic group. These rights are fundamental to their survival and to overcoming the conditions of injustice and social inequality that these communities have suffered throughout history (PCN, 2025).

3.2. ETHNIC-TERRITORIAL RIGHTS OF BLACK COMMUNITIES IN COLOMBIA

The United Nations (UN) International Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965, establishes in Article 2 that States must guarantee special protection to racial groups and develop the mechanisms necessary for their adequate social, economic, and cultural development, with the aim of guaranteeing equal conditions and the full enjoyment of their social freedoms and human rights, just like the rest of society (UN, 1965).

Furthermore, Convention 169 of the International Labor Organization (ILO), adopted in 1989, refers to the ethnic rights of Indigenous and Tribal Communities. These rights are related to the collective ownership of the territories they inhabit, the use of the natural resources present in said territories, the protection and preservation

of their ancestral knowledge, to their health, education, work, as well as to the right to self-determination, prior consultation, and non-discrimination and non-marginalization (ILO, 1989).

Article 2 of ILO Convention 169, ratified and adopted by Colombia through Act 21 of 1991, stipulates that governments have a responsibility to work with Indigenous and Tribal Communities to take the necessary actions to protect their rights and guarantee them equal conditions and opportunities with respect to the rest of the population. In addition, governments must promote these communities' economic, social, and cultural development, as well as protect their ethnic identity, customs, knowledge, and traditions. Furthermore, Article 14 states that the right to ownership of the lands that these communities have inhabited to carry out their traditional economic subsistence activities must be recognized (ILO, 1989). Through ruling T-955 of 2003, the Constitutional Court of Colombia equated the ethnic-territorial rights of Indigenous and Tribal Peoples established in Convention 169 to the rights of the country's Black Communities, recognizing them as a Tribal group.

The ethnic-territorial rights of Colombia's Black Communities are enshrined in Act 70 of 1993. These rights include the collective ownership of their territories, the administration, management, and conservation of the natural resources present in them, the protection of their cultural identity, the promotion of their socioeconomic development, as well as the right to non-racial discrimination, ethnic education, political participation, to have their own authorities, and to prior consultation on projects that may affect their lives, culture, or territories.

3.3. COLLECTIVE OWNERSHIP OF THE TERRITORIES OF BLACK COMMUNITIES IN COLOMBIA

Act 70 of 1993 recognizes the collective ownership of the territories historically inhabited by the country's Black Communities for the purpose of developing their traditional production practices. It also stipulates that collective ownership granted to these communities is non-leviable, with no statute of limitations, and inalienable (Article 7). Chapter III of this Act states that Black Communities must form Community Councils as a form of community administration with

legal status, and that, once formed, they may apply for collective ownership of their territory from the Colombian Institute of Agrarian Reform (INCORA), currently represented by the National Land Agency (ANT). Decree 1745 of 1995 regulates Chapter III of Act 70 of 1993 and establishes the procedure that Black Communities must follow to apply for collective ownership of their territories.

Although Act 70 of 1993 was created to guarantee the ethnic-territorial rights of Black Communities throughout the country, the collective ownership of their territories has mainly taken place in the Colombian Pacific region. Therefore, communities living in other geographical areas have received unequal land awarding, and the Colombian State has not made sufficient progress to guarantee this right, especially to those living in regions such as the Caribbean, the Middle Magdalena Valley, and the inter-Andean valleys, where Black Communities have been present since colonial times but where, unfortunately, they have not received the same legal and territorial recognition (Duarte & Castaño, 2020).

The collective ownership of Colombia's Black communities also faces competition for land and natural resources from agroindustrial, forestry, and mining companies who have interest over their territories. Through *legalized but ethically questionable* mechanisms, these companies have appropriated these territories, violating the right to collective ownership of Black people's lands established not only in the 1991 Constitution and Act 70 of 1993, but also in international treaties such as ILO Convention 169. These practices of illegitimate land appropriation have historically "been perpetrated by companies with foreign capital and interests, but with national figureheads, in collusion with government authorities at all three levels (municipal, departmental, and national), as well as the endorsement of environmental institutions and notary representatives" (Reyes, 2019, p. 359).

Despite all the limitations and challenges faced by Black Communities about collective ownership throughout its implementation, according to official information from the National Land Agency, as of April 16, 2025, 297 collective ownerships have been issued for these communities in different regions of the country, covering a total of 5,743,787 hectares (ANT, 2025).

As shown in Figure 1, the collective ownership of these communities has been developed mainly in the Pacific region. However, significant progress has been made in other areas of the country, including the Amazon region of the department of Guaviare, which currently has five Community Councils with certified ownership, three of which have been accompanied by the Black Communities Process (PCN) throughout the entire collective ownership process. These councils include the Nelson Mandela Community Council in the municipality of Miraflores.

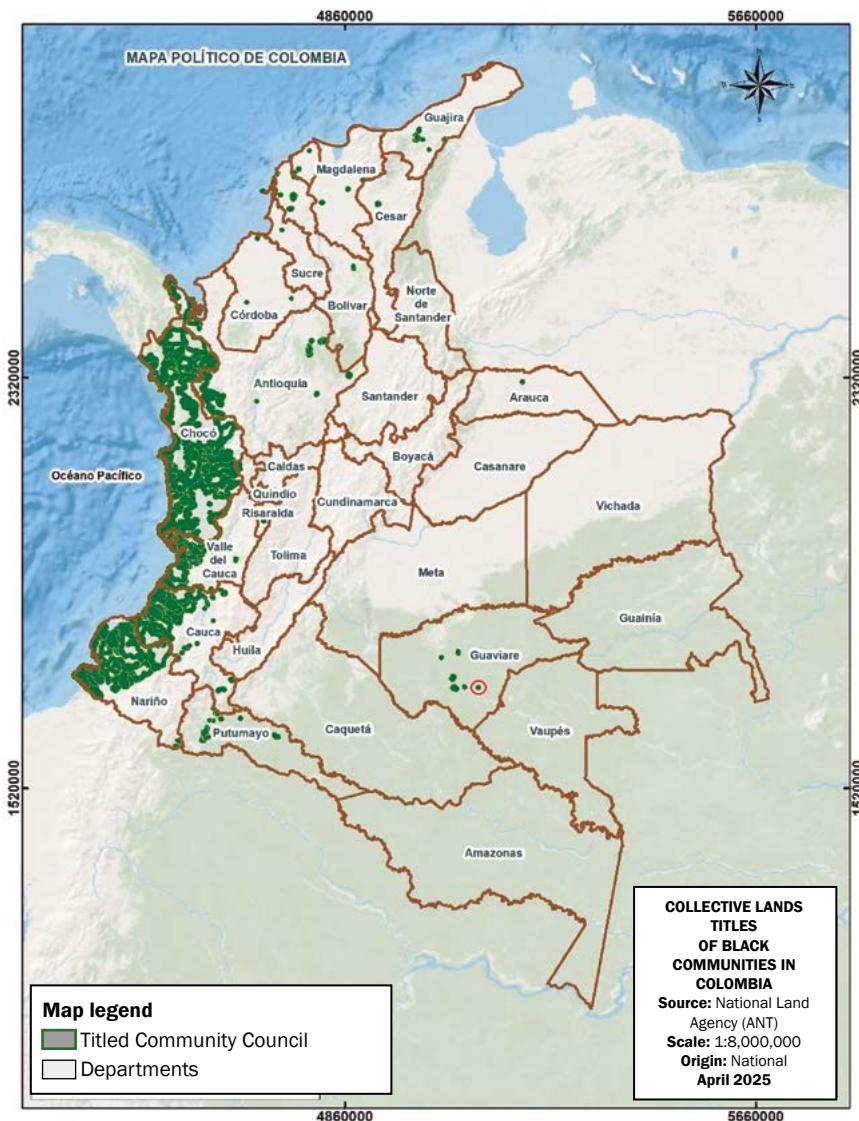
4. CHARACTERIZATION OF THE NELSON MANDELA COMMUNITY COUNCIL OF MIRAFLORES, GUAVIARE

The territory with collective ownership in favor of the Nelson Mandela Community Council is located in the department of Guaviare, in the municipality of Miraflores, specifically in the township of Buenos Aires³, as shown in Figure 2. This municipality is located southeast of the city of San José del Guaviare, on the northeastern bank of the Vaupés river. It borders the Department of Caquetá to the south, El Retorno municipality to the north, Calamar municipality to the west, and the Department of Vaupés to the east (Miraflores Municipal Mayor's Office, 2020). According to the National Administrative Department of Statistics, Guaviare has 73,081 inhabitants, 5007 of whom belong to the municipality of Miraflores (DANE, 2018).

The Black Community of the Nelson Mandela Community Council is comprised by 60 families totaling 115 people: 68 men and 47 women. The first members of this community arrived in the municipality of Miraflores in the 1930s, mainly from the Departments of Chocó and Cauca, in search of work and land. Since then, they have exercised land ownership through their traditional production practices, related especially to agriculture, small livestock farming, fishing, and hunting for subsistence (Corporación Agencia Afrocolombiana Hileros, 2023).

³ Municipal townships in Colombia are rural administrative entities that are part of the territorial structure of the municipality and play a fundamental role in community organization, local resource management, and representation of the population before municipal authorities.

Figure 1. Community Councils with Certified Ownership in Colombia

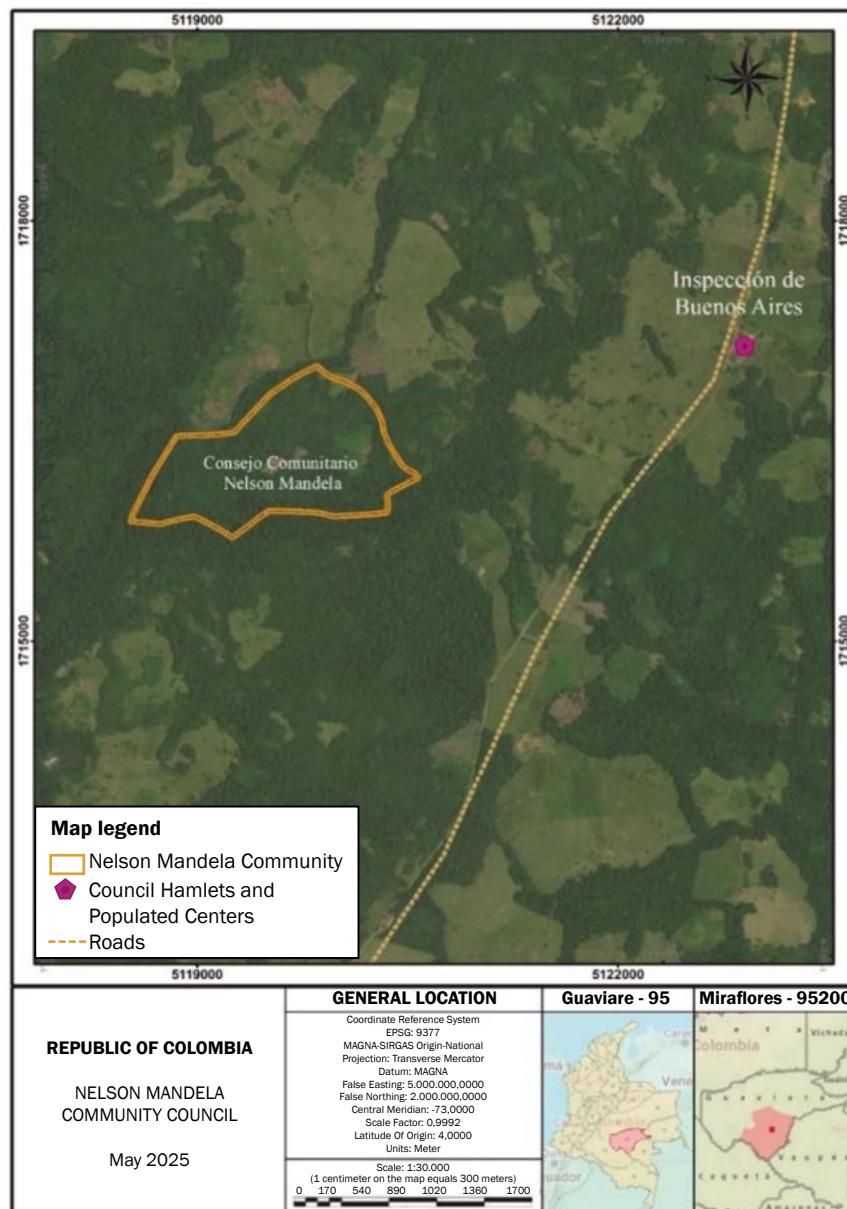


Note. The red circle indicates the territory with certified collective ownership awarded to the Nelson Mandela Community Council. It is worth noting that, although there are six areas in Guaviare with certified ownership, two of them correspond to the same community; therefore, both constitute a single collective ownership within the five existing in that department.

Source: own elaboration based on data from the ANT (2025).

ANÁLISIS JURÍDICO-POLÍTICO

Figure 2. General location of the Nelson Mandela Community Council



Source: own elaboration based on data from the ANT (2025).

Figure 3. Nelson Mandela Community Council Community



Source: Rentería Copete (2023), Miraflores, Guaviare.

The Nelson Mandela Community Council was established by members of the pro-organization committee of the Black or Afro-Colombian Communities of the municipality of Miraflores, Guaviare, on October 18, 2013. On July 15, 2021, they submitted a request for collective ownership of their territory to the National Land Agency. Finally, after completing all the administrative and legal procedures set forth in Decree 1745 of 1995, the ANT, through Resolution n.º 202451003163566 dated May 17, 2024, awarded the collective ownership of a tract of land measuring 137 hectares and 441 square meters, titled under the category of *Lands of the Black Community*, granted to the Nelson Mandela Community Council of Miraflores, Guaviare.

Although the collective ownership was awarded on May 17, 2024, the resolution thereof, issued by the National Land Agency, was delivered to the legal representative of this Community Council on October 18, 2024, during the *Global African Diaspora Summit in the*

Convention on Biological Diversity, presented within the framework of the COP 16, in the city of Cali. This event, as can be seen in Figure 4, was attended by the Vice President of Colombia, Ms. Francia Elena Márquez Mina, the Director of Ethnic Affairs of the ANT, Astolfo Aramburo Vivas, and Congresswoman Dorina Hernández Palomino, among other personalities.

Figure 4. Formal Recognition of the Collective Ownership Rights of the Nelson Mandela Community Council



Source: Rentería Copete (2024), Cali, Valle del Cauca.

5. RESULTS

The methodological development and application of the various research techniques and instruments implemented in this study made it possible to obtain the results presented below.

5.1. FACTORS THAT FAVORED THE FORMAL RECOGNITION OF THE COLLECTIVE OWNERSHIP RIGHTS OF THE NELSON MANDELA COMMUNITY COUNCIL

According to statements made by the leaders of the Nelson Mandela Community Council of Miraflores, Guaviare, various factors favored the formal recognition of the collective ownership rights to their territory. In this regard, Mr. José Valencia, legal representative of this Council, states that the leadership and tireless efforts of the Black Communities of the department of Guaviare to achieve visibility by the Colombian State in this region of the Colombian Amazon, paradigmatically conceived as a territory inhabited exclusively by Indigenous Communities, were decisive in achieving the collective ownership of their territory (J. Valencia, personal communication, 2024). Likewise, one of the organizations that played a crucial role throughout the ownership process was the Black Communities Process (PCN), as this social organization visited the Council's territory to train them in the regulatory framework that guarantees their rights as an ethnic group, as well as to support them in all matters related to the collective ownership process. Thus, they held community-building workshops that were essential for correctly submitting the ownership application, complying with all the requirements established in Decree 1745 of 1995, and thus obtaining the ANT's acceptance order.

The leaders of the Community Council also stated that the *Pastoral Social*, based in the city of San José del Guaviare, was another organization that supported this ownership process, as it played an important role in establishing bridges of dialogue and understanding with various actors in the region, both civic and political, as well as with the illegal armed actors who are present and exercise territorial control. The actions of the *Pastoral Social* made it possible, to a certain extent, for the technical team of the *Corporación Agencia Afrocolombiana Hileros [Hileros Afro-Colombian Agency Corporation]*, a non-profit entity affiliated with the PCN, to come to the region. The PCN currently has a memorandum of understanding with the National Land Agency (ANT) as a strategy to strengthen the technical, operational, and financial capacity of this institution. This memorandum aims to facilitate the processing of collective land ownership applications that the country's Black

Communities have submitted in various regions of the country. In this regard, the Afro-Colombian Agency Corporation Hileros - PCN was one of the key organizations involved in the formal recognition of the collective ownership rights of the Nelson Mandela Community Council, as its team of professionals conducted the technical visit to the territory and prepared the technical visit report. These actions are mandatory within the procedure for the formal recognition of ownership established in Decree 1745 of 1995, and their purpose is to geographically delimit the territory to be titled, specify its legal and environmental conditions, and compile ethno-historical, cultural, and socioeconomic information about the community (Article 22).

Similarly, this community considers that the current political situation in the country, in which a progressive government has demonstrated the political will to guarantee the rights of ethnic communities and, for the first time in Colombia's history, has a woman belonging to the Black Communities as vice president of the Republic, is undoubtedly a factor that favored the formal recognition of their collective ownership rights to their territory and allowed the Black Communities of a department historically excluded such as Guaviare, to finally be recognized and have their rights recognized by the State.

From the *Observatory of Ethnic and Farming Territories* (OTEC) at Javeriana University, Elías Helo, coordinator of the Geographic Information System component, asserts that the social struggles that Black communities have historically endured for the recognition of their territorial rights, especially those living outside the Colombian Pacific rim, have played a decisive role in achieving collective ownership of their territories, as in the case of the Nelson Mandela Community Council (E. Helo, personal communication, 2024). He states that the support provided by Hileros-PCN to Black Communities living in the Colombian Amazon, in terms of strengthening their organizational, social, and political capacity, has enabled them to advance toward the guarantee of their ethnic-territorial rights, which, until 2023, in the specific case of the Department of Guaviare, had only been guaranteed to Indigenous Communities.

On the other hand, he states that, although it is true that OTEC has provided technical support in the processes for the formal recognition of ownership by the Black Communities of Guaviare,

the collective ownership of the Nelson Mandela Community Council is undoubtedly the result of a political exercise that these communities have been developing with increasing strength, especially in recent years. Additionally, he ascertains that the institutional management and political will show by the current ANT administration has favored the collective ownership of Black Communities outside the Pacific rim, as was the case with the Nelson Mandela Community Council. Finally, he argues that, as a result of this new political approach adopted by this institution to guarantee the territorial rights of this ethnic group, the number of ownership applications submitted by communities living outside the Pacific rim has increased considerably.

Vladimir Angulo Cuero, an active member of the Black Communities Process (PCN) and general coordinator of the *Collective Ownership of Afro-descendant Lands and Territories in Colombia* project led by Hileros-PCN, asserts that a key factor that favored the formal recognition of ownership rights of the Nelson Mandela Community Council is the memorandum of understanding signed by that corporation with the ANT, through which, and by virtue of this project, it is possible to provide technical, operational, and financial support to the PCN to advance the collective ownership process for the country's Black Communities (V. Angulo, personal communication, 2024). This support is possible thanks to the funding that Hileros-PCN, through its leadership, has managed to secure via international cooperation with the *Tenure Facility* organization (International Land Tenure Fund), which seeks to guarantee the land tenure rights of ethnic communities through direct financing mechanisms and coordination processes with government entities.

Therefore, Mr. Angulo states that the memorandum of understanding has made it possible to overcome the economic, technical, and operational limitations of the ANT, which prevent the effective processing of collective ownership applications from these communities by this entity. This is a crucial element that made it possible to obtain collective ownership for this Community Council, since, according to Hougaard (2022) Reyes (2019) and Unfried (2022), one of the main obstacles to the collective ownership of Black Community territories in Colombia is directly related to the budgetary, technical, and operational limitations of the ANT in effectively processing their ownership applications.

5.2. GOOD PRACTICES THAT FACILITATED THE FORMAL RECOGNITION OF THE COLLECTIVE OWNERSHIP RIGHTS OF THE NELSON MANDELA COMMUNITY COUNCIL

Good practices were essential to achieving the collective ownership rights of the Nelson Mandela Community Council. The concept of good practices is related to all actions that promote management and the achievement of better organizational results, both in government entities and in international organizations, and civil society organizations (Osburn, *et al.*, 2011). Good practices are actions that enable the improvement of a process's results through positive changes in the traditional methods used to execute it. In this regard, they represent an effective tool for controlling public policies and contribute to improving their implementation (González, 2007).

Having conceptually defined good practices, it is necessary to mention that the implementation of the Afro-Colombian territoriality public policy, developed from the creation of Act 70 of 1993, has been the responsibility of several institutions. Firstly, Article 8 of this Act determines that the Colombian Institute of Agrarian Reform (INCORA) is responsible for awarding collective ownership of the territories of Black Communities. This entity was terminated in 2003, and its functions were taken over by the Colombian Institute of Rural Development (INCODER) until 2015, when it was also terminated. Finally, from 2016 to the present, the entity responsible for implementing Afro-Colombian territoriality policy is the National Land Agency (Garcés, 2023b). By the end of 2022, the ANT had records for 407 applications for collective ownership of Black Community territories, displaying the institutional backlog inherited from the two entities that preceded it and highlighting the State's limitations in effectively guaranteeing the right to collectively own their territories (Garcés, 2023c).

The good practices that facilitated the collective ownership process of the Nelson Mandela Community Council are related to a series of actions conducted within the framework of the memorandum of understanding signed between Hileros-PCN and the ANT, through which the project for the *Collective Ownership of Afro-descendant Lands and Territories in Colombia* has been implemented with the academic support of the Observatory of Ethnic and Farming Territories of

the Javeriana University. This coordination between social organizations, institutions, and academia has proven to be an effective strategy for promoting Afro-Colombian territoriality policy, as it has made it possible to effectively address the ANT's backlog in processing collective ownership applications from the country's Black Communities (OTEC, 2022a).

These good practices include the support that Hileros-PCN provided to the Nelson Mandela Community Council through workshops on socio-political, organizational, and legal strengthening. This support enabled the correct submission of the ownership application and compliance with all the requirements set out in Article 20 of Decree 1745 of 1995, thus avoiding the stagnation of the process. This good practice was key to achieving collective ownership for this Community Council, especially considering that of the 407 ownership applications that were backlogged in the ANT archives at the end of 2022, more than 50 % (213 in total) had not been processed by this institution because the information submitted was incomplete and, therefore, did not meet all the requirements necessary for the entity to issue the order accepting the application. Therefore, these processes had been stalled for at least four years (Garcés, 2020c).

Similarly, considering that the municipality of Miraflores, Guaviare, where the Nelson Mandela Community Council is located, is considered a region heavily affected by the country's armed conflict, where various illegal actors exercise territorial control, mainly the FARC-EP (Comisión de la Verdad, 2022), the fact that the technical visit to the territory was conducted by the Hileros-PCN technical team also represents a good practice that facilitated this ownership process. Thanks to its long history as a social movement, its national and international political recognition, and its vast experience in managing territorial dynamics in adverse security conditions, it was possible to build mechanisms for dialogue with different sectors with territorial influence, which allowed access to the territory to collect the information required for the ownership process. All in accordance with the provisions of Articles 22 and 23 of Decree 1745 of 1995, which refer, respectively, to the technical visit process and the technical visit report.

Considering the above, OTEC (2022) asserts that the collective ownership project led by Hileros - PCN made it possible to carry out technical studies in regions where institutions do not have the capacity, much less the security conditions, to do so. Therefore, this alliance between institutions and social organizations constitutes a totally "innovative factor for land problems in the country, as it allows the actions of institutions to have a technical-political counterpart that facilitates the territorialization of actions and the adequate interpretation of the context" (p. 23).

Another good practice that favored this recognition of ownership rights was the establishment of direct dialogue channels between the Hileros-PCN technical team and their counterparts at the ANT, which made it possible to review specific aspects of the case, make the necessary adjustments in a coordinated manner, speed up the review process of the technical visit report, and ensure its rapid referral to the Technical Commission. Speeding up this process was an important element in the procedure, as the ANT's response times to the ownership processes by Black Communities are generally excessively long. Cases have been identified in which ownership applications had been pending for more than 10 years without having been effectively processed by the ANT (OTEC, 2017).

5.3. THE SIGNIFICANCE OF COLLECTIVE LAND OWNERSHIP FOR THE NELSON MANDELA COMMUNITY COUNCIL

According to the Black Community of the Nelson Mandela Community Council of Miraflores, Guaviare, the achievement of collective ownership of their territory represents a great victory, obtained thanks to the historic efforts to obtain state recognition in this Amazonian territory, where historically state institutions had only guaranteed ethnic-territorial rights to Indigenous Communities.

Regarding the significance of the collective ownership of their territory, a leader of the Council stated the following:

The formal collective ownership means a lot to us, for our present generation and for future generations. It means paving a path that

we have longed for, so that our children can be educated in our territory, so that there can be peaceful coexistence, so that we can dream of a future with a tourist site for environmental conservation and for the survival of our community.

Likewise, we are dreaming big, we have big aspirations for our present and for future generations. Having many opportunities, now that we have the government of change, to take advantage of all those opportunities through this ownership; it has been a great strength for us, the communities of the department of Guaviare, because this has been a difficult-to-access area, an area that was forgotten. (Community leader, interview, 2024).

The collective ownership granted to the Nelson Mandela Community Council has allowed the community to feel much safer and more confident in facing the difficulties that arise in the territory. In this regard, they stated that this collective ownership symbolizes their pain and sacrifice: "Many years have been lost, and we have shed bitter tears. Achieving ownership has cost us lives and caused displacement. There has been a major conflict in this territory, where today we have raised our flags" (Community leader, focus group, 2024).

Finally, this community believes that obtaining collective land title ownership represents the possibility of accessing the social and economic development programs offered by the various state institutions present in the department of Guaviare. In fact, they state that, following the awarding of the ownership, which was carried out by senior national government officials within the framework of the COP 16 and was therefore an event with significant media coverage, various political leaders in the region and representatives of state institutions, both at the departmental and municipal levels, they have initiated dialogue with leaders of the Community Council to congratulate them on this great achievement. This has made it possible to establish direct channels of communication between the community and the institutions, through which, based on this new relationship, they intend to continue advancing in the recognition of their rights as an ethnic group. (Community leader, interview, 2024).

5.4. THE CHALLENGES FACING BLACK COMMUNITIES IN THE DEPARTMENT OF GUAVIARE IN CONTINUING TO ADVANCE WITH THE COLLECTIVE OWNERSHIP OF THEIR TERRITORIES

As described throughout this document, there are various obstacles that the Black Communities have faced in obtaining formal collective ownership in Colombia since the creation of Act 70 of 1993, especially in guaranteeing the right to collective ownership of their territories of communities located outside the Pacific region, as is the case in the Department of Guaviare.

Although 2024 represents a historic moment for the Black Communities of Guaviare, given that, after so many years of struggles, the Colombian state has finally guaranteed the right to collective ownership of their territories for five communities in this department, including the Nelson Mandela Community Council, it is still necessary to persist in claiming their rights and overcome the challenges faced by Black Communities in this region of the Colombian Amazon in order to continue advancing in the collective ownership of their territories.

One of the challenges is to overcome the narrow interpretation of the national and international legal framework with which the ANT has historically processed ownership applications from Black Communities located outside the Pacific rim. This phenomenon seems to reflect a “kind of ‘Pacific-centric’ bias in the interpretation of their territorial rights” (OTEC, 2012, p. 9). In this regard, the regressive legal interpretation used to analyze the robust regulatory framework developed with respect to the territorial rights of Black Communities, coupled with inefficient public management, “have become the main obstacles to guaranteeing the fundamental right of Black communities to their lands and territory” (OTEC, 2022b, p. 39).

Compliance with the Institutional Strategic Plan (PEI, *Plan Estratégico Institucional*) designed by the ANT as the main planning instrument, with which it intends to comply with the institutional commitments designated in the framework of the *Peace Agreement* and the *National Development Plan 2023-2026 - Colombia, World Power of Life*, also represents a major challenge in guaranteeing the Black Communities of the department of Guaviare the right to collective ownership of their territories, since, within the obligations acquired

for the effective implementation of the Comprehensive Rural Reform that is part of point one of the Agreement, the ANT has set itself the goal of delivering 1.5 million hectares through the Land Fund, of which 3.6 %, or 54,000 hectares, must be awarded to Black Communities through collective land title ownership processes. The deadline for meeting this goal is 2028 (ANT, 2023).

About the agreements within the National Development Plan, the ANT must coordinate the acquisition and allocation of land to guarantee the right of ethnic communities to collective ownership of their territories (ANT, 2023). This means that Colombia's Black Communities will not only be able to obtain collective ownership of their territories through the allocation of uncultivated national land, but also through the purchase of land. The effective fulfillment of this commitment expands the possibilities for Black Communities in the Department of Guaviare to continue to realize the right to collective ownership of their territories.

Similarly, the National Development Plan (PND, *Plan Nacional de Desarrollo*) poses a significant challenge regarding the opportunity for Black Communities in the Department of Guaviare to exercise their right to collective ownership of their territories. This plan establishes that the country's land use planning should be developed around water and environmental justice, with the aim of promoting the effective implementation of the Comprehensive Rural Reform and contributing to "protecting and conserving strategic ecosystems, cultural and archaeological heritage, and enabling comprehensive access to land for the population settled in rural areas, including ethnic territories" (Departamento Nacional de Planeación [DNP], 2023, p. 46). Likewise, the PND states that the legal uncertainty generated by the high percentage of informality in land tenure in the country has favored the processes of colonization and illegal appropriation of the nation's uncultivated lands. Therefore, this development plan paves the way for the Black Communities of Guaviare to continue advancing in the collective ownership of their territories, since, first, this department has great water wealth (Corporación para el Desarrollo Sostenible del Norte y el Oriente Amazónico [CDA], n. d.); secondly, it has a 39.75 % rate of informal land tenure (Unidad de Planificación de Planificación Rural Agropecuaria [UPRA], 2020); and thirdly, these communities have been victims of armed conflict (Comisión de la Verdad, 2022).

6. CONCLUSIONS

There are multiple obstacles that have limited the effective implementation of collective land title ownership for Black Communities in Colombia. Among these, it is worth highlighting the restrictive legal interpretation with which the ANT has approached the existing regulatory framework regarding the ethnic-territorial rights of these communities. Furthermore, the technical, operational, and budgetary limitations of this entity, the lack of political will on the part of successive governments to guarantee this right, and the interests of hegemonic power groups over their territories, exacerbate the existing issues.

Despite all the difficulties faced by Black communities in Colombia in guaranteeing their right to the collective ownership of their territories, as of April 16, 2025, the ANT had issued 297 collective land titles in different regions of the country, covering a total of 5,743,787 hectares.

In 2024, a historic milestone was achieved in the recognition of the ethnic-territorial rights of the Black Communities of the Department of Guaviare, since, during that year, the State guaranteed the formal collective ownership of their territories to five of these communities, including that of the Nelson Mandela Community Council of the municipality of Miraflores.

The collective land title of the Nelson Mandela Community Council of Miraflores, Guaviare, was achieved mainly thanks to the tireless efforts of this community to ensure that the State guarantees their rights. Likewise, a fundamental factor that made the collective land title ownership by this Black Community possible was the memorandum of understanding signed between the National Land Agency (ANT) and the Afro-Colombian Agency Corporation Hileros-PCN, which has the financial support of the *Tenure Facility* as an international cooperating partner, and the academic backing of the Observatory of Ethnic and Farming Territories (OTEC) of the Javeriana University. This memorandum established an effective integration strategy between institutions, the Black social movement, and academia, which made it possible to overcome the obstacles that have historically limited the implementation of formal collective ownership for these communities, especially those

located outside the Pacific region. Finally, the political will of the current government and the new institutional approach adopted by the ANT in favor of recognizing and guaranteeing the rights of ethnic communities were also decisive elements in this process.

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