

Historical trajectories and prospective scenarios for collective land tenure reforms in community forest areas in Colombia

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Introduction

Over the past 20 years, a variety of legal reforms have been carried out in Colombia that have changed the tenure structure over large forest areas, granting the collective recognition of use and management rights to traditional and local groups. Collective tenure in Colombia is now protected with the highest possible status, as it has been considered constitutional since 1991 (Sánchez et al. 1993). This defines collective tenure as a fundamental right of ethnic groups and recognizes that the survival of natives and Afro-Colombians largely depends on their close, inextricable relationship with the place in which they live (Wade 2006).

These changes have provided an opportunity for forest-dependent communities to secure their livelihoods and protect their territorial autonomy through sustainable management, but they have also posed major challenges at the community and country level regarding the effective management of appropriate regulatory frameworks for the existence and survival of this type of territory. In the Colombian Caribbean and Pacific, the territories discussed in this study (see Table 1), the process of implementation of collective land reforms in forest areas (forest ecosystems) has followed distinct trajectories shaped by multiple factors, including changes in legal frameworks, political contexts and local processes of organization and self-recognition as political subjects of different social groups.

Thus, in the four territories analyzed here, collective tenure is at different stages of recognition,¹ while some regions also show the consolidation of different types of tenure. In the Pacific, the Supreme Community Council of the Upper San Juan River (ASOCASAN) has full collective ownership of rainforests in their ancestrally occupied region, as provided for in Law 70 of 1993. In contrast, in the Caribbean, both in Montes de María and in Valledupar savannahs, collective ownership is only an expectation, an unfinished project in the attempt to find legal means of protection that ensure continuity in the territorial spaces produced by their own population dynamics. Finally, the indigenous communities of the San Juan River and Sierra Nevada seek to consolidate the progress made by the *resguardo* [reserve] concept and to continue the process of recovering their ancestral territories.

Collective tenure in Colombia seems to respond to parallel and opposite situations. In Pacific organizations, including ASOCASAN, ownership is no longer disputed, while the use and protection of land and natural resources are. This contrasts with Caribbean Afro-descendant regions, where there is no collective title or recognition of the existence of the community, or of the legitimacy of its collective tenure rights claim, in areas with patches of tropical dry forest (TDF),² one of the ecosystems with the highest priority for conservation in the world (Pizano and García 2014). This rejection or invisibility is due to the challenges facing collective tenure in regions like the Caribbean, where individual ownership is deeply rooted and land conflict persists after a history of unfinished agrarian reforms. Therefore, in the last 25 years of collective tenure history, the picture of territorial rights has been both progressive and regressive.

Since the 1991 Constitution, the Colombian State has adopted an affirmative action approach to benefit communities that have been historically marginalized by rural and urban development models

1 In Colombia, collective territories have been reserved, in legal discourse and in social research, for ethnic groups. However, in recent years, with the momentum of the Peace Agreement, other people in the rural world, including *campesinos*, have recently been included in the debate.

2 According to García et al. (2014), dry forests in Colombia used to cover an area of over 8 million hectares. There are now only about 720,000 hectares, including both continuous extensions and intervened forests. This is less than 8% of the original forest cover. The largest forest extensions were in the Caribbean (71%), followed by the Magdalena Valley (21%), the Cauca Valley (7%) and the Norandina and Catatumbo region (1%).

Table 1. Analyzed regions, tenure types and stages of the recognition process.

Territory	Organization – Region	Social subject	Type of tenure	Stage of the recognition process
Pacific	Supreme Community Council of the Upper San Juan River (ASOCASAN) – Chocó	Afro-descendants	Black communities' collective lands (Law 70 of 1993)	Full recognition as black communities' collective lands in 2001
	Emberá-Katío indigenous councils, Tarena <i>resguardo</i>	Emberá-Katío indigenous people	Indigenous <i>resguardo</i> (Law 160 of 1994)	
Caribbean	Tayrona indigenous confederation – Cesar	Arhuaco indigenous people	Indigenous <i>resguardo</i> (Decree 2164 of 1995)	Full recognition as an indigenous <i>resguardo</i> in 1983
	Community councils in rural areas in Valledupar – Cesar	Afro-descendants	Collective tenure without full recognition of ancestrally occupied areas	In process of collective titling since 2014
	Community councils in Montes de María – Bolívar	Afro-descendants, Zenu indigenous people and <i>campesino</i> communities	Collective and individual tenure without full recognition of ancestral occupation; and for <i>campesinos</i> , with high levels of informality in the types of tenure	In the case of Afro-descendants, collective titling processes since 2008

in this area. This, however, takes different shapes and forms of implementation in specific contexts at a local level. The State's affirmative action approach fosters visibility through the territorial policy for indigenous peoples and Afro-Colombian communities, especially by recognizing collective ownership rights over ancestral lands through the legal entity of the *resguardo* and of collective titles (Hoffmann 2001; Ulloa 2010). This is not new: in 1982, Fals Borda noted the importance of articulating these bottom-up local autonomy processes and promoting top-down national unity through land management and planning. The communities involved in this project insisted on the notion of territorial autonomy, which entails the protection of the territory not only as a physical space but also as a culturally represented territory, i.e. beyond legally registered property (Blomley 2005).

Considering the above aspects and in order to offer a comparative approach to the Colombian case, this document discusses the results of eight workshops held in the territories and regions concerned (see Table 1). The workshops were based on participatory prospective analysis (PPA) and brought together a variety of public stakeholders and community organizations. The PPA method helped identify shared elements associated with safeguarding collective ownership in Colombia. In addition, it shed new light on determining factors in each region and on their distinct implications in the places where they represent the main guiding forces in tenure systems, as these are situated in specific contexts and at different stages in the long recognition process that is the responsibility of the State for the protection of land rights.

To describe the findings of the analysis of land tenure security systems, this paper starts by discussing the concepts related to this field and then presents the four case studies, followed by an analysis of the results. Finally, it provides a set of public policy recommendations and conclusions.

1 The concept: gaps and opportunities

The development of the concept of land tenure security, and the establishment of paths for implementation, is one of the main efforts undertaken in public policy and international cooperation agencies in the countries of the Global South in the last two decades. However, this kind of policy has focused more on individual land ownership as a tool to promote farm investment, natural resource conservation and production process efficiency (Heltberg 2002; World Bank 2003). Less attention has been given to enhance the potential and advantages of collective ancestral land ownership, which can offer equal or higher levels of land tenure security (Bromley 2008; Ghebru and Lambrecht 2017; Peña et al. 2011).

In particular, the literature reviewed highlights the analysis of the determinants of land tenure security, including (i) the continuity of property rights without interference or imposition from outside, along with the possibility of deriving benefits from invested factors of production; (ii) the perceived possibility of losing land or part of it, or property rights or some of them, including the risk of expropriation or expulsion; and (iii) the uncertainty of changes in government policy and property rights. In this context, greater emphasis is given to the identification of economic and legal factors contributing to tenure security, such as individual titles, tenure duration and the ability to sell or to transfer land (Heltberg 2002; Durand-Lasserve and Selod 2009; Ubink et al. 2009; Arnot et al. 2011).

This general framework helps identify five key arguments, which are used below as an interpretive framework:

1. The concept of land tenure security reflects a tendency, both in academia and public institutions, to propose regulatory frameworks enhancing implementation as a driver and regulator of incentives to invest in rural property and overcome poverty (Maxwell and Wiebe 1998; de Souza 2004; Arnot et al. 2011). Little has been said about the factors or forces affecting tenure security (e.g. Linkow 2016; Ghebru and Lambrecht 2017).
2. This concern has led to an interesting variety of definitions of the concept, although most of them focus on legal or economic aspects (FAO 2009; Ubink et al. 2009; van Gelder 2010; Arnot et al. 2011), which prevents a broader use of the term in the public policy arena, particularly in the area of collective ownership. These aspects are increasingly being discussed, as the formalization of property rights and their representation in an individual title, ensuring the possibility to transfer rights, does not necessarily ensure an appropriate level of land tenure security or a sustained process of internal investment, natural resource protection, food security improvement or conflict reduction (Brasselle et al. 2002; Ubink et al. 2009; Arnot et al. 2011; Simbizi et al. 2014).
3. These definitions also focus on the principle of the defense of individual land tenure rights (e.g. FAO 2009; Simbizi et al. 2014), thus limiting consideration of collective ownership of ancestral lands and the advance of this type of claim to the State by Afro-descendant, *campesino* and indigenous communities.
4. Recently, a shift has been noted in public policy and international cooperation toward the need to better understand the different communal land tenure structures (Heltberg 2002; World Bank 2003; Larson and Dahal 2012). This change is associated with decentralization processes, which make it easier to see the benefits of transferring control over natural resources, including land, to local institutions, and with government recognition of communal tenure systems, which further increase the level of security for traditional rights (Knox and Meinzen-Dick 2001; Heltberg 2002).
5. Finally, there is extensive literature on land tenure security. In this area, two additional interesting elements can be identified: (i) although progress has been made in the development of this concept, it is not yet a consolidated paradigm, particularly due to the difficulty of applying it in different contexts of communal ownership in the Global South; and (ii) the evolution of the concept has focused on the analysis of individual land tenure security, while there is a more limited focus on the

recognition of land – beyond being considered a factor of production – as a central problem of the agrarian structure and its application to social dynamics oriented to collective property protection. However, there is an interesting approach to the agrarian structure from the systemic perspective in Colombia (García 1982; Machado 2002), which, despite being discussed in other contexts (e.g. Simbizi et al. 2014), has still not been used in Colombian public policy.

Therefore, taking into account the Colombian context, the concept of collective tenure security requires further work to reflect two relevant conditions: (i) the definition of those aspects that make it possible to consider the structure of communal land tenure and the relations that give it agency as a system, in addition to the aspects related to communal ownership; and (ii) the fact that the concept includes the combination of social relations that determine the property regime, tenure and land exploitation, but does not reflect the social relations that are intrinsically tied to land use, or even less, in our case, to forest use – relations that determine specific aspects such as the nature of local culture, the forms of land and forest use, and in general the particularities of socio-ecological relations that communities have constructed historically in a particular context and whose sustainability depends on the level of tenure security.

In other words, the concept needs to move from the limited, static consideration of land as a factor of production used by an individual owner toward the consideration of the relations on land itself, as the object and substance of socio-ecological relations, and over land.

For practical purposes, this paper defines a land tenure system as consisting of three sets of factors that are interrelated and evolve constantly in specific territorial contexts: (i) a set of stakeholders (individuals and organizations, public and private); (ii) a set of rules (constitutional and legal, formal and traditional); and (iii) a set of stakeholder relations associated with lands and resources (rights to land use and communal ownership rights). The specific identity of this system will depend on the forms of interaction of these sets of factors, the internal network of social and economic relations, the specific biophysical features of the forest ecosystem, and the sets of internal and external forces affecting change dynamics (FAO 2002; Heltberg 2002; Machado 2002; World Bank 2003; Ostrom and Hess 2007; Ubink et al. 2009; Velez 2011; Simbizi et al. 2014).

This paper provides an analysis of the perspective of the stakeholders involved in the aforementioned regional agrarian structures. The paper also discusses the set of endogenous and exogenous forces shaping the dynamics and characteristics of the collective land tenure system. This exercise contributes to a more inclusive, integrated understanding of collective land tenure security as an attribute emerging from the interactions among the components of the agrarian structure.

2 Case studies

2.1 Methodology and selection criteria

A prospective structural analysis approach (Godet 1995) was adopted to generate collective thinking in the territories selected and to identify the variables affecting the evolution process and future trajectories, along with the level of collective land tenure security and forest conservation. In each case, a methodological tool for PPA was applied (Bourgeois et al. 2017), while interviews were conducted with key members of community organizations, national and regional government officials, representatives from regional environmental corporations (CODECHOCÓ and CORPOCESAR), and scholars and official research institutes with influence in these regions.

The PPA tool played a key role and was developed in three stages. In the first stage, the concept of collective land tenure security was defined. Based on this definition, workshop participants identified the different variables affecting collective land tenure security and the links between these variables. The outcomes of this stage were processed with structural analysis software (Bourgeois et al. 2017), to identify the variables with the greatest influence in the system of communal land tenure. In the second stage, workshop participants defined the possible states of these variables (positive, negative and stable) and incompatibilities among these possible states. This stage also involved generating multiple combinations of the possible states of these variables. The results were used to design future scenarios for communal land tenure. In the final stage, the participants prepared an action plan with backcasting (Bourgeois et al. 2017) that could lead to the desired future scenario.

This exercise was done with four different sites. They included representatives of communities, in the Pacific, living in the upper basin of the San Juan River (ASOCASAN community councils and Emberá-Katío indigenous *resguardos*) and, in the Colombian Caribbean, the Tayrona Indigenous Confederation; community councils in Valledupar savannahs in the Department of Cesar; and indigenous, Afro-descendant and *campesino* communities involved in the Dialogue Roundtable of Montes de María. These communities show remarkable differences in their organizational schemes and in their status in terms of collective land titling.

The selection of cases and community representatives was agreed with each of the coordinating bodies of the local organizations mentioned above. The following criteria were considered for site selection: the current situation regarding the process of land tenure formalization, the organizational model, the governance system, the socio-ecological context, the importance of forests for community livelihoods and gender mainstreaming. More detailed information on these regional workshops can be found in the final reports (<https://www.cifor.org/gcs-tenure/publications/technical-reports/>).

2.2 Description of cases and nature of land tenure

2.2.1 Supreme Community Council of the Upper San Juan River (ASOCASAN)

ASOCASAN is a non-profit, ethnic-territorial Afro-descendant organization located in the jurisdiction of the Municipality of Tadó, in the Department of Chocó. It is composed by 22 local community councils (Alto Chato, Angostura, Betania, Bochoramá, Burbata, Campo Alegre, Chacuenta, El Carmelo, El Tabor, El Tapor, Gingaraba, Guarato, Pordo, La Esperanza, La Playita, Manungará, Mumbu, Pachito, Playa de Oro, Profundó, Unión and Yerrecuñ) and is home to 4,637 people in 1,460 families. Their work is aimed at the administration, use and defense of the territory, the promotion of community well-being from traditional practices, the appropriation of their ethnicity through

responsible autonomy and people's harmonious relationship with nature. This organization is renowned for its self-administration and self-regulation of natural resources, as well as for its capacity to maintain its autonomy, even during armed or socio-environmental conflicts.

Until 2001, the communities in this territory passed on land from generation to generation, with no title or formal document of the form of tenure. Black communities were acknowledged as an ethnic group in Colombia only with the 1991 Constitution (Constitución Política de Colombia de 1991). Then Resolution 2727 was issued in December 2001, granting people in the Alto San Juan the title to 54,517.16 hectares of collective land, an area covered by vast areas of tropical rainforest.

The community council is the highest administrative authority in the collective territory. It comprises a General Assembly, the highest authority; the Council Board, the body for the management, coordination, implementation and internal administration of the community; and a legal representative of the community holding the collective title. In addition to the above authorities, ASOCASAN is internally organized in Local Councils, which help in the management and administration of the territory at a local level (OTEC 2013). The Emberá-Katío indigenous people and their *resguardo* are also located in this region and participated in the same PPA process.

2.2.2 Arhuaco peoples of the Sierra Nevada de Santa Marta

The Arhuaco are one of the four indigenous peoples (along with the Kogi, Wiwa and Kankwamo) who live in the Sierra Nevada de Santa Marta. There are 45,000 Arhuaco members, distributed and organized in 53 communities represented in the Tayrona Indigenous Confederation (Confederación Indígena Tayrona, CIT), the highest organizational body. These communities live in *resguardos* legally constituted by Resolution 078/83 of the Colombian Institute of Agrarian Reform (Instituto Colombiano de Reforma Agraria, INCORA). The Arhuaco de la Sierra *resguardo* is located between the departments of Cesar and Magdalena, and covers an area of around 195,000 hectares.

Arhuaco people have successfully vindicated their right over 70,000 additional hectares. In 1996, for example, the Businchama *resguardo* was established under Resolution 032 in the Municipality of Pueblo Bello, Department of Cesar, with a total area of 2,098 hectares (INCORA 1983, 1996). However, the government institutions that are in charge of the process of incorporating the acquired areas have had delays that have led to a lack of legal security for these lands, and because of which they are still subject to natural resource extraction processes. It is worth noting that for the indigenous people of Sierra Nevada, the ancestral territory is vital not only for the survival of the peoples living there but for humankind in general. Therefore, the main interest of Arhuaco people is to ensure that this geographical space – both natural and cultural – is protected.

2.2.3 Community councils in Valledupar

The Colombian Caribbean, comprised of the departments of Atlántico, Bolívar, Cesar, Córdoba, La Guajira, Magdalena and Sucre, has a population of 1,346,241 Afro-descendants. These communities have traditionally lived in dry tropical forests, plains, savannahs and swamps along the Caribbean coast (DANE 2005). However, their territorial rights efforts have only achieved the recognition and titling of 3,430 hectares (OTEC 2016).

Although information on this for the Caribbean region is limited, existing data on the aspirations for territory from the Caribbean Community Councils Network and from a number of academic studies suggest that claims reach nearly 2 million hectares (OTEC 2016).

In the case of the nine community councils in Valledupar, 11,074 out of 13,074 people are currently advancing seven collective titling processes over 10,000 hectares covered by dry tropical forests, savannahs, and beaches. The nine community councils are Guacoche, Guacochito, Guaymaral, Badillo, El Perro, Los Venados, El Alto de la Vuelta, Valencia de Jesús and Caracolí (OTEC 2016).

In this case, savannahs and beaches belong to a state territorial *resguardo* that cannot be transferred. This means that they are Colombian State property and therefore cannot be titled as individual property. However, laws provide that such lands can be individually or collectively used, provided there is a regulation defining the conditions for use.

2.2.4 Community councils in Montes de María

The region of Montes de María is comprised of the municipalities of El Carmen de Bolívar, María La Baja, San Juan Nepomuceno, San Jacinto, Córdoba, El Guamo and Zambrano, in the Department of Bolívar; and the municipalities of Ovejas, Chalán, Coloso, Morroa, Los Palmitos, San Onofre, San Antonio de Palmito and Tolú Viejo, in the Department of Sucre. In this region, land tenure represents an emblematic case of indigenous (Zenu), *campesino* and Afro-Colombian communities' dispossession of land and water. In the last 10 years, Montes de María witnessed land re-concentration driven by massive land purchases by entrepreneurs for agro-industrial activities involving African oil palm, teak and ranching, among others (Ojeda et al. 2015). Since the late 1990s, this re-concentration process has generated a cycle of violence, displacement, dispossession, and emergence of new land owners, which reduces expectations for land and territorial rights devolution in the current legal framework of transitional justice (such as the Law of Victims and Land Devolution 1448 of 2009).

Furthermore, little progress has been made in terms of collective titling for Afro-descendants in Montes de María. Currently, in the Caribbean, there are four collective titles for about 4000 hectares, whereas some 90 communities are still waiting for the State to grant their title (OTEC 2016).

3 Outcomes

3.1 Local perceptions and definitions of collective land tenure security

As previously mentioned, in recent decades, the Colombian State has made considerable progress in the granting of rights and safeguards to indigenous and Afro-descendant groups over lands that mainly contain forest ecosystems, especially in the Pacific, Caribbean and Amazon regions. These territories represent approximately 29,868,271 hectares of forests, 48.8% of the total forest area in the country (Pizano et al. 2014). However, despite this recognition, land tenure insecurity generally continues to be a problem due to the concentration of ownership, social conflicts stemming from access to natural resources, the dynamics of dispossession generated by the armed conflict and by the interests of other stakeholders, the interest in the extraction of natural resources, and the lack of unified land registration systems, among others.

Direct consultations with the communities living in the regions analyzed also show that collective land tenure contributes to different uses of land, water and biodiversity, including fishing, small-scale mining and the use of plants and animals for fiber, food and medicines. These activities reflect a variety of forest relationships that require the building of different values, institutions (or sets of standards), social networks and common belief systems. These aspects have an impact on the creation of specific livelihoods and the levels of food, water and land tenure security.

Data collected in the workshops show that, in general, all communities are involved in a constant struggle to obtain the recognition of their ancestral domain over land. This is due to the fact that tenure security is seen as an emerging property of the collective work that helps communities safeguard their livelihoods and permanently ensure their right to manage and use the resources in their territory on a continuing, sustainable and autonomous basis, without impositions and with public agencies' full recognition. In light of the above, based on the four cases analyzed, five elements can be identified that confer security over collective land: (i) the preservation of cultural practices; (ii) autonomy and self-government; (iii) sustainable resource management; (iv) control over extraction projects; and (v) the existence of public policies consistent with local contexts (see Table 2). Notably, although the search for title, or legal security where titling already exists, appears in all four cases, it is not considered an adequate variable to ensure collective land tenure security.

3.2 Definition of common aspects by type of force

The regional workshops helped identify the combination of variables capable of transforming the system and determining its trajectory. These variables do not act independently; rather, their effect can be increased or mitigated by the influence of other variables in the system. The analysis in this section focuses on six variables or driving forces, i.e. variables with a stronger influence and dependence associated with the system that appear in the four cases analyzed. In order to facilitate participants' understanding during the workshops, the variables were referred to as 'forces'. The six forces were legal security, public policy, political will, extractivist dynamics, culture and territorial autonomy.

3.2.1 Legal security

Afro-descendants, *campesinos* and indigenous peoples agree on the need to ensure the recognition and strengthening of their collective land rights. This consensus also reflects a generalized perception of instability concerning the legal security of land, given the constraints of other forces present in the territory.

Table 2. Definitions of the concept of security of collective land tenure.

Collective territory	Definition
ASOCASAN	Sustainable management of the natural resources and services provided by the forest in the collective territory, to ensure inhabitants' well-being and preserve cultural practices.
Arhuaco de la Sierra <i>resguardo</i>	To perpetually recover, protect and preserve the natural and spiritual conditions in the codes of the law of origin to accomplish the mission of overall preservation of life.
Valledupar savannahs	A condition that provides legal security of land ownership for use and exploitation and over the services provided by existing ecosystems in the ancestral commons.
Montes de María	The condition that allows for land use and exploitation, through the recognition of autonomy, sustainable natural resource use, organizational strengthening and cultural recognition.

Source: Regional participatory prospective analysis workshops (2017).

In the cases of ASOCASAN and CIT in Sierra Nevada, legal security is not a great matter of concern in itself, but its consolidation is, as other forces, such as imposed development policies, forced displacement and violence, continue to impede the achievement of higher levels of collective land tenure security. These forces directly affect governance in the territory and destabilize governance structures for natural resources, including forests. In Montes de María and Valledupar savannahs, however, legal security is understood as a process for the transparent and active application of existing legal tools, to enable and ensure collective land tenure rights, which conflicts with the economic interests promoted by the palm industry, extensive animal husbandry and forest plantations.

However, in all the cases under study, there is a sense of legal insecurity derived from the difficulty to obtain recognition of their ancestral ownership, the existence of titles without full recognition and the situations that lead to disputes over borders, land use and other natural resources. In all cases, violence, displacement, youth migration to cities and uncertainty due to changing public policies increase the perception of legal insecurity over tenure rights.

Therefore, although legal security appears to be a key factor to fully ensure rights, individual/collective titles are not enough to ensure an appropriate level of land tenure security, or a sustained investment process, natural resource protection, food security improvement or conflict reduction.

3.2.2 Public policy

In this section, public policy refers to a set of State-defined instruments for the resolution of different problems and disputes between the stakeholders that should be discussed, planned and executed with the participation of the affected groups (Susskind 2006; de Leon and Vogenbeck 2007; Arroyave 2011).

The analysis of this force reflects a structural problem in Colombia, related to the important gap between the process of design and implementation of public policies and the regional context in which the agrarian structure develops. Communities agree that the actions adopted by national and regional governments through their public policies and programs do not consistently address their demands and that the policies are not developed in a participatory way, as they fail to reflect the characteristics of the regional context of each agrarian structure and only partially address the way forces act individually and together in the collective land tenure security system.

Consequently, even though public policies are seen as a key tool to ensure land tenure security, problems have been found in the studied regions in relation to their design and implementation. As regards public policy design, the analysis of the cases highlights three aspects. The first refers to the public policy design process, particularly for rural development, including national land policy, which has been characterized by constraints to community participation. Although the national planning

system provides opportunities for participation, such as territorial planning councils at the municipal level provided for by Law 152, public policy design is still centralized across government levels. The second aspect refers to a lack of integration in public policy, since land policy target groups need to take additional actions in different entities and government levels to obtain services that complement the production and well-being of their families. Finally, it is worth noting the extremely limited scope of public policies as instruments to consolidate collective land tenure security, while at the same time helping to redirect regional agrarian structures.

From the authors' perspective, two aspects of public policy implementation were highlighted in the results of the workshops. The first one refers to a lack of coordination in the implementation stage. An example is the promotion of agro-industrial activities in Montes de María and Valledupar savannahs and macro-projects and services like tourism in Sierra Nevada and San Juan River, under national and regional policies that do not consider the externalities of these economic dynamics, such as deforestation and pressure from foreign actors, which have a detrimental impact on collective land tenure security. The second aspect refers to the State's failure to ensure the implementation and endorsement of public policies. This is one of the reasons why, although collective tenure is secured, deforestation continues in the regions of San Juan River and Sierra Nevada, significantly affecting the livelihoods of the population and hence the levels of collective tenure security.

All of this stops public policies from acting as generators and regulators of land tenure security, particularly their role in ensuring the necessary incentives to invest in rural property to overcome poverty. In light of the above, four significant points can be identified in the cases studied: (i) since active community participation is not allowed in the design stage, public policies ignore the nature of the context and the perception of local communities in relation to key issues, such as development and well-being; (ii) this difficulty conflicts with local proposals promoted by the communities through their ethno-development and life plans; (iii) the foregoing affects the forms of use and governance of the territory where collective tenure is making progress, including in San Juan River and Sierra Nevada, while hindering implementation in regions such as Montes de María and Valledupar savannahs; (iv) the analysis of this force also suggests complementarity between policies, the level of consistency and the relationship between policies and development programs led by different political and administrative government levels.

3.2.3 Political will

This force refers to the degree to which government institutions recognize communities' organizational schemes and self-government, integrate these into the implementation process for land and other complementary policies, and acknowledge them in the political-administrative dynamics of the territory. Consequently, it addresses the different forms of relationship between stakeholders and the manner in which these relationships help or hinder the achievement of higher collective land tenure security levels. The recognition of the organizational and political structure of community councils and indigenous *resguardos* is an important force that acts as a means to advance the strengthening of collective land tenure.

This force is targeted from different perspectives in the four regions analyzed. In Valledupar savannahs, it is understood as the level of recognition by public and private institutions of the authority and self-government exercised by the community council. In Montes de María, it is regarded as the level of coordination between the community council and other public and private institutions, to contribute to the enforceability of rights and to ensure collective land tenure. In these two cases, collective land tenure is an ongoing process; thus, the recognition of the organizations and their role in the implementation process is essential to ensure strengthening.

In the case of San Juan River, it refers to the degree of recognition by public institutions of the political and administrative structure of the collective territory. Finally, in Sierra Nevada, it is understood as self-government recognition. As already mentioned, in these cases collective land tenure has reached higher

levels than in previous cases. However, community councils not only negotiate the improvement of the articulation with public institutions for a better implementation of public policies but also seek to attain stronger capacities and the allocation of new functions to regulate the use of land and resources. In this sense, Afro-descendant and indigenous communities agree on the need to strengthen the forms of self-government and their role in the structure of governance of their territory and natural resources.

It should be noted that, although not evident in the forces identified, the role played by patronage and corruption was considered in all cases as informal institutional phenomena that negatively affect the decision-making process and resource management for the consolidation of collective land tenure.

3.2.4 Extractivist dynamics

In the regions concerned, the dynamics of natural resource extraction, the changes in land use and water management were regarded as activities that significantly degrade the forest ecosystems that people's food security and livelihoods largely rely on. As a consequence, collective land tenure security levels are also affected.

In these regions, mineral extraction was identified: in particular, the extraction of gold and building materials, along with the development of monocultures, such as African oil palm, teak, extensive ranching, tourism projects and infrastructure macro-projects. Yet, the level of impact of these dynamics on the security of collective tenure varies across regions.

In the case of gold mining, the highest level of impact is observed in the San Juan River area. However, Afro-descendant communities differentiate between small-scale mining, which is controlled by local institutions and represents a higher level of impact on the forest ecosystem, from illegal mining, which is carried out with heavy machinery and which has developed ties with armed groups, who, in turn, have an influence on the dynamics of violence in these territories.

The regions of Montes de María and Valledupar savannahs, for their part, are considerably affected by the growth of agro-industrial activities and extensive ranching. In both cases, these activities have increased, with the consequent impact on tropical dry forest ecosystems, generated by changes in land use, the application of agrochemicals and pollution. More importantly, and in parallel, these dynamics have encouraged a new cycle of land concentration, which is stimulated by public agricultural policies that promote permanent crops and the introduction of new economic actors in the regions.

In addition, the process of forest transformation, generated by deforestation and changes in land use, fosters the transformation of the water security regime of the inhabitants in the territories analyzed. This aggregate effect is observed in the increased difficulty of obtaining sufficient water, in volume and quality, which has negative impacts on the livelihoods and food security of the population. This is further aggravated by the impact of climate variability and difficulties in adjusting to this type of transformation.

Lastly, in all four regions, the dynamics of natural resource extraction mentioned enter into direct conflict with the traditional ecological knowledge of local communities. The extraction activities undermine this knowledge, thus degrading forest ecosystems and food security and affecting the security level of collective land tenure. This emphasizes the need to reconsider the value of land: rather than being a factor of production or an economic asset, lands have other cultural and symbolic values that lead to their protection.

As a consequence, all the activities related to the extraction of natural resources affect the security of collective land tenure directly or through its relationship with other forces. Likewise, these forces are the reflection of increasingly visible conflicts that act as a barrier to the development of peaceful forms of access to and distribution of land. The cases of Montes de María, Valledupar savannahs and San Juan River provide insight into how the configuration of these conflicting dynamics involves old

practices marked by the exclusion of local populations in terms of natural resource management and use (CNMH 2017). Moreover, conflicts that originate in or are aggravated by the action of these forces, can be interpreted as ecological-distributive disputes between local stakeholders (resource-dependent users), actors that intermediate extraction, consumers, and State actors that, with more or less information, try to regulate the use of one or more resources (OTEC 2013; Dietz and Losada 2014).

3.2.5 Culture

Culture plays a key role in the security system of collective land tenure. For Afro-descendant, *campesino* and indigenous communities, culture has a social role, through which individuals can express their behavioral rules, claim their rights, affirm their identity and preserve their knowledge, traditions and history.

In San Juan River, this force is seen as the cultural strength of Afro-descendants and indigenous peoples that emerges from the sense of belonging to the territory. In the case of Sierra Nevada, this is understood as the set of rules contained in the law of origin that emerges from individual thinking and that makes the sustainability and integration of the territory possible in the future. In Montes de María, these aspects are seen through the concept of culture, which is understood as intangible manifestations that support everyday activities and that have emerged from the process of historical appropriation of the territory. Finally, in the case of Valledupar savannahs, culture is addressed from the sense of belonging that reflects the degree of social organization and connection of inhabitants with the territory. In all cases, these aspects reflect the communities' attachment to the territory and the importance of natural resource protection. Accordingly, they demonstrate the role played by cultural diversity, which, together with forest biological diversity, determines the survival of these social groups.

In light of the analysis of findings, and from the authors' perspective, the points above suggest two additional elements. The first highlights the role of cultural diversity as a force reflecting the links between the communities and the forest on which they depend. This mechanism is part of a body of knowledge and of the traditional practices that have allowed communities to develop better management of existing natural resources in the territory and to generate specific livelihoods as a result. The second refers to the set of institutions, or rules, that are channeled through culture and that allow each community to define the territory and how to act on it. The territory, in this case, is nothing other than the expression of the culture of Afro-descendants, *campesinos* and indigenous peoples who have a spiritual, cultural, social and economic relationship with their traditional lands. Traditional laws, customs and practices reflect both a bond with the land and a responsibility to preserve forests for use by future generations. These two aspects have been made completely invisible by State bodies in the land formalization and titling processes.

Finally, it is important to note that this force operates in two directions, as the State also produces cultural difference. Restrepo (2013) discusses this phenomenon in terms of invisibility regimes. Thus, narrow and often anachronistic definitions of identity – and what is left outside the imaginary of ethnicity – constitute the main source of ethnization processes in the Caribbean (Herrera 2016). Therefore, the sense of belonging is defined by the constant tension of a homogeneous and static repertoire of meanings (i.e. as imagined and required by the State) or, in contrast, of culture as a dyad between stability and persistence, movement and transformation (Giménez 2005).

3.2.6 Autonomy

In all four case studies, autonomy is seen as the result of the collective action of indigenous, *campesino* and Afro-descendant organizations that seek to establish new links with the State, not only in order to improve the decision-making process to manage natural resources and enhance the organizational structure, but also to create new participatory and management forums. According to the communities consulted, autonomy refers to the capacity of free and independent decision making for their life plans.

This was clear in Montes de María and Sierra Nevada, where autonomy implies effectively engaging in the political agenda. Furthermore, in ASOCASAN, this action is reflected in the constant work on ethno-development plans, where being autonomous means developing and maintaining land-use planning tools that are fully acknowledged by the State. In Valledupar, this is clear in the governance variable, where autonomy represents the organizational capacity to develop rules, processes and structures through which decisions can be made in relation to land access and use.

The way this force boosts the decision-making process and implementation in a participatory manner, and the ways these diverging interests are directed toward the community's economic and social development, including the different rules that are developed by communities in this process, underscore the close relationship between autonomy levels and governance structures. This aspect is reflected in the capacity to create rules for territory management and to independently define the direction of its development.

Along the same lines, autonomy in all cases results from joint efforts, constituting a strengthened organization that pursues common objectives, although these objectives are not always well defined, or are re-defined as the organization's collective action changes. It is an autonomous organization when it is governed by rules and operational mechanisms and when, in order to achieve its objectives, it interacts with private and public institutions and other collective stakeholders without fully depending on the interests and decisions of external actors. Higher levels of autonomy, therefore, will affect the possibility of achieving higher collective land tenure security levels.

Finally, the idea of autonomy also goes hand in hand with the demand to democratize local power structures in indigenous and Afro-descendant communities. Autonomy building represents the community's recovery of sovereignty over ancestral lands through the recreation of collective forms of participation in selective processes, assemblies, councils and committees, based on the renewal of the organizational structure.

3.3 Definition of common aspects by type of scenario

The establishment of scenarios for the four regions studied helped identify existing and potential, both positive and negative, trajectories for each regional land tenure structure. During the establishment of scenarios, intermediate stages and different trends in land-use planning were identified and should be considered in this process, since the resulting complementary actions help maintain a constant direction toward the strengthening of collective land tenure (<https://www.cifor.org/gcs-tenure/publications/technical-reports/>). In light of the above, this section outlines the common elements identified by the communities in the three main scenarios: positive scenario, stable scenario and negative scenario.

3.3.1 Positive scenario

The positive scenario reflects the communities' worldview, their ideals, their links with nature and their own vision of the future and the means to achieve it. In this scenario, the interests of private and public stakeholders affecting collective land tenure security merge toward a reclaimed territory, with the full recognition of community rights in terms of access to and use of collective land and natural resources, while land-use planning is conducted autonomously and guided by their own institutions, determining who can have access to the resources in the territory and how these should be used.

In addition, different government levels recognize local organizational structures, and there is a harmonious relationship between them. In this scenario, the State is communicative, it participates in a concerted manner in local governance structures, and it engages local actors in the public policy design and implementation process. From the point of view of rights recognition, socio-ecological forest-based relationships will benefit the most, as communities can focus their actions on more sustainable forms of natural resource use and conservation through the structures that govern and plan the territory.

This scenario reflects a future with high collective land tenure security levels. This is reflected in the strengthening of people's livelihoods, which advances with the conservation of resources and ecosystem services provided by the forest, based on the reduction of threats to biodiversity and cultural diversity. To reach these levels, communities have strengthened governance structures reflecting the idiosyncrasies of self-government and their levels of autonomy, as well as the management of incentives for forest conservation and different forms of use before national and international bodies, which allow people to diversify their incomes and reduce dependence on activities such as mining and sale of timber.

Furthermore, in this scenario, it is worth noting the potential intermediate stages that relate to the need to overcome structural barriers, including external factors such as climate change and other phenomena, or internal aspects, such as poverty and marginality in the communities studied.

3.3.2 Stable scenario

In this scenario, there is a consolidated process of indigenous *resguardos* and a strengthening of *campesino* organizations and community councils in Afro-descendant communities. Even when progress needs to be made in aspects such as regulating Law 70, ensuring better levels of financial and human resources to consolidate indigenous *resguardos*, improving prior consultation mechanisms, speeding up administrative processes for land legalization and purchases, and expanding opportunities for rural organizations' access to collective lands, there is a trend in this scenario toward the enhancement of collective land tenure security.

In all four cases, collective action was found to be essential to maintain and improve collective rights to land and natural resource use. In fact, collective action of indigenous and Afro-descendant peoples focused on reaffirming the rights to access and use lands and forests, which represents an opportunity for the system to show a positive trajectory in the future. Collective work helps communities more firmly address inconsistencies between national policies, regional structures of political and economic power, and the guidelines proposed at the local level. These inconsistencies hamper the development of public initiatives for the provision of support services to rural organizations and the improvement of people's well-being. In turn, this increases marginality levels and affects people's capacity to continue the process of managing and consolidating collective ownership.

Similarly, this scenario shows continued illegal natural resource harvesting and the advance of macro-projects fostered by the national development model, which affect traditional land uses, territorial integrity and connectivity, and forest ecosystem structure and roles. These dynamics are a major factor in collective land tenure insecurity, as the fragility of forest-based livelihoods is deeply affected by these external forces.

However, Peace Agreements between the national government and the Revolutionary Armed Forces of Colombia (FARC), as well as the weakening of the actions carried out by paramilitary groups, have been essential to improving communities' stability and levels of governance and governability within their territories. However, youth migration to urban centers still occurs, which represents a major threat to the future sustainability of collective ownership. In addition, this scenario may contribute to the strengthening of forces like agro-industry and development macro-projects, with the emergence of new actors in territories such as Montes de María and Valledupar savannahs.

Although the prevailing trend observed suggests improved levels of collective land tenure security, the above also suggests that, depending on the country's political and economic context, the evolution of this scenario may lead to a variety of intermediate stages. For example, collective ownership may be strengthened in Sierra Nevada and San Juan River, but it may also decline with the growth of individual ownership in Montes de María and Valledupar savannahs. Another potential intermediate stage is a trajectory in which the State contributes to the consolidation of collective ownership but influences

and conditions the development of the levels of autonomy, self-government and ancestral laws that guide land use and planning. From this perspective, titling is a key instrument for collective land tenure security. However, it does not necessarily safeguard forest ecosystem conservation and protection.

3.3.3 Negative scenario

In this scenario, the State is completely disconnected from local dynamics. There is no communication or recognition of peoples' internal rules, such as the law of origin in Sierra Nevada, and organizational processes and community initiatives are stalled, which undermines communities' self-government and autonomy. The development of agro-industry and mega-projects and the loss of sense of belonging to the territory weaken community-forest relations, undermine traditional ecological knowledge and hinder the development of food security initiatives, thus destabilizing people's livelihoods. The main identified threats are the changes that appear in collective tenure legislation and regulations that may restrict land and forest use or hinder titling petitions and challenge the continuity or consolidation of the establishment of new collective tenure areas. In this scenario, community rights are contingent upon government's will and upon the influence of patronage, which, together with the lack of community-led processes of land-use planning, leads to greater conflict at community levels and increased natural resource exploitation, including deforestation and illegal mining. This can expand in this context due to low levels of monitoring and control. As a result, migration to cities increases, the population ages and the rural population declines.

In addition, there is an intermediate stage for the Zones of Interest for Economic and Social Rural Development (ZIDRE), which are promoted by a bill that builds upon the entities established in Law 160 of 1994 and would help consolidate agro-industry and the services subsector in the studied regions, not fully considering the impact on society and forest ecosystems.

4 Public policy recommendations

Overall, the main problems associated with the need to transform the agrarian structure in Colombia include the concentration of rural property in the hands of only a few, the informality of property titles and the State's limited capacity to assess the size of public lands in detail and to control their occupation (PNUD 2011; Machado 2012; Perfetti and Saavedra 2017). Although technical and financial efforts have been important, agrarian reform attempts, even the most recent initiatives related to ownership expiration (*extinción de dominio*), have had very limited results, so the handover of land to the rural population has been channeled mainly through government allocation of untitled 'wastelands' (*baldíos de la nación*). Government initiatives to promote change in the agrarian structure through public policy have not been sustained in the country (Herrera 2017; Velasquez 2017).

These aspects are part of the general context in which indigenous, *campesino* and Afro-descendant communities live and continue making efforts to consolidate land tenure security and which shapes the development of the different forces identified in the analyzed cases. These, combined with internal forces from the regional contexts, lead to potential future scenarios.

Based on the context and dynamics of Colombian public policy on land tenure security, and considering the results obtained in the four case studies, the following public policy recommendations emerge:

1. The concept: there is a need to promote a clearer consensus on the concept of collective land tenure, to enhance the understanding of the forces that determine an appropriate level of security and to promote analysis from a systems perspective. This consensus is important to more clearly foster the development of differentiated public policies to address the emphasis on individual rights and to create a stronger approach, in instrumental terms, to collective land tenure. This reconceptualization proposal needs to consider the heterogeneity of tenure forms, the dynamics of each region associated with the legal figures for collective land tenure and the specific ecosystem conditions of the regional agrarian structures developing in the country.
2. Regional differentiation: there is a need to design differentiated policies associated with regional heterogeneity and the sociocultural and biophysical dimensions intrinsically related to regional agrarian structures. This will contribute to a more transparent approach for both decision makers and indigenous, Afro-descendant and *campesino* communities.
3. Decentralization: for local communities, it is important to further the decentralization process in order to facilitate interaction between the above aspects through more inclusive decision-making processes, with the active participation of local stakeholders and the recognition of the political-administrative potential of regional social organizations.
4. Institutions: progress is needed on improving coordination within the public institutional structure to address (i) the influence of macro variables that could not otherwise be addressed efficiently by local communities, for example, the issue of climate change and market access; (ii) the treatment of new dynamics directly affecting collective land tenure, such as the appropriate development of new services (e.g. tourism), continued youth migration to cities and rural aging; and (iii) the need for coordination between the different levels and agencies of public intervention, in order to organize an integrated intervention of land issues on a regional scale.
5. Territorial policies: national and regional governments need to advance in the public policy development process itself and to undertake a shift from a dynamic focused on the design and implementation of sector-based or specific land tenure policies to a dynamic in which land tenure is one of the components that helps consolidate territorial development dynamics. In other words, a process should be undertaken to more clearly lead public territory-level policies designed to overcome agrarian issues, which will necessarily involve addressing the problem of power structures in the regions.

6. Participation: although the 1991 Constitution has established the importance of community participation in decision-making processes in the country, further steps need to be taken, among others: (i) to promote the recovery of citizen participation opportunities, mainly in the analyzed regions that have been affected by armed conflict; (ii) the recognition and funding of local initiatives, life plans and ethno-development plans as central instruments containing general and indicative elements of the collective land tenure consolidation process; (iii) the recognition of and support to the development of land and forest governance systems led (e.g. in the case of the Supreme Community Council of the Upper San Juan River) or planned (e.g. in the case the Valledupar savannahs) by local communities; (iv) to strengthen community organizations, particularly by creating education and training mechanisms for new leaders to ensure the continuity of collective action; and (v) to design new financial systems for the transfer of incentives targeted to community organizations for the development of socioeconomic and environmental development projects.
7. Natural resources: it is essential to enhance natural resource management monitoring and control actions in the territory. Public institutions with this role should work on the design of strategies, with the support of local organizations, to monitor and control the development of illegal mining and logging activities. This arena requires the support of regional governments to formally endorse monitoring and control actions.
8. Research: it is essential to increase the allocation of funds in the area of science and technology to ensure continuous work on collective land tenure security and the collaborative development of better levels of knowledge on collective land tenure systems.
9. Culture: the improvement of public policy design and implementation should move toward integrating, through formalization and land titling processes, both the role of cultural diversity and the set of (formal and informal) rules regulating community–forest relations.
10. The continuity of territorial-level planning exercises that consider the design of scenarios can help improve public policies now affecting land tenure security, create a common language between decision makers and other stakeholders and facilitate the coordination process within this set of policies.
11. Peace Agreement implementation should not lose sight of historical debts in term of access to territorial rights in the Caribbean and the Pacific. New agencies in the rural sector and the new development planning policy with a territorial approach could be a window of opportunity to harmonize use decisions with tenure decisions, recognizing the role of ethnic authorities and local arrangements that have taken place historically. In addition, the new transitional policies focused on government ‘wasteland’ (*baldíos*) need to recognize that these territories contain ancestral lands of Afro-descendant and indigenous communities because ignorance about this could lead to conflict and barriers to building sustainable peace. In other words, land has been a driving force in the history of armed conflict; similarly, the recognition of territorial rights in collective areas is a major step for peace building.

5 Conclusions

The concept of land tenure security in Colombia needs to move away from the consideration of land as a factor of production used by an individual owner and toward the consideration of the relations over land and on land itself, as the object and substance of social relations. This will make it possible to successfully identify and analyze the essential relations that shape the agrarian structure in a specific territory and the way these relations interact as a system in a given territorial context, resulting in a certain level of security as a system attribute. PPA application in this exercise, with the communities' active participation, helped to describe and analyze the system for collective land tenure security. This is undergoing a consolidation process, or is constructed in differentiated spaces of the country's geography in terms of a specific manifestation of social relations. From this perspective, there is a clear need to promote a new generation of differentiated policies to address these specific matters and facilitate their development.

In contrast with Afro-Colombian communities' territories, indigenous *resguardos* seem to provide stronger protection due to the possibility of exercising full autonomy, self-determination and self-government. The possibility for indigenous peoples to act as environmental authorities both in their *resguardos* and in other areas where they do not have titled lands is a major step forward. It is the first time that the State has shared the power of veto in development projects with others and taken into account the cultural integrity of its peoples and the criteria of indigenous peoples in contexts with serious, irreversible environmental damage.

In terms of land tenure security, this exercise has not confirmed the prevailing assumption of a direct correlation between land tenure security and increased investment, natural resource protection and conflict reduction. In the cases of Sierra Nevada and ASOCASAN, indigenous and Afro-descendant communities' life plans do not consider economic growth as part of their future scenarios. In the cases of Valledupar and Montes de María savannahs, in contrast, the setback in collective titling prevents an improvement in the levels of protection of natural resources from large infrastructure, agro-industrial and mining projects, which are advancing through legal and illegal mechanisms. The contrast between the above cases suggests that higher tenure security does not necessarily lead to conflict reduction, as conflict changes and requires new management mechanisms.

Three structural barriers to collective land tenure security have been identified: (i) illegal extraction of natural resources, which reflects a tendency in rural development toward outsourcing and a return to production of primary products, leading to new conflict in the regions and hindering conflict resolution; (ii) the low level of coordination and articulation between public institutions related to the agrarian problem, and between these and the variety of stakeholders involved in land governance systems in the regions; this prevents the successful provision of public goods and of the development of a public institutional structure that works closely with the regions and connects the different levels; and (iii) the recognition of collective property rights in terms of access to and use of the natural resources available in the territory, land management and planning rights, and the determination of natural resources access. These aspects are not addressed transparently in current strategies to overcome poverty and are a major source of new opportunities for all local stakeholders.

The consolidation of land tenure security in the analyzed cases is possible if public policy introduces and puts in practice a conceptualization and implementation of collective land tenure security in areas with forest ecosystems. This should adopt an integrated perspective that actively involves local organizational structures in the decision-making process, addresses institutional problems and starts to overcome the deep divisions that exist, to paraphrase Fals Borda, between the 'political state' and the nation.

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Collective land tenure in Colombia has been a constitutional right since 1991. It is therefore protected with the highest possible status, as it is defined as a fundamental right of indigenous and Afro-Colombian peoples. This condition has contributed to the creation of legal instruments and public policy arrangements to help traditional communities ensure their livelihoods and protect their territorial autonomy, especially in vast forest areas. However, this recognition is not consistent across traditional peoples in Colombia.

This study, based on the method proposed by Bourgeois et al. (2017), applies the participatory prospective analysis (PPA) method to four cases in Colombia: (i) the Supreme Community Council of the Upper San Juan River (ASOCASAN) (Chocó), in the Pacific; (ii) the Arhuaco indigenous *resguardo* in Sierra Nevada (Cesar); (iii) the Afro-Colombian community councils in Valledupar rural areas (Cesar); and (iv) the indigenous, Afro-Colombian and *campesino* communities in Montes de María region, in the Caribbean. The main results reflect the different levels of land tenure security in these locations, based on contextual environmental, political, economic and legal factors at both national and regional level. The study provides a set of public policy recommendations to enhance collective land tenure security, from concept development to implementation, with a special focus on the present moment, when the implementation of the Peace Agreement poses new challenges for the protection of forest ecosystems and the recognition of the territorial rights of ethnic groups and *campesinos*.



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