

The illicit drugs market in the Colombian agrarian context

Why the issue of illicit cultivation is highly relevant to the peace process

By Amira Armenta ¹

The distribution of land and its unjust use are the major causes of violence in Colombia. For this reason land issues are the starting point of current peace talks between the Santos government and the FARC guerrillas. Remedying these structural problems at the heart of rural Colombia is the best guarantee of progress of the current peace negotiations that could bring an end to a half-century-old violent conflict.

The illicit drugs market has flourished in the traditional context of inequality, exclusion and poverty that have characterised the Colombian countryside. While serving as a refugee survival economy and safety net for many, the illicit market dynamic and the war on drugs against it have also increased these problems, stimulating conflict, violence, dispossession, displacement and social unrest.

In the last two decades, the drugs trade and illegal investments, among other factors, have caused the reverse of land reform (land concentration) and led to a deterioration of living conditions in many rural areas of the country. The consolidation of peace in affected areas will require a rural policy that addresses this situation resolving the problems generated by the illegal economy and repressive countermeasures in the country.

“A radically different approach to the current war on drugs must be developed and

KEY POINTS

- The repeated appearance of coca producing zones is related to the unequal distribution of wealth in Colombia, and to the dynamic of land concentration which continues expelling peasants who migrate to new settlement areas.
- Colombia must re-examine and fix the existing relationship between policies of force and alternative development programmes, and should decide whether eradication is still a valid prior condition for alternative development.
- Institutional mechanisms of participation should be created for communities and integrated with local and regional development processes.
- Colombia needs to establish limits to its agricultural frontier.
- The cost-benefits of alternative development investment in remote areas are poor, because infrastructure is bad and services are basic. Consequently, it would be advisable to discourage settlement in those areas, which usually have fragile ecosystems suitable for preservation.
- The Land Restitution Law makes restitution claims difficult for poor displaced families. A genuine and fair restitution policy would constitute one important step in consolidating a future peace.

integrated into the peace plan for Colombia, otherwise the drug circuit and armed conflict will continue to undermine the prospect of realising the goals of the peace process ultimately bringing to an end the war in Colombia”.

TNI wrote this in 2000² during the so-called *Caguan Peace Talks* between the FARC and the Pastrana government. Everything we predicted would happen - if the country did not implement an alternative policy for resolving drug-related problems instead of the ill-designed *Plan Colombia* - has come to pass. There has been a further escalation of the conflict, more internal displacement, worsening state legitimacy in vast regions, increased human rights violations, and devastation of the environment.³ As we know, those talks failed and Colombia experienced escalating rural violence and a diversification of drug trafficking networks. Since then, more than twelve years have been lost in terms of drug policy.

NEW OPPORTUNITIES

The new peace talks⁴ offer, once more, a framework to develop alternative ways to address the supply of drugs. There is a growing consensus amongst widespread sectors of society - think tanks, governments, experts and drug policy officials - that the drug prohibition model has failed to bring us any closer to the illusionary drug free world. Today, there is a new atmosphere of debate on drug strategies and potential alternatives that acknowledge the negative impacts and collateral damage that have resulted from drugs and drugs policies up to now.

The government of President Santos has been open to this discussion and invited other governments, mainly within the hemisphere, to do the same. The inclusion of drugs on the agenda of peace talks could be an opportunity to push the discussion forward and develop concrete actions,

particularly on the issue of Alternative Development (AD) policies. Defined by the UN as a process to prevent, reduce and eliminate the illicit cultivation of plants containing narcotic drugs, AD should be part of a larger rural development strategy and sustainable development efforts.⁵

Below are some recommendations and policy proposals on Alternative Development that could be considered at the negotiation table in Havana.

What should be done for Alternative Development policies to reduce the illicit production while ensuring livelihoods for the rural population?

Although Colombia has reduced the total area of coca leaf production,⁶ at the end of 2011 some regions of the country showed growth figures. This is the case in the Putumayo-Caquetá region, which in 2011 recorded a growth of 80 per cent in coca production, and the Meta-Guaviare region with an increase of 13 per cent. At the end of 2011, Colombia still remained the largest country producer of coca, followed closely by Peru. The repeated appearance of coca producing zones is related to the unequal distribution of wealth in Colombia, and to the dynamic of land concentration which continues expelling peasants who migrate to new settlement areas. This displacement of rural population is a symptom of a structural problem that the state has failed to address in its strategies to control drug supply.

Colombia has no alternative development policy for new settlement areas where peoples' income depends completely on illegal cultivation. For these areas, the government's policies of force (eradication by aerial spraying, compulsory manual eradication) prevail over development alternatives. This reaction explains the repeated failure of a drugs strategy that continues to focus on the peasant farmers, one of the weakest links in the drug chain.

A new look at drug-related problems in the countryside could begin by examining the issue of international aid and cooperation.⁷ Colombia must re-examine and fix the existing relationship between policies of force and alternative development programmes, and should decide whether eradication is still a valid prior condition for alternative development. Eradication should be a gradual and voluntary process and part of agreements reached with communities that want legal alternatives. The Colombian state should protect AD programmes and projects from the negative impacts generated by forced eradication.

Institutional mechanisms of participation should be created for communities and integrated with local and regional development processes. This is the context in which one can develop alternatives to the illegal economy. This would guarantee the legitimacy of alternative development policies and lay the foundations for a sustainable social, economic, political and environmental order. Community initiatives must be technically reviewed, and land use and environmental protection policies established in each territory.

Colombia needs to establish limits to its agricultural frontier. Whilst there is an open agricultural frontier there will be unceasing waves of settlers and as a result, the coca cycle will persist. The Ministry of Agriculture has announced the creation of a Land Bank. This should include granting land to farmers who are now living as settlers, offering them alternatives within the agricultural frontier. The problem of illegal cultivation must largely be solved within the agricultural frontier.

The cost-benefits of alternative development investment in remote areas are poor, because infrastructure is bad and services are basic. Consequently, it would be advisable to discourage settlement in those areas,

which usually have fragile ecosystems suitable for preservation, and instead allot land within the agricultural frontier using agricultural land reserve models (*Zonas de Reserva Campesina*).

Closing the agricultural frontier also ensures the protection of strategic ecosystems from extractive activities and monoculture, including coca farming. The country must move forward in developing a protection policy for the Amazon to allow recovery and protection of ecosystems presently being used harmfully and irrationally. Lenient policies related to mining in the Amazon will start new cycles of settlement, which in the future may well outnumber those of the coca settlers.

The *Forest Warden Families*⁸ programme should come to an end. This programme has failed in its two-fold strategy to control illegal economies and affirm the legitimacy of the state. There also needs to be a re-thinking on how to protect ecosystems, building on the progress made by the National Parks Unit and the Environment Ministry's protected areas.

Finally, the best way to end the settlement of new areas is by ending the inequitable agricultural model in force in Colombia today. The predominant *latifundia* [concentrated land estates] structure continues to advance in Colombia as small properties dissolve and the benefits are concentrated in few hands. A recent agrarian forum⁹ held in Bogota highlighted the predominance of large estates as one of the major problems related to land. *Latifundia* have been the root and the engine of the armed conflict. The refusal of the powerful guild of large livestock owners¹⁰ (which own 38 of the 51 million hectares of land currently in use in the country) to participate in the forum is a sign of how difficult it will be to reach an agreement on the ownership of land and its use.

President Santos's government has been working since its inception on a land restitution effort ostensibly designed to compensate victims and bring justice. This project materialised in the Law 1448 of June 2011. The government claimed the Law would provide mechanisms for the restitution of land to those displaced by actors involved in the country's armed conflict.

Although, according to a report carried out by ABColombia,¹¹ the law "has been a positive step forward in recognising the existence of an armed conflict in Colombia, something that had previously been systematically denied by the State ... and has afforded protection rights to the population under International Humanitarian Law (IHL); concerns, however, have been expressed regarding the limits of Law 1448 in returning land in accordance with international norms". The following is an analysis of the law.

LAND RESTITUTION LAW

Will this law truly bring justice in rural Colombia?

In June 2011 the administration of Colombian President Juan Manuel Santos passed *The Victims and Land Restitution Law, 1448*. According to the government's National Development Plan, the aim of the Restitution Law is to resolve around 160,000 claims, corresponding to 1.5 million hectares. The Minister of Agriculture has given different figures, saying 2 million hectares will be restituted through the new Law.

In October 2012, President Santos stated he would return 2.5 million hectares during his current term. In either case, these numbers fall short of the 6.8 million hectares that the government agency *Acción Social*, part of the Ministry of Agriculture, recognises as having been stolen.

The context of economic objectives is important when considering any law that relates to rural areas. The UNDP in their 2011 report¹² notes that "in Colombia the rural development model is profoundly unequal. The benefits of the modernization of the sector have favored large producers at the expense of small and rural communities."

Colombian officials have acknowledged that the Restitution Law is not a stand-alone piece of legislation, but one component of a broader set of policies related to rural areas, where the government's economic development model is predicated on attracting investment in five areas, the most important being the mining-energy sector, agribusiness and the construction of infrastructure for extractive industries. According to the Minister of Agriculture, Juan Camilo Restrepo, it is not mutually exclusive to work on the restitution of land and at the same time to advance an agricultural plan of large and medium-scale production for export as part of a modern economy.

The Law has received widespread praise, and 50 million dollars funding from the United States, but a number of Colombian NGOs have expressed concerns over the nature of the law, including the lack of inclusion of victims groups, NGOs or social movements in the drafting process, and refused to offer their support until a number of issues were addressed. Studies by international and domestic NGOs later analysed in detail numerous aspects of the law that hamper its utility as a mechanism for providing reparations to victims of the conflict.

They noted, for example, that the cut-off date for claims (1991) appears arbitrary and means many people affected by violence will be excluded; restitution is not as comprehensive as required by international law and fails to meet internationally

recognised standards; communities displaced by aerial spraying are excluded, as are the intra-urban displaced and the victims of paramilitary groups reclassified since 2005 as “criminal bands”; and the government uses a low figure for displacement, understating the extent of the problem.

According to the Colombian NGO CODHES, the number of people driven from their homes since 1985 by actors involved in the conflict has reached 5.5 million; the world’s largest number of Internally Displaced Persons, equal to roughly 10% of the population. Although all armed groups, including the Colombian military and guerrillas, are recognised to have engaged in forced displacement, it is the paramilitaries who are considered responsible for the majority of the displacement and land grabs. An enormous land grabbing process since the mid-1990s by paramilitary forces aligned with business interests and in cooperation with State officials has deepened already vast inequities in land use, assisted by the precarious nature of land titling in rural areas.

In a number of ways, the Law makes restitution claims difficult for poor displaced families. For example, the onus is on the victim to provide exact evidence of land registration, information many displaced communities and families lack, and for whom judicial support is often too costly to afford. In order to take part in the Law’s restitution process, victims are required to cease any ongoing legal efforts to attain justice, and are encouraged to do so by the higher indemnity offered by the Law than under court proceedings. Even in the case of a successful claim for restitution, victims are required to take responsibility for part of the tax arrears on the land, which in many instances could mean restitution leads only to bankruptcy and having to sell. Provisions exist preventing farmers having

to sell for a two year period, but banks can secure the land to cover the debt.

In what is perhaps the Law’s defining article, displaced persons who make a successful claim and have their ownership legally recognised, only to find their land is being used by a “productive” business, must accept that the new occupiers can continue operating, unless it can be proved they obtained the land “in bad faith”. The occupiers are obliged only to pay “rent” to the victims, who are encouraged to work for the new occupiers, transforming their role from sharecropper into wage labourer. Amnesty International note that, through this provision, there is a danger that the [Land Restitution Law] could help legitimize a process which has often involved the use of human rights violations to force through changes in Colombia’s rural economy.

The most significant effect thus far of the Law’s passing has been the increase in threats against communities campaigning for restitution; armed ‘anti-restitution gangs’ have emerged in many areas. When the figures of land restitution claims received thus far were announced last October, they suggested the FARC were responsible for the majority of displacement, and officials have subsequently tried to extrapolate this information to claim the FARC are the primary perpetrators of *total* displacement.

Mauricio Romero Vidal,¹³ a professor of political science at the Javeriana University in Bogota, pointed out that claims that the FARC are primarily responsible for displacement are not credible, but also that “from these statistics we can deduce something more worrying,” namely, “those displaced by the FARC have more opportunities to present claims for restitution than do the those displaced by the AUC [the largest paramilitary group].” A fact that, he says, “if true, would be extremely serious.”

Given the Law's design, its operation in practice, and the context of overall government policy objectives, the *Land Restitution Law*, rather than an effort to assist victims, seems instead an attempt to exploit popular sentiment supporting agrarian reform and the victims of displacement in order to secure property rights for business interests and facilitate future investment in Colombian land and resources.

A genuine and fair restitution policy would put the needs of the victims above those of business interests, and would constitute one important step in consolidating a future peace.

NOTES

1. Amira Armenta is assistant researcher of the Drugs & Democracy Programme. Inputs on Alternative Development were taken from Ricardo Vargas, "Drugs and the peace process in Colombia", Norwegian Peacebuilding Resource Center NOREF, 19 November 2012; http://www.peacebuilding.no/var/ezflow_site/storage/original/application/46cbe4d4cf4550886744d45fbaa97c27.pdf

2. Jelsma, M., Vargas, R., (2000) *Drug Crops and Peace Process in Colombia: A Proposal for Peace*, http://www.tni.org/archives/archives_vargas_prop-summary

3. For more on the results of Plan Colombia, see, Isacson, A., (2010) "Don't Call It a Model. On Plan Colombia's tenth anniversary, claims of "success" don't stand up to scrutiny", Washington Office on Latin America, July 14, 2010; http://www.wola.org/publications/colombia_dont_call_it_a_model

4. Mesa de Conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia, <https://www.mesadeconversaciones.com.co/>

5. UNODC and Alternative Development, <http://www.unodc.org/unodc/en/alternative-development/index.html>

6. UNODC, (2012) *Colombia, Coca Cultivation Survey 2011*, June 2012

7. Vargas, R. (2011) *USAID's Alternative Development policy in Colombia. A critical analysis*, TNI Drug Policy Briefing Nr. 38, October 2011. <http://www.tni.org/briefing/usaid-alternative-development-policy-colombia>

8. Tenthoff, M., (2008) *Alternative Developments, Economic Interests and paramilitaries in Uraba*, TNI Drug Policy Briefing Nr. 27, September 2008. <http://www.undrugcontrol.info/en/issues/alternative-development/item/3173-alternative-developments-economic-interests-and-paramilitaries-in-uraba?pop=1&tmpl=component&print=1>

9. *Así arrancó el 'Foro de política de desarrollo agrario integral'*, PNUD Colombia, December 18, 2012; <http://www.pnud.org.co/sitio.shtml?apc=kk--1-foro%20agrario&x=67359#.UQagqn2e7Lg>

10. "Ganaderos se apartan de foros sobre tierras en diálogos de paz", *El Tiempo*, 16 December, 2012, http://www.eltiempo.com/politica/proceso-de-paz-ganaderos-se-apartan-de-foro-sobre-tierras_12456628-4

11. ABColombia report, (2012), *Colombia the Current Panorama: Victims and Land Restitution Law 1448*, June 2012; http://www.abcolombia.org.uk/downloads/Colombia_the_Current_Panorama.pdf

12. UNDP Report, (2012) *Colombia rural. Razones para la paz*, <http://hdr.undp.org/en/reports/national/latinamericathecaribbean/colombia/name,23256,en.html>

13. "Las tierras despojadas por las FARC: un debate necesario", *Razón Pública*, 14 October, 2012, <http://razonpublica.com/index.php/politica-y-gobierno-temas-27/3331-las-tierras-despojadas-por-las-farc-un-debate-necesario.html>

TNI Drug Policy Briefings

Between reality and abstraction

Guiding principles and development alternatives to illicit crop areas in Peru

TNI Drug Policy Briefing Nr. 39, January 2013

USAID's Alternative Development policy in Colombia

A critical analysis

TNI Drug Policy Briefing Nr. 38, October 2011

Amphetamine Type Stimulants and Harm Reduction

Experiences from Myanmar, Thailand and Southern China

TNI Drug Policy Briefing 37, October 2011

Alternative Development from the perspective of Colombian farmers

TNI Drug Policy Briefing 36, July 2011

On the Frontline of Northeast India

Evaluating a Decade of Harm Reduction in Manipur and Nagaland

TNI Drug Policy Briefing 35, March 2011

The 'miracle of San Martín' and symptoms of 'alternative development' in Peru

TNI Drug Policy Briefing 34, December 2010

Alternative Development or Business as Usual?

China's Opium Substitution Policy in Burma and Laos

TNI Drug Policy Briefing 33, November 2010

The Statistics Bazaar

Statistics are another front of combat in the war on drugs in Colombia

TNI Drug Policy Briefing 32, March 2010

The security approach to the drugs problem

Perpetuating drugs and conflict in Colombia

TNI Drug Policy Briefing 31, December 2009

Redefining Targets

Towards a Realistic Afghan Drug Control Strategy

TNI Drug Policy Briefing 30, December 2009

From Golden Triangle to Rubber Belt ?

The Future of Opium Bans in the Kokang and Wa Regions

TNI Drug Policy Briefing 29, July 2009

Crops for illicit use and ecocide

Are illicit crops really the main cause of damage to the ecosystem in Colombia?

TNI Drug Policy Briefing 28, December 2008

Alternative Developments, Economic Interests and Paramilitaries in Uraba

TNI Drug Policy Briefing 27, September 2008

Rewriting history

A response to the 2008 World Drug Report

TNI Drug Policy Briefing 26, June 2008

Crop spraying: A déjà vu debate

From the Andean strategy to the Afghan strategy

TNI Drug Policy Briefing 25, December 2007

Missing Targets

Counterproductive drug control efforts in Afghanistan

TNI Drug Policy Briefing 24, September 2007

Coca, Petroleum and Conflict in Cofán Territory

Spraying, displacement and economic interests

Drug Policy Briefing No 23, September 2007

Colombia coca cultivation survey results

A question of methods

Drug Policy Briefing No 22, June 2007

Sending the wrong message

The INCB and the un-scheduling of the coca leaf

Drug Policy Briefing No. 21, March 2007

The politicisation of fumigations

Glyphosate on the Colombian-Ecuadorian border

Drug Policy Briefing No. 20, February 2007

The Sierra de la Macarena

Drugs and armed conflict in Colombia

TNI Policy Briefing 19, September 2006

International Drug Control: 100 Years of Success?

TNI comments on the UNODC World Drug Report

TNI Policy Briefing 18, June 2006

HIV/AIDS and Drug Use in Burma/Myanmar

TNI Policy Briefing 17, May 2006

Political Challenges Posed by the Failure of Prohibition

Drugs in Colombia and the Andean-Amazonian Region

TNI Drug Policy Briefing 16, May 2006

Aerial spraying knows no borders

Ecuador brings international case over aerial spraying

TNI Drug Policy Briefing 15, September 2005

The Politics of Glyphosate

The CICAD Study on the Impacts of Glyphosate and the Crop Figures

TNI Drug Policy Briefing 14, June 2005

The United Nations and Harm Reduction - Revisited

TNI Drug Policy Briefing 13, April 2005

The United Nations and Harm Reduction

TNI Drug Policy Briefing 12, March 2005

Broken Promises And Coca Eradication In Peru

TNI Drug Policy Briefing 11, March 2005

Plan Afghanistan

TNI Drug Policy Briefing 10, February 2005

Colombia: Drugs & Security

TNI Drug Policy Briefing 9, January 2005

Super Coca?

TNI Drug Policy Briefing 8, September 2004

The Re-emergence of the Biological War on Drugs

TNI Drug Policy Briefing 7, May 2004

Measuring Progress

Global Supply of Illicit Drugs

TNI Drug Policy Briefing 6, April 2003

Coca, Cocaine and the International Conventions

TNI Drug Policy Briefing 5, April 2003

The Erratic Crusade of the INCB

TNI Drug Policy Briefing 4, February 2003

Peru: From Virtual Success to Realistic Policies?

TNI Drug Policy Briefing 3, April 2002

Conflict Flares in the Bolivian Tropics

TNI Drug Policy Briefing 2, January 2002

New Possibilities for Change in International Drug Control

TNI Drug Policy Briefing 1, December 2001

Transnational Institute

Since 1996, the TNI Drugs & Democracy programme has been analysing the trends in the illegal drugs market and in drug policies globally. The programme has gained a reputation worldwide as one of the leading international drug policy research institutes and as a serious critical watchdog of UN drug control institutions, in particular the United Nations Commission on Narcotic Drugs (CND), UN Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB).

TNI promotes evidence-based policies guided by the principles of harm reduction, human rights for users and producers, as well as the cultural and traditional uses of substances. The project seeks the reform of the current out-dated UN conventions on drugs, which were inconsistent from the start and have been surpassed by new scientific insights and new pragmatic policies that have proven to be successful.

For the past decade, the programme has maintained its main focus on developments in drug policy and its implication for countries in the South. The strategic objective is to contribute to a more integrated and coherent policy where illicit drugs are regarded as a cross-cutting issue within the broader development goals of poverty reduction, public health promotion, human rights protection, peace building and good governance.

Drug Law Reform Project

The project aims to promote more humane, balanced, and effective drug laws. Decades of repressive drug policies have not reduced the scale of drug markets and have led instead to human rights violations, a crisis in the judicial and penitentiary systems, the consolidation of organized crime, and the marginalization of vulnerable drug users, drug couriers and growers of illicit crops. It is time for an honest discussion on effective drug policy that considers changes in both legislation and implementation.

This project aims to stimulate the debate around legislative reforms by highlighting good practices and lessons learned in areas such as decriminalization, proportionality of sentences, specific harm reduction measures, alternatives to incarceration, and scheduling criteria for different substances. It also aims to encourage a constructive dialogue amongst policy makers, multilateral agencies and civil society in order to shape evidence-based policies that are grounded in the principles of human rights, public health and harm reduction.



Transnational Institute (TNI)

De Wittenstraat 25
1052 AK Amsterdam
The Netherlands

Tel: -31-20-6626608
Fax: -31-20-6757176
E-mail: drugs@tni.org

www.tni.org/drugs
www.undrugcontrol.info
www.druglawreform.info