

# Getting back the land

**Land is a power resource for illegal armed groups in Colombia. Thousands of hectares ruthlessly snatched away from people while millions of them join the ranks of the displaced and become ever poorer.**



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Appropriation of land is a cause of displacement and increases an inappropriate use of the land, which has a negative impact on the living conditions of many Colombians.

**A**round 40,000 members of the paramilitary (or so-called "self defense") groups have been demobilized and return to civilian life on a legal basis. They are obliged to make reparation to the victims for acts which they perpetrated, including restoring to their rightful owners the land that has been stolen from them. How much land are we talking about? Several sources refer to property theft, land abandoned, soil not adequately exploited or even to land that had been adjudicated. However, the "disparity in estimates by the displaced population itself and differences regarding the number of hectares stolen and the extent of the farms under discussion are factors that make it impossible to predict the scope of the economic and financial efforts that a process of reparation would require."

The above is the opinion of the Procurator General, Edgardo Maya Villazón, who, on June 2006, when presenting the results of the initial phase of the project of "follow up and preventive control of public policies in the matter of demobilization and reinsertion," drew attention to the magnitude of the challenge. His document pointed out that, while the Controller General of the Republic estimated that 2.6 million hectares have been abandoned, Social Action—a Presidential Agency—gives the figure as 6.8 million. Similarly, in the case of the farms left by the displaced, the Controller estimates that they are properties of between five

to ten hectares, while the government entity puts them at an average of twenty-one hectares per farm.

The project "Protection of the Land and Patrimony of Displaced People," an initiative of the government and some international bodies, indicated that according to a survey on the characteristics of the displaced population carried out in 2003 by the National Center of Consultancy and applied to 2,411 homes, 65% reported that they had left their land. And there is yet another statistic, which is based on research undertaken by Los Andes University entitled *Towards a Proactive Policy on Displaced People* (May, 2006): "As a result of displacement, families have left behind them slightly more than four million hectares of land, which corresponds to 6.7 times the total amount of land made available to peasant families through the Agrarian Reform program over the period from 1993 to 2000, and refers to land valued in all at \$2.6 billion pesos." These changes in the ownership of land represent an "agrarian counter reform," according to the Controller General in a statement made in 2005.

## Illegal appropriation

The appropriation of land by illegal armed groups has its origin in the enormous gains to be made due to immunity from national and international justice systems, as was pointed out by the specialist Gustavo Duncan.

Some ways of acquiring land illegally include the use of a *testaferro* (front man), the illegal sale of land through fraud, the drawing up of land deeds without registering them, forcing people to sell at prices well below the land's real commercial value, the breaking up of properties in order to avoid one's resources being detected and, finally, outright robbery. All of these forms violate transparency and respect for property rights.

The presence of illegal crops has generated an additional pressure on land and on the forced displacement of Colombians due to the fact that land is acquired for growing coca-leaf and poppy crops, and the need to control strategic corridors for transporting drugs. Appropriation also causes displacement under duress and increases an inappropriate use of the land, which in turn diminishes legal economic surplus products in rural areas, impedes economic growth and has a negative impact on the living conditions of a great many Colombians.

As is shown in the study entitled *Measuring the Impact of a Program for Agrarian Reform in Colombia*, a more equitable distribution of property accompanied by access to credit, education, training and technical assistance would have a positive and significant impact on people's income and on the quality of life of those included under a reform program. The conflict impedes progress in policies on land which would be integral and inclusive. The areas of greatest concentration of land ownership are those with the least economic growth, the lowest salaries and the highest levels of violence. They are also areas with an active market for land, a market dominated by drug traffickers. Such concentration of land ownership includes territorial domination by non-State armies, the sub-utilization of resources, the inappropriate and often extensive use of land and the consequent deterioration of the environment. It also leads to less investment in the sector and, without investment, rural unemployment increases. The study made by Los Andes University revealed the level of sub-utilization of soil; a mere 8% is used for agrarian production, 8.4% is not used at all, 23.4% of farmland is abandoned and, in the case of 60% of farms, no report was recorded as to what the land was being used for, which means that "almost 92% of the land once in the hands of displaced persons is no longer exploited for productive purposes once displacement occurs."

Black communities with legendary collective land ownership have been forced off their properties. Those who have returned have found their land converted into agrarian mega-projects. Chocó is a clear example of an area which is socially and environmentally fragile and has been affected by uncontrolled appropriation by armed groups. Its biodiversity is being threatened by the invasion of extensive crops of oil-producing plants (African palms), and that means draining off this humid jungle area and thus annihilating organisms that require moist conditions which are pro-

per to these territories. According to Resolution 39 of the Ombudsman Office published in June, 2005, the collective territories of the communities of Jiguamiandó and Curvaradó (Chocó) contain 22,022 hectares of land affected by these oil-producing palms and by cattle grazing.

### Advances in the granting of land titles

Decree 2007, 2003, established the protection of the patrimonial goods of the displaced as well as assigning them land if they are to be relocated. In this sense the government has made some advance in the protection of those rights through the project "Protection of the Land and Patrimony of the Displaced Population" which seeks to guarantee the rights of owners, possessors, occupiers or tenants who have reported having been dislodged from their holdings by force. Today there are over 50,000 farms (comprising 780,809 hectares of land) that have been frozen commercially in 44 municipalities. The granting of titles is necessary. However, a great worry is that "the structure of ownership, once the armed conflict broke out, did not appear to guarantee any degree of protection nor did it avoid people from being thrown off their land by armed groups. The legal ownership of land, contrary to the postulates on which the present policy is based, does not appear to reduce the incentive of armed illegal groups when it comes to expelling the civilian population in order to then occupy and expropriate their land" (Ibañez, Querubín, 2004).

### Some advances

A land policy does not consist merely in the distribution of the resource, but also includes lines of credit, incentives for investing capital in rural

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Women, children and old people are victims of the appropriation of land by illegal armed groups.



Because of the violence, the displacement has been the only choice for thousands of Colombians.

projects, training, technology transfers and technical assistance. However, when it comes to granting land rights it is important to determine the adequate use of the soil in a specific area in order to increase productivity and also because in this way land distribution will be more efficient.

Areas apt for crops but which are being used for extensive grazing could cease to belong to a handful of owners and be divided into several Family Agrarian Units of between ten and fifty hectares, depending on the kind of crop envisaged.

It is imperative that policies not only aim for an equitable distribution of the resource, but also that they be focused on increasing productivity and the possibilities of growth in the farming sector, assuming differences in the quality and characteristics of the soil to be exploited.

Bearing in mind that the State has limited resources for carrying out programs of land redistribution, the recovery of land acquired by ill means is a vital matter if progress is to be made in the equitable distribution of this resource, one which is also certainly not limitless. Therefore it is necessary to identify and expropriate land acquired wrongly, and this must be done exhaustively, with caution and in a transparent manner.

The national government, through the Ministry for Agriculture and Incoder, has proposed using land expropriated from drug traffickers to carry out land reform, giving priority to displaced families and farmers and to the reinserted. However it is evident that the concept of using extinction of ownership as a means for achieving agrarian reform will have to depend on a very efficient system. Not only will expropriation have to be efficacious; redistribution of the land will have to be equally efficient. Also, to reverse the counter reform, agrarian policy should include mechanisms to control prices, since an eventual program for legal restitution of land could lead to rising prices in the land market, given that, as from Law 160 decreed in 1994, agrarian reform is assisted by the land market. This alters the real and necessary possibilities of redistribution and adds an obstacle to paying off an historical debt.

### Some challenges

Several challenges must be faced when responding to the situation of displaced people who have lost everything. According to the Procurator General's estimates, land reparation would cost between 8 and 12 billion pesos, if one takes into account the data on abandoned hectares

published by the Controller General, and between 12 and 21 billion, if calculations are based on Social Action's data.

1. The effective application of Law 795 (the so-called Law of Justice and Peace) and the decrees which regulate it in order that the demobilized restore land to the displaced and respond to the victims with their goods, whether legally or illegally acquired. Article 9 of regulatory Decree 3391 obliges the demobilized person to make a "complete and truthful confession" and to state which of "all of his goods have an illegal origin, without

prejudice to cautionary measures or to the obligations that affect his (or her) legal patrimony, which will proceed as a result of the judicial declaration of responsibility which is appropriate."

2. The appropriation of a Statute for Rural Development which respects and protects the property rights of the Colombians who have lost their land, especially indigenous populations, black communities and peasant farmers. At present there is a debate in Congress on a project for a law on rural development related, among other things, to agrarian land ownership and concessions of State land that is lying idle, by means of which it is hoped that the displaced will be able to recover what they have lost through expropriation. However, the initiative has been queried by various popular organizations of farmers and indigenous groups, amongst others.

3. The inauguration of the Land Table, a space for reflection created to orient or reorient government action regarding the protection of the patrimony of displaced persons. This Table is composed of members of the government, the Legislative and Judicial branches, control organisms, academics, the victims and international organizations.

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4. The setting up of a Land Observatory to support the Table, as was proposed by the Procurator General.

5. Research into those agrarian projects that are carried out in terrain where the methods of acquisition of land are legally dubious, with an eye to taking measures to correct this state of affairs. One has to study the legality of agrarian projects that are being carried out in areas which are environmentally fragile or where there is legendary collective ownership by communities of blacks or of indigenous groups.

6. In the light of undue appropriation of land by illegal armed groups, there is a need for an agrarian reform that will enable Colombia to respond, at least in part, to the needs of those who have lost everything because of the various conflicts which have torn the country apart.

Colombia has contracted a debt with the victims of forced displacement, and this must lead us to make great strides in strengthening policies on land, even more so when the restitution of land, homes and patrimony are an essential part of the rule of law. ■