

TNI Agrarian Justice Programme
Briefing



A 'Veritable Revolution'

The Land Restitution Law and the
Transformation of Rural Colombia

Moritz Tenthoff and Ross Eventon

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Farmers returning to Las Pavas (Bolívar) in 2011.
Photo: Fundación Chasquis

Executive Summary

For the past three decades, economic liberalisation backed by paramilitarism in Colombia has been driving demand for land, and with it land speculation, resulting in the most dramatic cycle of land grabbing in the country's history. Between 1980 and 2010, an estimated 6.8 million hectares changed hands according to the government agency Acción Social, with agroindustry, mining and oil companies steadily taking over areas where small farmers once grew food crops.

Against this backdrop, the recently passed "Victims and Land Restitution Law" was declared by the Santos Government to be the means by which victims of the armed conflict and forced displacement could finally receive reparation and restitution for crimes committed against them. Not only has the initiative been widely hailed in the international community, including by the United Nations, the United States and the European Union, it has also been applauded by palm oil, sugarcane and cattle industry elites inside Colombia – the very groups that have benefitted from previous land grabbing.

This report looks into the new land restitution law, which Santos portrays as integral to Colombia's 'veritable revolution', against the backdrop of agrarian policy in Colombia historically. This analysis exposes the economic agenda behind the land law. The authors argue that the new law is a cynical attempt to exploit popular support for agrarian reform and for the victims of displacement, in order to: secure property rights for business interests; establish the permanence of industries that have benefitted from displacement; alter the nature of Colombia's rural economy in the interest of agro-industrial projects; and facilitate future investment in Colombian land and resources.

Mechanisms within the law are set to ensure that businesses which benefitted from the past cycles of displacement will remain unaffected. For example, where victims return to their land to find a business operating, they are obliged to become part of the government's economic model for rural areas, based on resource extraction and agro-industry. This impunity for the "displacers" is matched by ever more obstacles to justice for the displaced, particularly peasant farmers who may want to reclaim their land.

Meanwhile, in the context of wider economic policies, the restitution process, where it functions, is likely to result in transfer of land ownership to large businesses and corporations, from small scale farmers unable to survive in an environment skewed heavily against them. As Colombian officials have stated, the Restitution Law is not a stand-alone piece of legislation, but one component of a broader set of policies to "modernise" rural Colombia. This modernisation is accompanied by a civil-military strategy, the principal objective of which is to "maintain the confidence of investors and to put on one line military efforts and economic development in strategic areas of the national territory."

The law is likely to operate as a means of stabilising property titles whilst transferring land -- from peasants unable to sustain their livelihoods as traditional farmers, to large businesses possessing the necessary capital to exploit the land. The US-based Businessweek quotes Alejandro Reyes, Director of Colombia's Rural Land Institute, who expresses the core objective: to reduce the risks that had been spooking investors.

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Commemoration of the estimated 200 members of the Peace Community of San José de Apartadó, which have been killed since its foundation in 1997. Photo: Roland Büth



Over 3.000 people were displaced by military and paramilitary operations in Urabá in 1997. Photo: Moritz Tenthoff

Introduction

In October 2012, the Centre for Historical Memory, part of the Colombian government's National Commission for Reparation and Reconciliation, released a report assessing land theft by paramilitary forces. The authors noted displacement of rural communities escalated in the mid-nineties when a "quintuple alliance" of paramilitaries, politicians, public servants, local business elites, and narcotraffickers engaged in systematic land dispossession with a common objective: "to refound the nation and impose a new social, cultural, political and economic order through the accumulation of land and natural resources."¹ Communities living on strategic and resource rich land were subsequently targetted with terror and violence, forcing people to leave their homes and paving the way for exploitation by domestic and international businesses. The process, which continues today, has exacerbated already vast inequalities in land ownership: according to a United Nations Development Program report released in 2011, 1.15% of landowners hold 52.2% of the country's productive land, whilst 78.31% of farmers account for only 10.59% of land use.²

State and paramilitary terror in Colombia against trade unionists, human rights defenders, community leaders and others opposed to the vast disparities in land ownership, wealth and political participation, is central to the "creation and maintenance of conditions (...) conducive to the expansion of the neo-liberal programme."³ Since the early 1950s, this repression has received superpower support, as the United States stepped in with training, funding and assistance, including recommendations to the Colombian government that included the creation of armed forces able to "execute paramilitary, sabotage and/or terrorist activities against known communist proponents."⁴ US involvement subsequently "served to raise the associated costs of dissent and (...) was designed to pacify or destroy restive sections of society while insulating national economic and political structures from popular reforms."⁵

Popular reforms would threaten what one group of NGOs have termed the "pro-rich development model", wherein the benefits accrue to a domestic elite and international corporations, concentrating wealth whilst the poor continue to suffer.⁶ "Pro-rich" economic policies have intensified in the past two decades, beginning in 1990 when President César Gaviria, encouraged and supported by Washington and the International Financial Institutions, moved the economy "further toward a model of export agribusiness, capital-intensive manufacturing, rentier speculation in land and urban real estate, and multinational exploitation of petroleum, coal and gold," whilst initiating "a full scale neo-liberal restructuring program to discipline the middle class public sector, the organised working class and the peasantry."⁷ The neo-liberal economic regimen continued throughout the decade and accelerated under president Uribe (2002-2010), whose administration was deeply connected with paramilitary groups.⁸ Alongside widespread privatisation of communication, gas, mining and health sectors, Uribe's economic policy was dedicated to servicing external demand: multinational companies benefited from favourable concessions for oil exploration, mining and other extractive industries, and the government supported monoculture production in rural areas to meet demand for agrofuels.⁹

The confluence of aggressive economic liberalisation and paramilitarism drove demand for land for both exploitation and speculation, creating the conditions for the largest land grab in Colombian history: an estimated 6.8 million hectares between 1980 and 2010, according to the government agency, *Accion Social*.¹⁰ Rising land values also presented a useful way for narco-traffickers to launder illicit profits. According to official figures, by 2000, narco-businessmen had taken over around 4.4 million hectares, equal to 48% of the most productive lands of the country.¹¹ Between 2002 and 2009, under Uribe's harsh neo-liberal regimen, the number of internally displaced increased by 2.4 million and Colombia fell from 68th to 77th on the UN's Human Development Index. In 2006, a World Bank study found 65%

of the population was living in poverty, and by 2009, the inequality of land distribution had reached its historic peak.¹² At the mid point of Uribe's administration, rural poverty stood at 80% and by the end of his two terms in office, the UN Economic Commission on Latin America noted Colombia was the only major country in the region with a growing gap between rich and poor.¹³ Colombia is now the third most unequal country in terms of wealth disparity in Latin America, the most unequal region of the world.¹⁴

The impact of the economic model has been particularly devastating in rural areas. The opening of the economy to subsidised foreign goods has meant the incremental destruction of traditional cash-crop agriculture and the impoverishment and marginalisation of farmers. Agriculture's share of GDP has fallen significantly alongside an increase in food imports, which tripled in the 1990s, undermining Colombia's food security. Many small-scale farmers, left with few options, have switched to growing coca, a stable and resilient crop, largely immune to the commodity price fluctuations that result from economic deregulation.

On entering office in 2010, Juan Manuel Santos, a former Defence Minister under Uribe and Minister of Foreign Trade under Gaviria, expressed his commitment to deepening the economic liberalisation policies of his predecessors. Privatisation under Santos has subsequently built on Uribe's legacy, focusing in particular on education, energy and the petroleum sector. The administration's economic development model is predicated on attracting investment in five areas, referred to by officials as "locomotives", the most important being the mining-energy sector, agribusiness and the construction of infrastructure for extractive industries; according to a recent report by Peace Brigades International, about 40% of Colombian land "has been licensed to, or is being solicited by, multinational corporations in order to develop mineral and crude oil mining projects."¹⁵ The government also plans to expand agro-export production by 10 million hectares by 2014, with the objective, Santos has said, of turning the country into "a breadbasket for the world".¹⁶ At the same time, the traditional products of corn, beans, lentils, peas, chickpeas and rice are increasingly being imported from the US, Asia and neighboring countries. Corn production in 2011 was around 1,715,000 tons, covering only 29% of internal demand. Around 2,800,000 tons of mostly transgenic corn was imported, mainly from the US. During the last twenty years, indices of undernourishment have gone down in all countries on the continent, with only two exceptions: Colombia, where 6 million people are considered undernourished, and Argentina. According to

the UN Food and Agriculture Organisation (FAO), per Capita Food Production in Colombia has declined during the last twenty years, positioning it below all other countries in Latin America, whilst Cereals Import Dependency has grown from 25% in 1990 to roughly 60% in 2010, twice the Latin American average. In 2012, the Volatility of Domestic Food Prices reached its highest point of the last 17 years.¹⁷

Colombia's role as a service area for the advanced industrial economies, orientated to meet external demand for raw materials and bio-fuels, was augmented in May 2012 when the Free Trade Agreement (FTA) with the United States came into effect.¹⁸ The agreement, which further reduces constraints on foreign investment, was brought into effect on the understanding it would drastically worsen the situation for rural farmers. According to Oxfam, 1.8 million farmers will see a significant drop in their income as a result of the FTA. The poorest will be hardest hit, with an estimated 400,000 who earn less than minimum wage set to lose 48% to 70% of their income. Oxfam added that with their livelihoods essentially destroyed, farmers will have their options reduced to coca cultivation, joining the armed groups, or migrating to the cities and joining the swelling numbers of IDPs.¹⁹ "As was entirely predictable," writes Colombian journalist Eduardo Sarmiento Palacio, 8 months after the agreement came into effect, "the initial damage is occurring in agriculture, where the countries tariffs have been relinquished and U.S. subsidised goods accepted."²⁰ Agricultural imports have increased 50% and the economy "is becoming more dependent on foreign investment and the mining model." An FTA with the European Union was signed last May, ratified by the European Parliament in December, and will be fully implemented this year pending ratification by national parliaments. Negotiations over a possible FTA with China started in May 2012. Each agreement will further lock Colombia into a system of corporate control over the domestic economy, whilst the rush for land and resources will put rural communities under greater threat from violence and displacement.

For reasons having to do with core US foreign policy objectives, and the local governments subservience to them, neo-liberal Colombia today shares many characteristics with the neo-fascist regimes installed and supported by Washington throughout the region during the 1970s and 1980s: an export-orientated economic model predicated on raw material extraction, accompanied by wealth concentration and the undermining of the livelihoods of the rural population; foreign investor and corporate domination of economic policy; hostility to and repression of popular movements, and

the linking of their activities to “terrorism”; low wages and fierce attacks on the labour movement; a deflated internal market accompanied by growth in luxury goods for a highly consumptive local elite symbiotically linked with foreign interests, providing a market for Western consumer products; concentration of power amongst certain families, many of which are well recognised household names; a strong sense of class consciousness; precarious domestic food security; enormous and growing income inequality; a focus on growth as reflected by GDP and praise by Western economists for an “economic miracle”; corruption; the dispossession and even genocide of an “excludable minority”, including the displacement of poor peasants particularly by agribusiness; and large scale human rights violations.²¹

Human Rights Watch (HRW) reported in 2010 that paramilitaries – reclassified by the government as ‘criminal gangs’ following a ‘demobilisation’ process in 2005 – continued to “regularly commit massacres, killings, forced displacement, rape, and extortion, and create a threatening atmosphere in the communities they control. Often, they target human rights defenders, trade unionists, victims of

the paramilitaries who are seeking justice, and community members who do not follow their orders.” They added that the “rise of the groups has coincided with a significant increase in the rates of internal displacement around the country from 2004 through at least 2007.”²² In 2012, their World Report noted similar findings: “Paramilitary successor groups continue to grow, maintain extensive ties with public security force members and local officials, and commit widespread atrocities.”²³ In a report on paramilitary structures in 2011, the Colombian Human Rights Organisation INDEPAZ recorded 40 such groups operating in 406 municipalities, and in 31 of Colombia’s 32 departments.²⁴ According to the Colombian Attorney General’s Office, these so called ‘criminal gangs’ should be “considered as the third generation of paramilitary groups in Colombia, who’s initial objective was to conserve territorial dominion left by the AUC [the largest paramilitary group]

Evolution of Paramilitarism

Paramilitary presence in municipalities 2009–2010 (INDEPAZ data)



Wide scenario

Paramilitaries, related and successors:

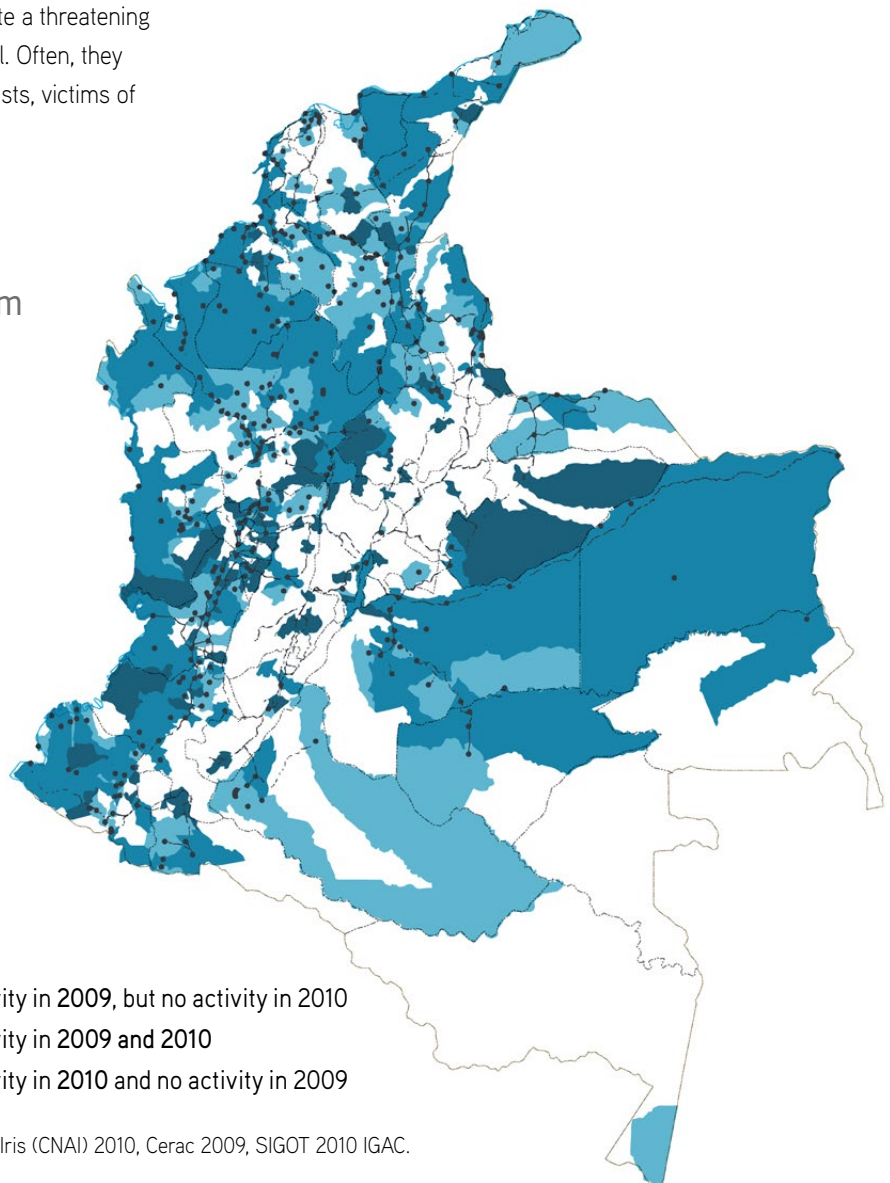
Neoparamilitaries, narcoparamilitaries, bacrim, self-defense, not demobilized ex-AUC and/or rearmed, dissidents or emerging.

Preferred location near urban centers and main roads. (CNAI 2010)

Territorial continuity with former AUC control areas. (CERAC 2009)

- Head municipalities
- Main roads
- Municipalities with paramilitary activity in 2009, but no activity in 2010
- Municipalities with paramilitary activity in 2009 and 2010
- Municipalities with paramilitary activity in 2010 and no activity in 2009

Sources: INDEPAZ 2011, Corporación Nuevo Arco Iris (CNAI) 2010, Cerac 2009, SIGOT 2010 IGAC. Fidel Mingorance-HREV 2010 cc by-nc-sa 3.0



fronts. The principle objective of these structures has been to retake control, not only of territory, but also economic, logistical and social control, in those areas where the AUC had been carrying out its crimes.”²⁵ The government’s commitment to liberalisation, combined with the persistence of paramilitary structures and the almost complete impunity that encourages their actions, has meant communities living on land rich in resources and coveted by domestic and multinational corporations continue to be at constant risk of attacks and displacement.²⁶ An estimated 260,000 Colombians were displaced in 2011, and indications are that mass displacement is increasing, with more events recorded in the first two months of 2012 than the same period the previous year.²⁷ These communities swell the numbers of the largest Internally Displaced Persons crisis in the world, totalling 5.5 million – roughly 10% of the population – according to Colombian NGO CODHES.²⁸

The violent accumulation of land in rural areas has a long history in Colombia. An outcome of this process, and a facilitator, is the colonial-era residue of precarious land titles. Uncertainty over ownership rights in rural areas has undermined the claims of poor peasants and allowed the perpetrators of displacement, after the fact, to present a facade of legality to their gains. Precarious property rights have long favoured the more powerful elements of society, but now, with the government seeking to attract further foreign investment, a more stable situation is required; the World Bank in fact requested in 2003, and again in 2007, that Colombia address the property rights issue.²⁹ Whilst Colombia’s landed elite have historically sought ways to consolidate and expand their gains, the rural poor have struggled for their right to titles and ownership. In many cases in Colombian history, the cooperation of the government and large business owners to undermine peasant’s efforts to claim land as their own has led to violent confrontations. Equitable land distribution remains a central demand of domestic social movements, NGOs, church groups and unions, and is at the root of the armed conflict; the primary demand of the FARC guerilla group – which emerged in the 1960s as the outgrowth of peasant self-defense groups against state repression and later became the armed wing of a social revolutionary movement based in the peasantry – is agrarian reform.

Although a serious redistribution of land has never taken place, legislation has been passed that, it was claimed, was designed to address this issue. In 1936, a piece of legislation entitled Law 200 raised hopes of some kind of agrarian reform. The Law, which aimed to “organize the land titles and

put an end to the chaotic conditions of land ownership that had characterized the countryside since colonial times”, was heavily skewed to favour large *latifundios*, and in the majority of cases simply served to sanction their property claims.³⁰ In response to one article that stated those who had occupied land for 5 years could claim it as their own, landlords began to violently expel sharecroppers and tenants; although in some areas where there were few large landholders, peasants did manage to use the law to advance their claims. The purpose of the Law 200 was ultimately “to create a class of agrarian farmers following western models of agrarian capitalist development and shifting agrarian relations from tenancy to wage labour.”³¹

Law 200 was followed by another land-related law in 1944, titled Law 100. Law 200 was an attempt to advance the capitalist model and included some elements that could assist poor farmers, but Law 100, known as “the revenge”, was a brazen attempt to support large landowners. The law, “defined the rights and obligations of tenants in a way that secured landlords’ control of the land.” Furthermore, it “guaranteed the protection of landlord’s contracts and properties” whilst restricting and undermining sharecroppers and tenant farmers, in particular by legalising their expulsion.³² In 1961, in the midst of rising discontent in rural areas over the nature of land ownership, Law 135 was passed largely to try and placate these tensions; as a consequence it contained some mild reforms. This law, the government said, would at long last facilitate the redistribution of land and address inequality. The Colombian Institute for Agrarian Reform (INCORA) was subsequently created with responsibility for buying land for redistribution among small farmers, granting credit to peasants, and initiating a mechanism for the attainment of land titles. However, numerous legal obstacles meant peasants struggled to put together the necessary case for a claim, and lands said to be under productive use weren’t included in redistribution efforts, resulting in many *latifundios* being excluded from possible expropriation and small farmers receiving sterile lands. Farmer organizations, not conforming with the implementation of the law, undertook dozens of land occupations during this period, and as a result some small farmers did manage to benefit from the legalisation of these newly occupied lands; on the Caribbean Coast, these same properties were among the first to be taken by paramilitary violence in the 1990s. In order to ensure Law 135 would not result in the redistribution of large properties to small farmers or the legalization of occupied *latifundios*, large landowners and the leaders of the two existing political parties (Liberal and Conservative) signed an agreement known as The Treaty of Chicoral (1973). The laws that emerged from this

agreement (Law 4 and Law 5) included juridical protection for *latifundios* and shifted INCORA's policy from redistribution efforts to encouraging small farmers to colonize land closer to the Colombian Amazon and the grasslands on the east side of the Andean mountain range; at the same time, the laws supported the eviction, by police forces, of occupations undertaken by farmer organizations and individuals.³³ INCORA was later, in 2003 during the Uribe administration, replaced by INCODER. One of its main objectives, Nazih Richani writes, was "to oversee the dismantling of collective land titles of indigenous and Afro-Colombian communities in order to facilitate foreign and local capital investments in extraction projects, as well as agro-industry and land speculation."³⁴

These examples are demonstrative of a pattern: in each case of previous legislation, the over-riding problem has been the commitment on the part of the government to local elites and, later, an exploitative economic model, combined with piecemeal and duplicitous attempts to placate discontent over land inequality. This discontent has led to the formation of strong social organizations, but systematic persecution by military and paramilitary forces wiped out several of these movements - such as the ANUC and *A Luchar* - and in the last 30 years killed over 1,500 members of the largest national farmer organization, FENSUAGRO.³⁵

Historic Progress and Fundamental Problems

In June 2011, the Santos administration passed *The Victims and Land Restitution Law* to widespread praise. The new law was designed, the administration said, to enable the provision of reparations to victims of the country's armed conflict and the restitution of stolen land to families displaced from their livelihoods by actors involved.³⁶ According to the government's National Development Plan the aim is to resolve around 160,000 claims³⁷ - corresponding to 1.5 million hectares - during the term of the current administration and a total of 360,000 claims during the ten years the law is in effect.³⁸ In October 2012, Santos adjusted the figures, stating his administration would return even more land during the current term, up to 2.5 million hectares. However, this seemed to correspond to the resolution of less claims than originally predicted given that by October, 26,000 claims had been made for a total of 1.94 million hectares.³⁹ Regardless, as mentioned above, the government agency *Accion Social*, part of the Ministry of Agriculture, recognises a total of 6.8 million hectares as having been stolen.

The United Nations hailed the initiative as a sign of "historic progress," an effort promoted by Santos to "put the victims at the center of attention of the Colombian State," signifying a "new horizon of hope in the search for peace and reconciliation in Colombia."⁴⁰ The United States, contributing US\$50 million to fund the law, and the European Union both followed suit, eager for an opportunity to portray the Colombian government in a positive light to support the ratification of long awaited FTAs.⁴¹ Colombia's representatives of the palm oil, sugarcane and cattle sector - industries that have historically benefitted from displacement and land grabs - also applauded the Restitution Law.

"We are changing the face of Colombia, we are carrying out a veritable revolution," declared Santos, referring to the Restitution Law and his administration's policies related to land.⁴² This revolution, he said, is "inspired by fairness and justice and is a comprehensive revolution, it is not just distributing land, it is giving farmers all the elements needed to realise their dreams of being dignified citizens, with decent incomes, with access to decent public services."⁴³ During a meeting in January with *Campesino* groups in Barranquilla, Santos added, "This is a government of the social organisations ... because together, the grassroots, the peasant base with the government, the congress and the judiciary, we are going to realise the great agrarian revolution that we have longed for for so many generations."⁴⁴

It was clear before the Restitution Law was passed that as a means of compensating victims of forced displacement it was poorly designed; the desire to give farmers "all the elements to realise their dreams" did not include granting them, or even victims and NGOs, prior-consultation during the law's drafting process. After the new legislation was made public, the Colombian social movement MOVICE (*The National Movement for the Victims of State Crimes*) refused to offer their support, highlighting a number of "serious gaps and shortcomings," including aspects of the text that violate the Colombian constitution as well as international human rights norms relating to reparation.⁴⁵

The "serious gaps and shortcomings" that undermine the laws efficacy as a means of restituting land to victims of forced displacement have been covered in reports by both Colombian and International NGOs, and need not be comprehensively discussed here, but some of the issues raised include:⁴⁶

- arbitrary cut off dates that exclude prior periods of large scale displacement
- insufficient reparation, excluding animals and machinery lost during the displacement process
- exclusion from the process of displaced communities who occupied land in a non-recognised manner, such as renting
- selectivity as to the manner of displacement: intra-urban displacement and displacement as a result of aerial fumigation are not covered
- understatement of the extent of land theft
- exclusion of some victims of displacement due to the reclassification of paramilitary groups as 'criminal gangs' following the 2005 Justice and Peace Law

The Restitution Law in practice has reflected its design, bringing no significant change in the rate of restitution (there has been an ongoing process carried over from previous administrations). In 2011, only 699 claimants were reinstated. The government projected 2,100 claimants would have their land returned in 2012, followed by 8,400 in 2013, totaling just under 7% of the number promised for the 4 year period.⁴⁷ According to USAID, as of June 2012, a year after being passed, no land had been restituted as a result of the Law.⁴⁸ It was not until October 2012 that the first Supreme Court ruling under the Law took place, ordering the return of land to 14 families who were terrorised into leaving their homes by paramilitaries in Mampujan, in the department of Bolivar.⁴⁹ Opposition Senator Jorge Robledo, who called the law a "mockery," has accused the government of attempting to obscure the mediocre performance by using statistics from six previous restitution initiatives unrelated to the new Law. The Senator, a representative of the Alternative Democratic Pole Party, has taken the issue to the UN High Commissioner for Refugees, highlighting the vast difference between the proclaimed targets and reality.⁵⁰

The most significant effect of the Law in practice has been to increase the threat to those trying to return to their lands. The passing of the Law, note Human Rights Watch in their 2012 World Report, has "coincided with a rise in attacks and threats against leaders of displaced communities campaigning for land recovery."⁵¹ Sixty six land restitution leaders have been murdered since 2005, 26 of those during the Santos administration. But the threat goes beyond people campaigning for restitution: according to the Attorney General's Office, 7,000 displaced people were killed between the 1st of March 2002 and the 31st of January 2011.⁵² 'Anti-restitution gangs' have formed in several regions, encouraged by the state of impunity and the government's refusal to

sufficiently adopt measures necessary to protect displaced victims; many of those seeking restitution and facing threats have had their calls for protection ignored, with severe consequences.⁵³

Given the prevailing situation in Colombia, a violent response from paramilitary groups was inevitable. Given the prevailing situation in Colombia, a violent response from paramilitary groups was inevitable. The impunity surrounding such attacks underpins their continuation; between 2006 and 2011 of the 71 land restitution activists killed, only one case has led to a sentence.⁵⁴ The UN High Commission for Human Rights in Colombia have expressed their concern at the threats and murders, noting "most of the lands forcibly dispossessed continue in the hands of the illegitimate possessors and their straw men," determined to hold on to their gains.⁵⁵

Impunity and the Legalisation of Land Robbery

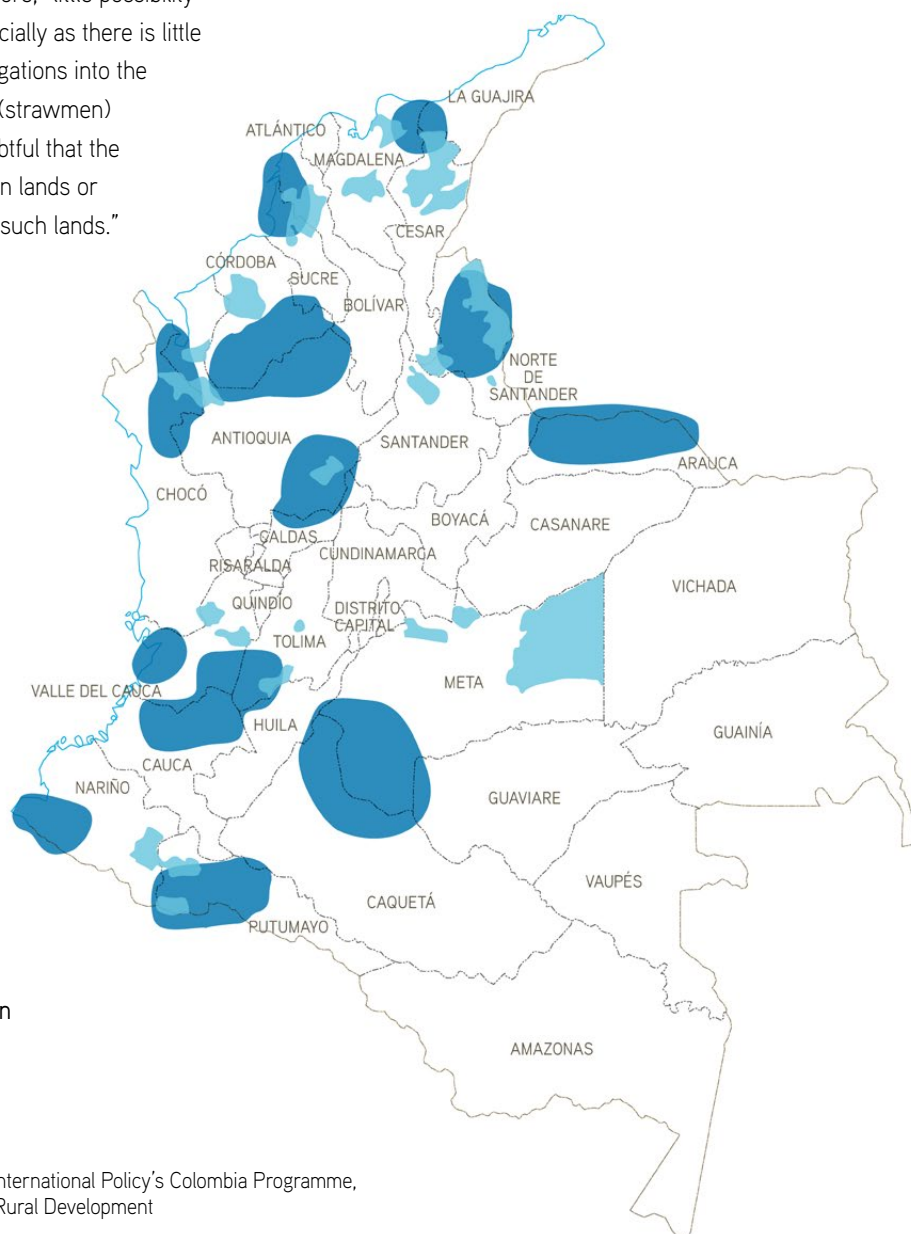
Although the Law in both its design and application is a fundamentally flawed means of restituting victims, in certain aspects it is set to prove more effective. The Law builds on the legacy of the 2005 Peace and Justice Law, a sham demobilisation process that Amnesty International found "failed to guarantee the rights of victims or to dismantle effectively the paramilitary infrastructure".⁵⁶ Widely condemned as a failure, the Justice and Peace Law had a "dual role," write David Maher and Andrew Thomson in the journal *Critical Studies on Terrorism*. First, the process helped to "improve the image of the Colombian government" in an effort to "pass the controversial free trade agreement through [the] U.S. congress." Second, "the demobilisation process serves to mask clear continuities in paramilitary terror that serve mutually supportive political and economic functions for U.S. investment in Colombia." ⁵⁷ On the 17th of October 2012, the Senate voted in favor of a reform of the Justice and Peace Law, extending its validity for another two years and allowing the inclusion of crimes committed until the 1st of July 2012. Under the reform, 'demobilised' paramilitaries who committed crimes after 2005 will not be prosecuted within the ordinary justice system and their maximum prison sentence is limited to eight years. The reform, write Amnesty, "may further jeopardize rights to truth, justice and reparation" and mean "that many human rights violations and abuses will not be fully investigated and those responsible will not be identified." The result "may limit the possibility of victims of human rights violations being officially recognized as such and obtaining reparation."⁵⁸

Built into the original version of the Land Restitution Law itself was a means of granting immunity to those who have played a critical role in assisting paramilitaries in securing misappropriated land. Strawmen (*testaferros*), often closely related to paramilitaries, who allowed their names to be used to provide a facade of legal ownership were to be granted immunity from prosecution in return for information related to any illegal misappropriation. The relevant article was later overruled by the Constitutional Court in September 2012.⁵⁹ However, the low likelihood of actual prosecution means this aspect of the Law was never more than a token gesture. As Amnesty point out in their study of the Restitution Law, "If there were a real prospect of *testaferros* facing criminal prosecution, such provisions would be an incentive for them to volunteer information. However, under the Justice and Peace Law, the vast majority of paramilitaries are not subject to thorough investigation and few paramilitaries admit to misappropriating land." There is therefore, "little possibility that stolen land will be identified, especially as there is little likelihood that full and impartial investigations into the criminal responsibilities of *testaferros* (strawmen) will be undertaken" meaning it is "doubtful that the authorities will be able to identify stolen lands or determine if they are in possession of such lands."

The high likelihood of impunity for the displacers is accompanied by obstacles placed in the way of victims, particularly the poor. 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. This is problematic for families who lost this information in the process of being displaced and particularly for women in cases where their partner, who may have had access to the titles, has died. Another provision criminalised protests previously undertaken on disputed land, meaning many communities could be excluded from the process because of their prior attempts - not previously classified as criminal - to draw attention to the issue. Again, this was later taken out by the Constitutional Court.⁶⁰ Victims also, as a requirement within the law, must end any ongoing legal efforts to attain

Priority areas for land restitution and consolidation areas

- Priority areas for land restitution
- Consolidation areas



justice, and are encouraged to do so by a higher indemnity offered through the Law than through court proceedings. Amnesty note this encouragement to withdraw pre-existing lawsuits, "could help cover up evidence of responsibility for human rights abuses and so potentially hamper criminal investigations and help conceal stolen assets including lands." Alongside the issues inherent in the Law, the Washington DC-based Latin American Working Group (LAWG) reports an increasing trend, including by national Government officials, to discredit and insult victims who are seeking justice by branding them as "opportunists." The Santos Administration has even issued a monetary reward for those who provide information on "false victims," which LAWG note could "incentivise the manufacture of false evidence to discredit valid human rights cases."⁶¹

Even if they are successful in achieving restitution, claimants are required to take responsibility for part of the tax arrears on the land, which in many instances will mean restitution leads only to bankruptcy. "Provisions in Law 1448 do at least prevent peasant farmers from being pressured to sell their land for a two-year period after the land is returned," write Amnesty, "but they allow financial institutions to secure possession of the land as payment for debts. Effectively, this may mean that land restitution could be rendered meaningless in many cases." In the context of an economic model skewed to benefit large agro-industry at the expense of peasant producers, and with economic liberalisation undermining traditional agriculture, Amnesty's conclusion is mild. There is a high likelihood the law will operate as a means of stabilising property titles whilst transferring land from peasants - unable to sustain their livelihoods as traditional farmers - to large businesses possessing the necessary capital to exploit the land. The UNDP note in their 2011 report: "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."⁶² Without a change in the economic model, a massive sale of peasant land soon after restitution is a real risk.

In what is perhaps its defining article, the Restitution Law facilitates the legalisation of forced displacement if communities return to their land to find it has been "put to productive use." Even if the displaced persons make a successful claim and their ownership is legally recognised, the new occupiers retain the right to continue operating, provided it cannot be proved they did not obtain the land "in good faith". Thereafter, the occupier is obliged only to pay "rent" to the victims. As Amnesty point out, the Justice

and Peace Law legacy and the current administrations embrace - and indeed expansion - of its provisions ensure it remains "extremely unlikely" that those who colluded with the paramilitaries will be exposed, and lacking a framework for full impartial investigations, "it is unclear how it will be established that an individual did not occupy land in good faith." As a direct result of the way the law has been written, "there is a real danger that millions of hectares will remain in the hands of those who misappropriated land during the armed conflict and that the profits extracted from such land through agro-industrial and other economic projects will remain in the hands of those who acquired the land through illegal means." The law, therefore, "could have the effect of legitimizing the theft of land by providing de facto or formal recognition of their ownership."⁶³

This legitimisation is accompanied by a transformation in the role of the rural peasant, facilitating their intergration with the objectives of government's preferred agricultural economic model. "The Law does not appear to provide full support to peasant farmers wishing to return to their lands and engage in subsistence agriculture," note Amnesty, "rather, the emphasis appears to be on encouraging peasant farmers to participate in agro-industrial, infrastructure, tourist or mining projects." There is consequently "a danger that the 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." According to former Director of INCODER, Juan Manuel Ospina, those who return to their land to work as labourers for large businesses will "receive revenue as partners," and some plots will be designated where the "labor force" can produce food crops. "Those who do not adapt will have to leave," because, Ospina explains, "In this project, the public interest must prevail."⁶⁴

The 'Modernisation of the Rural Sector'

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. The Law, President Santos has said, "will give us the tools to strengthen the country's agricultural policy," which is outlined in the forthcoming Land and Rural Development Act, designed by the Minister of Agriculture, Juan Camilo Restrepo.⁶⁵ According to Restrepo, "It is not exclusionary to work on the restitution of land and at the same time to advance an agricultural plan of large and medium format for export as part of a modern economy."⁶⁶ Alejandro Rojas, an adviser to the Minister of Agriculture, was explicit in

linking the Restitution Law to the government's efforts to maintain and attract investment, "The challenge is to restore the property of the victims and take advantage of new investment for overall income, without sacrificing the new productive projects."⁶⁷ The US-based *Businessweek* quotes Alejandro Reyes, Director of Colombia's Rural Land Institute, who says the law reduces the risks that had been spooking investors.⁶⁸ The Law, note *BusinessWeek*, "is intended to prevent pullouts like that of Body Shop International -- a unit of the world's largest cosmetics maker, L'Oreal SA (OR) -- which cut off its palm supplier in Colombia in 2010," after a British newspaper exposed the supplier's support for the expulsion of hundreds of peasants from their land to make way for palm oil plantations. Government projections cited by *Businessweek* put foreign investment at \$17 billion for 2012, with investors "wooed by the opportunity to legally buy land at rock-bottom prices and to hire workers hungering for jobs, even at low wages."⁶⁹

The Government's wider objectives for rural areas are outlined in the National Development Plan 2010 - 2014, entitled "Prosperity for All". In August 2012, the Constitutional Court decided to strike down three sections (60 to 62) of the Development Plan, all of which were designed to increase land concentration and pave the way for agribusiness projects. Originally, the National Development Plan included mechanisms that would allow peasants or conflict victims who received idle lands from the government to sell or lease them to others to initiate large-scale agricultural projects. Furthermore, the government would have been allowed to sell, lease, or assign idle lands for that same purpose. Both of these measures were later rejected by the constitutional court.⁷⁰ One of the stated aims of the Development Plan is to "facilitate access to land for productive purposes through the implementation of the Land and Rural Development Act."⁷¹ The Land and Rural Development Act, which according to Santos will be "complementary" to the Land Restitution Law, is itself an attempt to "modernise" rural Colombia through, among other mechanisms, the "formalisation of rural property".⁷²

The Act, currently in the process of prior consultation with indigenous communities, builds on Law 1152 of 2007, a piece of legislation that was declared unconstitutional by the Colombian High Court in 2009 after the constitutionally mandated consultations with indigenous communities were not undertaken. Several aspects of Law 1152 are recycled in the new Act, including the notion of the "right to the surface." This notion, if accepted, would allow ownership of land to be separated from use, providing the legal basis

for businesses to continue operating on land even when returned families are technically the "owners". The "right to surface" therefore facilitates a legalisation of land robbery, allowing newly established agro-industry to continue to operate on potentially stolen land without interruption. The acknowledgment of the victim's property rights will mean little, and the economic purpose of the land will remain unchanged, but now with the legal certainty long sought after by domestic and international capital. According to the National Verification Team of the Monitoring Commission of Public Policy on Forced Displacement, this situation, in which returned families are "formal owners" whilst business retain the ability to exploit the land, "incentivises heightened rent-seeking in Colombia."⁷³ Combined with the transformation of the subsistence farmer into a wage labourer, restitution is therefore likely to result in the legal consolidation of a long term project of land accumulation, whilst providing a stimulus to agro-industrial projects.

There is another purpose: according to President Santos the idea behind the "right to the surface" is "to lease large idle state-owned landholdings to businessmen interested in developing long-term agricultural projects on them."⁷⁴ Due to the nature of the "right to the surface", the government will be able to lease state-owned land to corporations, even when it has been designated for poor peasants. Complementing this measure, article 146 of the Rural Development Act states that property rights of abandoned land will be transferred to the Government if it is deemed "unproductive" or if the owners violate provisions on conservation, improvements and rational use of natural resources. With over 5 million people displaced and many lacking the necessary economic or security conditions required before they can return, this provision would mean the expropriation of the land and its reassignment to the Colombia State, who can then lease the land to long-term agricultural projects. This has further connotations given that the percentage of displaced victims who actually want to return to their homes is considered to be very low: around 5 to 15%, made up primarily of indigenous, Afro-Colombian and *campesino* communities.⁷⁵

Given these provisions, two primary scenarios emerge: If the victim's land is in use, the occupiers are able to continue operating uninterrupted; If not, and the victims do not want to return, the idle lands will pass to the government, which is seeking mechanisms through which it can hand this land, either through selling or leasing via the "right to the surface", over to business interests. Paramilitary violence, by restricting the number of people who want to return

to their land, assists the process of transforming rural Colombia in the interests of agri-business and extractive industries. Rural farmers, superfluous to the economic model, are being driven through the Restitution Law into cooperating with the government's plans for the rural economy whilst agroindustry, mining and oil companies receive incentives to start their own projects. It appears the aim is to make the Restitution Law the 'only game in town' when it comes to seeking reparations and justice for displacement. Victims are being offered the kind of reparation that is friendly to the government's development model, and will forfeit current or future claims for real justice. For claimants, to accept reparation or restitution through the Restitution Law is also, possibly unbeknownst to them, to tacitly acknowledge their willingness to participate in the "pro-rich development model."

Consolidation, Territory and Restitution

The Colombian newspaper *El Espectador* reported recently that as of mid-October 2012, "of the 23,199 restitution claims received to date, in 7,946 (38%) the FARC are listed as the cause of dispossession." The source is a "judicious analysis of land stripped by subversion" released to the newspaper by the government, the result of investigations by, "the Ministry of Agriculture, supported by the Land Unit, the Victims Unit, the Superintendent of Notaries and Registries, INCODER and every military and police institution." The timing of the release appeared deliberate: "The report highlights a problem until now unknown in the country, but one that is key at the moment, when we are a few days from the negotiations of the Santos Government with the insurgency in Oslo (Norway)."⁷⁶ Later, during the negotiations, the Ministry of Agriculture's Land Restitution Unit published more figures for applications for land restitution showing that, when questioned as to who were the perpetrators responsible for their displacement, 34.92% of claimants said the FARC, 34.61% answered the paramilitares, and the rest were attributed to "criminal organisations."⁷⁷ According to the official figures, 8,671 claimants, for a total of 715,138 hectares, mainly in the FARC strongholds of Caquetá, Tolima and Meta, are seeking to be restituted to land from which they were displaced by the guerillas.

Government officials have tried to present these figures as representative of the total cases of displacement, allowing them to claim they reveal new and revelatory information on the extent of dispossession by the FARC. The Director of

the Territorial Consolidation and Reconstruction Unit, Alvaro Balcazar, has stated: "We've received much information and the country is aware of the disposessions carried out by the paramilitaries. But the seizures by the FARC are the same or worse."⁷⁸ Although all armed groups, including the Colombian Military, 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.⁷⁹ As Mauricio Romero Vidal, a professor of political science at the Javeriana University, points out, "the claim that the FARC have displaced people to the same extent as the AUC is not credible, and rather, what we are seeing is a not very rigorous attempt at conceptual management, either by officials or the journalists who have recorded their statements."⁸⁰ In reality, the high proportion of claims in FARC areas are representative of the way the law functions in practice. Vidal notes, "It's not that the FARC have displaced more than the AUC, but that their victims are better able to make a claim, whilst in the case of the AUC and the military forces, the opposite is the case: they are not reported for fear of reprisals."

According to the statistics, a large proportion of the claims in the FARC areas of Meta, Guaviare, Caquetá, Norte de Santander, and Tolima are for tracts of land much larger than the average for peasant farms, suggesting it is medium and large scale landowners who are taking advantage of the law in these regions.⁸¹ Beyond fear of reprisals, these groups are better able to avoid the obstacles within the law that hinder applications by poor peasant farmers. Not only are these larger landowners responsible for a disproportionately high number of claims, but those that are attempting to return to FARC areas are more likely to be successful. According to Patricia Buriticá, a member of the National Commission for Reparation and Reconciliation, following acts of forced displacement the FARC have not shown a similar interest to the paramilitaries in working to transfer property titles in order to cover their activities.⁸² Furthermore, the FARC have not had a history of collusion with State officials, as has been the case with paramilitaries in their respective municipalities.

Victims attempting to return to regions of FARC influence will be supported by the military, as part of a government strategy to regain territory entitled "Consolidation". According to a recent report by the Center for International Policy, the areas where Consolidation is put into effect "are chosen according to recent guerrilla activity. And in these zones, the military plays an outsize development role and seeks frequent contact with the civilian population. In fact, one of these programs'

explicitly stated goals is to build communities' relationships with the military, as opposed to having the military create the security conditions necessary to allow communities to relate to the civilian part of the government."⁸³ Consolidation areas coincide with regions where there are international economic interests, and consequently there are strong community organisations opposed to the activities of agrobusiness and extractive industries.

Consolidation was designed by Santos as Minister of Defence under Uribe, and since 2007 it has been the government's primary military strategy. A principal objective of Consolidation is to "maintain the confidence of investors and to put on one line military efforts and economic development in strategic areas of the national territory."⁸⁴ On the 28th of November 2012, the Land Restitution Unit signed an agreement with the Special Administrative Unit for Territorial Consolidation that explicitly links the goals of the Restitution Law and Consolidation as part of a

"comprehensive process".⁸⁵ Both the Southern Command (SOUTHCOM - the regional command that coordinates U.S. military activity in the Americas) and the U.S. Agency for International Development (USAID) are involved in the Consolidation strategy. General Peter Pace, former Commander in Chief of Southern Command, has described US goals in the region as the "continued unhindered access to strategic natural resources in the USSOUTHCOM AOR [United States Southern Command Area of Responsibility]" and the "continued stability required for access to markets in the USSOUTHCOM AOR, which is critical to the continued economic expansion and prosperity of the United States."⁸⁶

Oil Palm

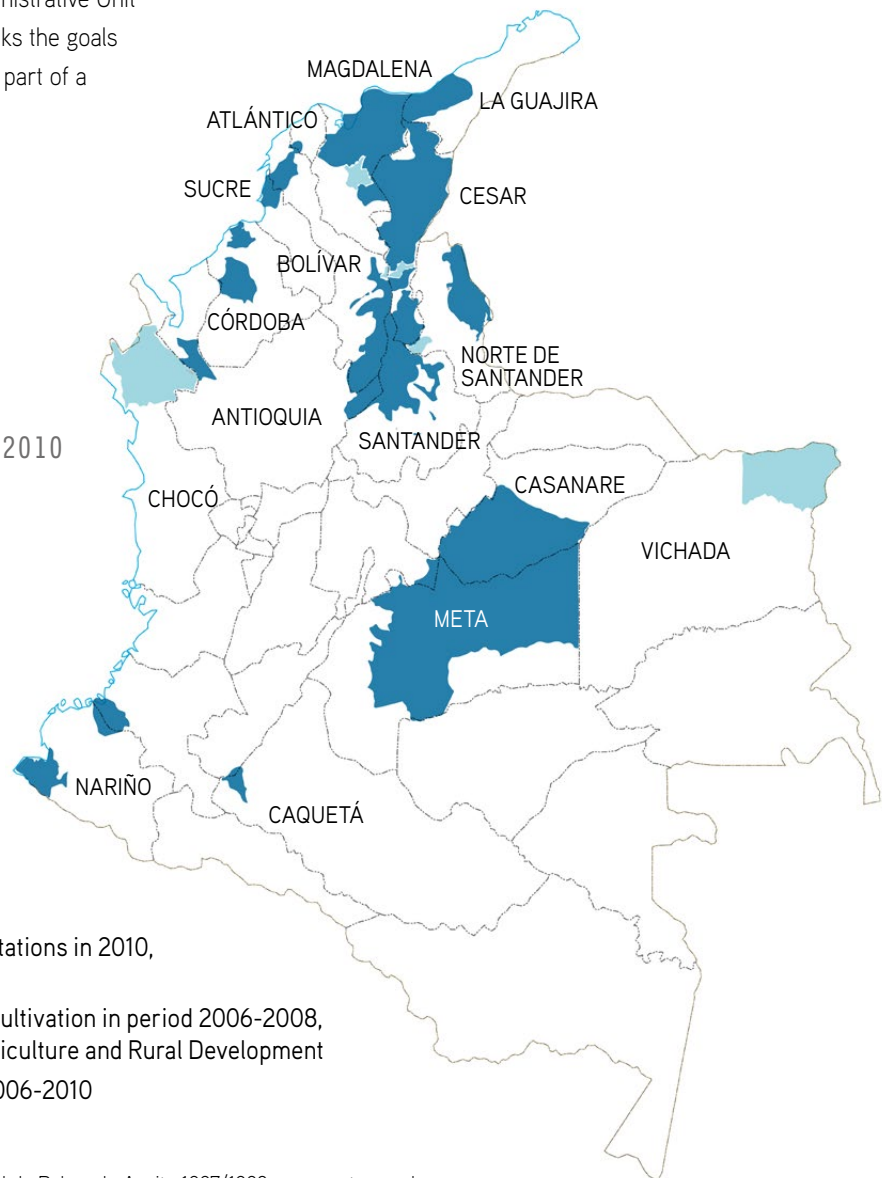
Municipalities with plantations, 2010

2010 acreage:

harvested area: 250,662 ha
developing area: 153,441 ha
acreage: 404,103 ha

2010 palm area:

97 municipalities with oil palm cultivation in Colombia counted by FEDEPALMA
Crops also found in other 7 according to the Ministry for Agriculture and Rural Development



- Municipalities with oil palm plantations in 2010, according to FEDEPALMA
- Other municipalities with palm cultivation in period 2006-2008, according to the Ministry for Agriculture and Rural Development

SUCRE Departments with plantations 2006-2010

Sources: Data - FEDEPALMA 2011. Censo Nacional de Palma de Aceite 1997/1998 y encuesta anual a empresas productoras/comercializadoras de semillas de palma de aceite para la siembra en 2010. Ministerio de Agricultura y Desarrollo Rural (MADR), 2008. SIGOT-IGAC, 2010. Fidel Mingorance - HREV 2012 cc

The militarization of these strategic zones “has been accompanied by an increase in violations” and, in many cases, Consolidation has fortified the local paramilitary structures through the signing of “political pacts” with local administrations often closely linked to paramilitaries and with vested interests in the proliferation of agribusiness.⁸⁷ According to Human Rights Organization CODHES, despite a military presence, 32% of forced displacement in 2010 occurred in Consolidation zones and paramilitary groups continued to operate without restrictions.⁸⁸ Economic interests however in the same period were well protected and oil palm plantations expanded in 2010 in 16% of the municipalities that form part of the Consolidation Plan.⁸⁹ Paramilitary activities remained in 62 of the 86 municipalities where the Consolidation Strategy operates and in 2011 of the total of 49 human rights activists assassinated in Colombia, 18 were killed in areas of Consolidation.

Two separate pictures therefore emerge when the Restitution Law is applied in FARC and paramilitary zones. In regions of paramilitary influence where small scale peasant farmers have been displaced, they are at a disadvantage when making a claim, both for threats on their lives and the laws inherent obstacles. If a claim is made, is successful, and the victim's land is currently occupied, there is a high likelihood the paramilitaries, assisted by functionaries of the state, will have covered their tracks. Given the problems inherent in displaying a lack of “good faith”, the peasant farmer will be reduced to a labourer on a large plantation, holding the vacuous claim of the ‘right to the surface’. If their land has not been occupied, assuming they choose restitution over reparation, victims will return to their land, take on any debt burden, and will struggle to survive in an economic environment skewed heavily against them. In FARC zones, the victims are primarily medium and large landowners. These groups will encounter fewer impediments to making a claim, the claims are more likely to be successful given the lack of FARC efforts to hide their actions, and they will be supported by a military operation when attempting to return to their land.

Negotiations, Resistance and Repression

In October 2012, the Colombian government and the FARC guerillas began talks in Oslo, Norway, moving a month later to Havana, Cuba; despite wanting to participate, the ELN, another guerilla group with similar demands to the FARC, have so far been excluded. “Land and it's ownership have been a cause and a consequence of the conflict,” commented

the Colombian daily *El Tiempo*, “it is not for nothing that the agrarian issue is the first to be discussed on the agenda.”⁹⁰ But on the agenda was not land or agrarian reform, as many English-language outlets have erroneously reported, only the vague “comprehensive agrarian development”. Officials have repeatedly stated that the economic model and the military doctrine are not up for discussion - a core reason for the failure of previous talks - and neither, Restrepo has said, is the Land Restitution Law, “either in Havana or in Oslo, or anywhere else.”⁹¹ FARC spokesperson Iván Márquez, stated at the opening of the talks, “We want peace, but peace doesn't mean the silencing of guns — it means transforming the structures of the state and changing our political, economic and military models.”⁹²

The talks agenda is a close reflection of the government's development policy, as opposed to the demands of the FARC or civil society, and it is therefore unsurprising that Santos has stated, “It won't be for our intransigence that these talks aren't successful.”⁹³ Javier Giraldo, a respected human rights defender, jesuit priest and the founder of the NGO *Justicia y Paz* (Justice and Peace), notes that whatever the outcome of the talks, for Santos “it is going to be helpful for his reelection as President.” If the talks are unsuccessful, Giraldo predicts, Santos “will initiate a smear campaign in the major media against the FARC, arguing they have not ceded in their positions.” The Santos administration, in any case, are preparing for more war: a unilateral FARC ceasefire, almost fully observed for 2 months, was met with an escalation in military activity against the guerilla; the armed forces are being bolstered with 25,000 more troops in the next two years; and 10 new Black Hawk helicopters will be delivered this year, two years after Colombia took the largest delivery of US military equipment since 1996.⁹⁴ There seems to be little hope the negotiations will end with any substantial victories for the Colombian people.⁹⁵

At a press conference in Oslo, Iván Márquez referred to the Restitution Law, calling it “backward-looking and deceptive,” a “trap” and “kind of legal plunder.” Poor peasants who received land titles will, he said, “have no other choice but to sell or lease to the multinationals and conglomerates.” The Rural Development Act, he added, is “essentially a territorial reorganization project designed to make room for the extractive economy against the peasant economy, at the expense of food sovereignty and the domestic market, to superimpose the mining-energy map on agricultural land.” Santos responded, saying, “When these gentlemen from the FARC say [the land restitution law] is a lie it's because ... they know full well

this is something that takes away one of their propaganda banners.” The President’s statement was reported uncritically by mainstream journalists and commentators. Reuters provided a rather typical analysis, stating that “Since coming to power in 2010, Santos’ government has pushed through reforms such as the restitution of land to displaced peasants.” This was contrasted with Marquez, who “railed against the restitution law.”⁹⁶

The attempt to equate the Land Restitution Law with an actual agrarian reform was not new: the Colombian President was echoing comments he made earlier in the year in Barranquilla, when he said those opposed to the government’s “great agrarian revolution” were the “enemies from the extreme left and the extreme right.” The “revolution” he said, will undermine the FARC and other guerilla’s historic calls for agrarian reform: “If we have an agrarian revolution, what will their discourse be tomorrow?” The true significance of the President’s words - the notion of those opposed to government policy as “enemies” - will be well understood by anyone familiar with the mechanisms of state repression, and its paramilitary associates, in Colombia.

In April last year, the *Marcha Patriótica* (Patriotic March), an unprecedented collaboration of social movements and NGOs, was launched, bringing 100,000 people to Bogota to call for measures to tackle poverty, end oppression and move towards a negotiated settlement to the conflict. The motto of the *Marcha* calls for “a second and definitive independence.” The movement’s political declaration states that the members feel there is no political party that genuinely reflects their interests. Point 5 of the declaration reads:

“This economic model has led to increased degradation of sovereignty, greater concentration and centralization of wealth, increasing social inequality, insecurity and pauperization of labor, social and environmental depredation and the continued appropriation of social wealth and the fruits of labor through the dispossession and displacement of the population. It has led to a deep and extreme commodification of social life. It also has become a source of appropriation of public money by the widespread deployment of corrupt structures.”

In a well worn tactic for dealing with popular and opposition movements, the Defence Minister, Juan Carlos Pinzon, accused the *Marcha* of being “largely financed by the FARC terrorist organisation.” The ramifications of such an association are predictable: soon after the launch a number of participants and organisers were disappeared or assassinated, including the bodyguard of the President of the National Association of Displaced People of Colombia. Most recently, on the 10th of November, Edgar Sanchez, a *Marcha Patriótica* member, local community organiser, and former member of the *Union Patriótica* - a left wing political party that began in the 1980s and had its leadership practically wiped out, with over 5,000 members murdered - was shot and killed by two men as he left a cafe Soacha, a poor district of the capital.⁹⁷ On the 24th of November, the government detained 8 members of the *Marcha*, claiming they had connections with the FARC. “The Patriotic March movement,” noted the UK-based Justice for Colombia, “has faced continued persecution since its launch in April this year, including the detention and forced disappearance of its members and false accusations by senior members of the Colombian government.” With the *Union Patriótica* in mind, they add, there is a “concern that history may be repeated.”⁹⁸

A month prior to the launch of the *Marcha*, MOVICE organised demonstrations in a number of cities as a means of pressurising the government to address problems inherent in the Victims and Land Restitution Law. Just before the demonstrations, many of which were to take place in paramilitary controlled regions, Santos publicly hinted that the protest was guerilla infiltrated.⁹⁹ MOVICE condemned the stigmatisation and asked for any evidence of such a connection with the guerilla; none was forthcoming. The organisation called on Santos to protect those seeking restitution, dismantle paramilitary structures, investigate and punish human rights abuses and to undertake a genuine agrarian reform that would democratise land ownership.¹⁰⁰ Iván Cepeda, House Representative of the opposition Democratic Pole Party and former head of MOVICE, called the demonstrations “an invitation” to Santos to reveal the “real politics” behind the Victims and Land Restitution Law.¹⁰¹ Given the barely concealed intent behind the law, it is clear why Santos would see such an opportunity as a threat.

Notes

1. Yamile Salinas Abdala, Juan Manuel Zarama Santacruz *Justicia y Paz: Tierras y Territorios en las Versiones de los Paramilitares* Colombia, Comisión Nacional de Memoria Histórica, 2012. http://www.centrodememoriahistorica.gov.co/descargas/informes2012/justicia_tierras.pdf
2. UNDP *Colombia Rural: Razones para la Esperanza. Informe Nacional de Desarrollo Humano* Bogotá, INDH 2011 http://pnudcolombia.org/indh2011/pdf/informe_completo_indh2011.pdf
3. Maher, D. Thomson, A. 'The terror that underpins the 'peace': the political economy of Colombia's paramilitary demobilisation process', *Critical Studies on Terrorism*, 4:1. (2011); A law that purports to do one thing but does another is nothing new in Colombian politics, and was on display recently with the Transnational Justice Bill, referred to by Human Rights Watch as an "amnesty in disguise". <http://www.hrw.org/news/2012/06/12/colombia-fix-flaws-transnational-justice-bill>. For UN comments see also - http://www.un.org/apps/news/story.asp?NewsID=43610&Cr=colombia&Cr1=#.ULUIB00e_OI
4. The quote is from a 'Secret Supplement' to a 1962 Report to the Joint Chiefs of Staff following a visit to Colombia by a Special Warfare Mobile Training Team. Cited in McClintock, M. *The American Connection*, Zed Books, London 1985
5. "While the Colombian state was repressive prior to US CI [Counter-Insurgency] aid and training, the qualitative character of US intervention in Colombia served further to legitimate, support and entrench the strategy of state terrorism. US-sponsored CI was thus directly responsible for the ideological legitimization of widespread terror directed specifically at civil society in the name of anti-communism." Stokes, D. *America's Other War*, Zed Books, 2005, London
6. ABColombia *Fit for Purpose: how to make UK policy on Colombia more effective* 2009 : http://www.abcolombia.org.uk/downloads/Fit_for_Purpose_17.03.09.pdf
7. Hylton, F. *Evil Hour in Colombia*, Verso, London 2006
8. "A third of the 2002 Congress—and half of Uribe's coalition in the Senate—has come under criminal investigation for alleged paramilitary ties. More than two dozen legislators have been convicted. Hundreds of local officials—including governors and mayors—have also been implicated." Wilkinson, D. *Death and Drugs in Colombia* The New York Review of Books, New York 2011 : <http://www.nybooks.com/articles/archives/2011/jun/23/death-and-drugs-colombia/?pagination=false>
9. The World Bank has played an important role in facilitating investments in these areas. An Oxfam report on the topic notes: "The World Bank's lending to the agriculture sector has tripled in the last ten years – from \$2.5bn in 2002 to \$6–8bn in 2012. Since the financial and food price crises of 2008, the World Bank has helped to facilitate large-scale land acquisitions in developing countries through its technical and advisory services. In a clear case of policy incoherence, at the same time as publishing research warning of the risks associated with large-scale land acquisition, such as *Rising Global Interest in Farmland*, the Bank has encouraged the very same practice, helping developing country governments to make it easier for foreign investors to acquire land and encouraging them to offer tax holidays, thereby creating a fertile investment climate for land acquisitions." Geary, K. *Our land, Our lives. Time out on the global land rush*. OXFAM GB, London 2012 : <http://www.oxfam.org/en/grow/policy/our-land-our-lives>
10. CODHES *Procuraduría raja proceso de reinserción y reparación* CODHES, 2006 : <http://www.acnur.org/t3/recursos/informacion-sobre-pais-de-origen/detalle-documento-coi/procuraduria-raja-proceso-de-reinsercion-y-reparacion/>
11. Comisión Colombiana de Juristas *Revertir el destierro forzado: Protección y restitución de los territorios usurpados. Obstáculos y desafíos para garantizar el derecho al patrimonio de la población desplazada en Colombia*. Comisión Colombiana de Juristas, Bogotá 2006 : http://www.coljuristas.org/documentos/libros_e_informes/revertir_el_destierro_forzado.pdf
12. USAID *Democracy and Governance in Colombia* 2006 : http://transition.usaid.gov/our_work/democracy_and_governance/regions/lac/colombia.html
13. Forero, J. *Despite billions in U.S. aid, Colombia struggles to reduce poverty* Washington Post, Washington 2010 : <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/18/AR2010041803090.html>
14. According to a UN report by UN habitat , 60% of workers in Colombia are considered to be engaged in the informal sector. The authors add: "In Latin America) the informal sector intensified in the eighties and nineties with trade liberalization, government downsizing and other reforms inspired by neoliberalism, leading to a dramatic contraction of the formal labour market, high unemployment and job insecurity. In general, formal employment increases in periods of economic growth, but this isn't a rule, shown by Colombia, where there has been an increase in the informal sector in a period of good economic performance." UNHABITAT, *State of Caribbean and Latin American Cities* Report, 2012 : <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=3380>
15. Peace Brigades International *Newsletter No18. Mining in Colombia: At what cost?* PBI November : http://www.peacebrigades.org/fileadmin/user_files/projects/colombia/files/colombPBIa/111203_mining_in_colombia_web.pdf ; A recent report by ABColombia, a coalition of NGOs working in Colombia, focuses on the favorable concessions made to corporations and the implications. The authors note: "The lack of an effective and transparent tax system in Colombia has resulted in some multinational corporations making more from tax exemptions than they pay in corporate income taxes and royalties. With the proposed new Tax Bill, rather than raising income tax for mining corporations, the government plans to cut it from 33 per cent to 25 per cent (....) With the goal of doubling coal exports and tripling mining generally by 2021, Colombia risks giving its natural resources away at immense social, environmental and human rights costs if it does not revise its tax regime (....) Large-scale economic projects in indigenous territories are already major contributors to 64 indigenous groups being at risk of extinction; by the end of 2010, 59 per cent of Colombian territory was either under concession or had mining applications pending (....) The Comptroller General Sandra Morelli has declared the development model proposed for mining as unsustainable; the government's plans for the rapid expansion of mining threaten the drinking water of more than 40 per cent of the population (including ten departmental capital cities)."
16. ABColombia, *Giving it Away: the Consequences of an Unsustainable Mining Policy in Colombia* 2012 : http://www.abcolombia.org.uk/downloads/Giving_it_Away_mining_report_ABColombia.pdf
17. *Un fallo de la Corte frenó en seco modelo de desarrollo agrícola de Santos*, *Semana*, Bogotá 2012 : <http://www.semana.com/nacion/fallo-corte-freno-seco-modelo-desarrollo-agricola-santos/183445-3.aspx> Food production is more and more depending on speculative capital, increasing its price between 2006 and 2008 and although it fell because of the economical crisis, it doubled again in 2010. Together with oil and its derivatives it is the most important commodity for mankind, resulting in an increased demand by multinational corporations and governments of fertile lands for food production. See Roa, P. A. *Mercado de Tierras en Colombia: ¿Acaparamiento o Soberanía Alimentaria?* ARFO Editores e Impresores Ltda., Bogotá 2012 : http://justiciaypazcolombia.com/IMG/pdf/Cartilla_IMCA_FINAL_FINAL_1_.pdf
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Richani, N. *The Agrarian Rentier Political Economy; Land Concentration and Food Insecurity in Colombia*, Latin American Research Review, Vol. 47, No. 2. 2012.
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Richani, N. *The Agrarian Rentier Political Economy; Land Concentration and Food Insecurity in Colombia*, Latin American Research Review, Vol. 47, No. 2. 2012
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: <http://www.eluniversal.com.co/cartagena/politica/senador-robledo-dice-que-restitucion-de-tierras-es-una-burla-las-victimas-60564>
; Compounding this, the number of judges available to adjudicate the restitution cases is insufficient. Restitution cases require specially trained judges and magistrates assess each individual case. The government says 22 judges will be appointed this year, with 60 magistrates and 134 judges eventually working on the cases by 2014. These individuals will have to pass through their own training process - Colombia is lacking in judges trained in agrarian justice or restitution of agricultural land - and in the meantime claims for land restitution will continue to rise. Both the administrative issues and the performance of the law in practice suggest the projected figures were never remotely realistic.; for other issues evident three months after the law was passed, see La SillaVacía *La Ley de Víctimas Tres Meses Después*
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After forced displacement oil palm emerged in collective territories of afrocolombian communities in Curvaradó. Photo: Moritz Tenthoff



Military Presence in La Macarena (Meta) in 2010. Photo: Oriol Segón



AGRARIAN JUSTICE PROGRAMME

In recent years, various actors, from big foreign and domestic corporate business and finance to governments, have initiated a large-scale worldwide enclosure of agricultural lands, mostly in the Global South but also elsewhere. This is done for large-scale industrial and industrial agriculture ventures and often packaged as large-scale investment for rural development. But rather than being investment that is going to benefit the majority of rural people, especially the poorest and most vulnerable, this process constitutes a new wave of land and water 'grabbing'. It is a global phenomenon whereby the access, use and right to land and other closely associated natural resources is being taken over - on a large-scale and/or by large-scale capital - resulting in a cascade of negative impacts on rural livelihoods and ecologies, human rights, and local food security.

In this context TNI aims to contribute to strengthening the campaigns by agrarian social movements in order to make them more effective in resisting land and water grabbing; and in developing and advancing alternatives such as land/food/water sovereignty and agro-ecological farming systems.

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