

# Returning Land to Colombia's Victims

Colombia is involved in an internal armed conflict, at the heart of which is a dispute over land. This conflict, has lasted for more than forty years, it involves left-wing guerrilla organisations, right-wing paramilitary groups, which have been responsible for the greatest number of human rights abuses and infractions of international humanitarian law (IHL), and the national armed forces. Mass forced displacement is perhaps one of the most obvious illustrations of the depth of the humanitarian crisis that exists in Colombia with 5.2 million persons internally displaced since 1985, making Colombia the country with the highest number of displaced people in the world (followed by Sudan, Iraq and Afghanistan). Colombia also has the highest number of victims of anti-personnel mines.

Even before the massive displacement crisis of the last 40 years, land ownership was highly concentrated and Colombia was in need of an agrarian reform. Land expropriation by illegal armed groups has in fact led to a 'counter-agrarian' reform, greatly increasing land concentration. Displacement has also accelerated normal processes of urbanisation and economic migration, swelling the ranks of the urban poor, and land concentration has exacerbated existing poverty, inequality and food insecurity. Nearly half of the population live in poverty (42.8 per cent) and over one fifth in extreme poverty (22.9 per cent)<sup>1</sup>; in 2008 Colombia was the sixth most unequal country in the world (rising from ninth most unequal in 2005).

This document looks at the scale of land loss and theft in Colombia. It discusses how economic and geostrategic interests underlie the forced displacement, the current situation of paramilitarism and how the demobilisation process, under the last Administration, failed the victims

and failed to achieve its objective. This briefing also discusses the land restitution chapter, in the new Victims and Land Restitution Bill, which, although a positive move forward in terms of restoration of land, has fundamental problems and challenges in its present form. The British and Irish governments and the European Union (EU) will need, at this crucial juncture for the victims, to design their policies, and in the case of the EU its new Country Strategy (2013), to take into account support for victims and resources for small-scale agricultural models of development in order to support victims receiving land restitution. If peasant farmers and ethnic groups recovering land under this law are not supported over the long term then they will once again run a risk of being dispossessed of their territory. Furthermore, ethical business and trade must be a priority: European businesses must not profit from displacement or other human rights abuses.

## ABC Colombia

CAFOD, Christian Aid, Oxfam GB, SCIAF, Trócaire  
Working for Peace and Human Rights in Colombia

## A conflict centred on land that has created millions of victims

Although estimates vary, the scale of the land crisis is clearly huge. In 2011, the Commission to Monitor Public Policies on Forced Displacement stated that between 1980 and July 2010, 6.6 million hectares of land were abandoned or usurped.<sup>2</sup> Acción Social, a government body, estimates that people have been forced to abandon 6.8 million hectares<sup>3</sup>, while the National Movement of Victims against State Crime (MOVICE) put the figure at around 10 million hectares.

Both guerrilla groups and paramilitaries have taken over land for strategic advantage, for example, as corridors to export drugs or import arms, grow drug crops or to establish zones of political influence. Alliances of paramilitaries and entrepreneurs also used illegally appropriated land for agro-industry, including African palm, often receiving government support for these projects.

At the highest estimate, land from which people have been forcibly displaced equates to roughly the combined size of Wales and the Republic of Ireland.



### COLOMBIA'S VICTIMS

**All armed actors in the conflict have overwhelmingly targeted the civilian population – civil society organisations, trade unionists, journalists, church personnel, lawyers, judges, members of non-governmental organisations and social movements, and indigenous, Afro-Colombian and peasant farmer communities. The millions of relatives of victims of extrajudicial executions, enforced disappearances, victims or survivors of torture and land mines, forced displacement and sexual violence against women are witness to the level of this human rights crisis.**

**At particular risk of forced displacement were, and continue to be, communities, predominately Indigenous, Afro-descendant and peasant farmers (campesinos), living in areas of strategic importance in terms of the dynamics of the internal armed conflict and drug-trafficking, because they live on land that is rich in biodiversity, minerals and oil, or because it has been earmarked for mega-projects such as agro-industrial development, hydro-electric installations or large scale infrastructural projects.<sup>4</sup>**

<sup>1</sup> Economic Commission for Latin America and the Caribbean (ECLAC), Social Panorama of Latin America, 2009. Poverty and inequality in the context of the economic crisis. Figures taken from: 'Table 1.1a Latin America (18 Countries): Poverty and Indigence Indicators, 1990-2008 (Percentages)', page 48

<sup>2</sup> This represents approximately 12.9 per cent of Colombia's agricultural land (although the figure excludes Afro-Colombian and indigenous collective territories). See report by the Commission to Monitor Public Policies on Forced Displacement (Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado), Cuantificación y valoración de las tierras y los bienes abandonados o despojados a la población desplazada en Colombia, Bogotá, 5 January 2011. The Commission was set up to monitor the displacement crisis following the Colombian Constitutional Court rulings in 2004 which ordered the government to protect the rights of displaced persons.

<sup>3</sup> Internal Displacement Monitoring Centre and Norwegian Refugee Council, Building Momentum for Land Restoration. Towards property restitution for IDPs in Colombia, November 2010, page 10

<sup>4</sup> Amnesty International, Everything left Behind, Internal Displacement in Colombia, June 2009 (AMR 23/015/2009)

## Economic interests behind land theft

*“The economic interests (in Colombia) underlying the violence and conflict are also factors inducing displacement. As part of a process of so-called “counter-agrarian reform”... displacement is often a tool for acquiring land for the benefit of large landowners, narco-traffickers, as well as private enterprises planning large-scale projects for the exploitation of natural resources... A similar pattern of displacement has also appeared in relation to the exploration and exploitation of natural resources and the implementation of large-scale development projects, in some cases involving multinational corporations. It is therefore not a coincidence that the areas where guerrilla and paramilitary activity is most intense tend to be rich in natural resources.”*

Representative of the United Nations Secretary-General on Internally Displaced Persons, Francis Deng<sup>5</sup>

### Mega-projects and agro business

As reported by Francis Deng, displacement happened not only for military reasons but also as a tool to ‘acquire land’ for mega-projects. The Pacific Coast region demonstrates how these ‘macro-economic plans’ have been motivating factors behind displacement. The region is rich in natural resources, biodiversity and minerals. It is strategically important militarily, politically, and economically.<sup>6</sup> Its natural wealth has attracted the attention of powerful economic interests, both national and international. A series of mega-projects and continental investments are also planned for this region: Plan Puebla Panama (PPP) and the proposed Integration of the Regional Infrastructure of South America (IIRSA)<sup>7</sup>, amongst others, all of which are infrastructural and energy projects transiting the Americas. One of the top paramilitary leaders, Vicente Castaño, confirmed Deng’s report that forced displacement on a massive scale has facilitated the implementation of mega-projects in mineral extraction, agro-industry and infrastructure in this region.

Castaño stated, *“...in Urabá we have planted oil palm trees. I myself convinced entrepreneurs to invest in those projects.”*<sup>8</sup> His reference is to the collectively owned territory of Curvaradó and Jiguamiandó, where 29,000 hectares were stolen from the Afro-Colombian communities, 7,000 of which have been illegally planted with African oil palm.<sup>9</sup> Palm cultivation was one of the economic strategies promoted by the paramilitaries and used for controlling territory. According to Castaño, paramilitary commanders “formed alliances” and “advised” many politicians,

they also had their “friends” positioned in corporations.<sup>10</sup> This model of complicity between paramilitaries, politicians and business interests has been repeated in other areas of the country. In fact, a quarter of the Congress under the Uribe administration was accused of actively supporting paramilitaries.<sup>11</sup> Within the newly-elected Congress, as many as one in three members is under investigation for allegations including links with paramilitary groups.<sup>12</sup>

In 2011, following investigations, the Attorney General’s Office formally charged 15 palm companies and/or cattle ranchers from this region for active participation with the paramilitaries in the violent displacement of the Afro-Colombian communities of Jiguamiandó and Curvaradó in order to obtain their land for palm cultivation.

According to the Colombian Constitution and other Colombian laws, the government’s role is to fully protect the legal land rights of communities.<sup>13</sup> However, when mega-projects, such as the port expansion in Buenaventura, which are shared public-private projects, are on lands and territory where communities are seeking to regain their full land title rights, it is unclear whether the government is acting as a ‘referee or an interested party.’<sup>14</sup>

<sup>5</sup> Report of the Representative of the Secretary General on internally displaced persons submitted in accordance with Commission resolution 1999/47, Addendum. Profiles in displacement: follow-up mission to Colombia, E/CN.4/2000/83/Add.1, 11 January 2000, para 23.

<sup>6</sup> Colombian Platform for Human Rights, Democracy and Development, III Civil Society Alternative Report to the Committee on Economic, Social and Cultural Rights, Bogota, March 2010.

<sup>7</sup> The Integration of Regional Infrastructure in South America - IIRSA - consists in the participation of private investment in the energy sectors, telecommunications, and of rail and road transport, for which countries should adopt legislation to facilitate the interconnection and the integral operation of energy, transport and communications systems. The IIRSA has plans for 41 infrastructure projects in Colombia.

<sup>8</sup> ‘Habla Vicente Castaño’ (Vicente Castaño speaks out), Semana magazine, N° 1.025, June 5, 2005.

<sup>9</sup> Colombian Platform for Human Rights, Democracy and Development, III Civil Society Alternative Report to the Committee on Economic, Social and Cultural Rights, Pre-Sessional Working Group, 25-29 May 2009, page 8.

<sup>10</sup> ‘Habla Vicente Castaño’ (Vicente Castaño speaks out), Semana magazine, N° 1.025, June 5, 2005.

<sup>11</sup> ABColombia, Fit For Purpose: how to make UK policy on Colombia more effective, March 2009, p.16.

<sup>12</sup> ‘La bancada de los investigados en el nuevo Congreso’, Newspaper Diario La Opinión, 3 July 2010.

<sup>13</sup> Statement UN Independent Expert on Minority Issues, Gay McDougal, on the conclusion of official visit to Colombia, 1- 12 Feb., 2010:5.

<sup>14</sup> Ibid

## CASE STUDY: BUENAVENTURA, VALLE DE CAUCA

Buenaventura, situated on the Pacific Coast, is Colombia's principal trading port. The urban area has been earmarked for a range of mega-projects and infrastructural projects designed to link the port to the rest of the Americas.<sup>15</sup>

Central to these are plans to change the container terminal, currently the largest in Colombia, into a deep water port with the capacity to handle ships of any size. Once this work is completed, Buenaventura will have the largest port in South America. To facilitate the movement of imports and exports from the terminal a motorway is also under construction, and plans are being prepared for major investments in a waterfront resort to accommodate an expected rise in visitors.

However, in order to make way for the proposed projects the Afro-Colombian fishing communities living in houses on the water's edge will have to move, something they do not wish to do. The suggested relocation is a good distance inland, making it impossible for them to continue to make their livelihood through fishing. The proposal to move them into houses where the cost of basic services will be much higher has generated concerns that the families would lose not only their livelihoods, but also their homes.

Alongside the evident major investments in this region, local communities, such as the Afro-Colombian communities of Bajamar and Barrio Lleras have suffered 'grave and systematic violations of human rights'<sup>16</sup>, such as disappearances, murders, forced recruitment and displacement.<sup>17</sup> Community leaders have raised their suspicions regarding the links between the public presentation of the relocation project and a subsequent paramilitary incursion and forced displacement in Barrio Lleras in October, 2008.

It is notable that the indices of violence in this region are contrary to the general Colombian pattern of higher levels of killings and forced disappearances in rural than urban areas. The murder rate in the urban area of Buenaventura, where the port and waterfront resort constructions are ongoing, is far higher than in the surrounding rural areas. In 2009, 19 people were murdered in the rural areas and 101 in urban areas, a reduction on 2008, when 171 murders were committed in the urban area and 21 in the rural areas.<sup>18</sup> Forced disappearances are extremely high in this region, with 147 reported in 2009 (including 67 which had occurred in previous years but were only reported in 2009 and 80 occurring and reported in 2009).<sup>19</sup> In 2009, high levels of displacement occurred in three communities where there are planned developments. In total, 67,341 people were displaced from these communities.<sup>20</sup>

## The extractives industry and disputed land

Large-scale extractive projects are a rapidly escalating factor driving displacement in Colombia. The Colombian government's National Development Plan under President Uribe placed a strong emphasis on large-scale extractive projects and multi-national corporations. The numbers of mining concessions sold under Uribe's administration accelerated at an unprecedented rate.

For example, just one company registered on the British stock exchange, Anglo Gold Ashanti, has nearly one million hectares of concessioned land in 16 departments across Colombia.<sup>21</sup> International investments in extractives rose from 2000, when US\$507 million was invested, to 2008 when there was an investment of US\$2,116 million.<sup>22</sup> There is an impetus from the Santos administration to continue this pace of expansion. During a talk at Canning House, London, on Friday 28 January 2011, Colombian Finance Minister, Juan Carlos Echeverry, highlighted Colombia's plan to focus on increasing the exploitation of all of its natural resources.

For example, oil extraction, currently at around 800 barrels a day, is to increase to 1.5 million in 10 years and coal from the current 60 million tonnes to between 100-180 million tonnes (in 10-15 years). Additionally, according to the Miners' Association of Colombia, Asomineros, gold mining could attract \$3.3 billion in investment in just a few years. Plans for the development of large scale mining projects are specifically referred to by UN Independent Expert on Minority Issues Gay McDougall in her 2010 report as 'propelling' factors in forced displacement.<sup>23</sup> These lucrative enterprises will inevitably threaten community land rights, they also come with enormous environmental and social costs that are often 'blithely shunted aside'.<sup>24</sup>

This mass sell-off of mineral rights is happening at a time when stolen lands have not been returned to those who have been violently dispossessed. As a result, corporations are in danger of acquiring lands stolen from these communities, and benefiting

<sup>15</sup> The infrastructural projects are part of the Regional Integration Plan for the Pacific (Plan Regional Integral del Pacífico), which include Proyecto Arquímedes which links into IIRSA, and forms part of the planning for a possible future the Free Trade Area of the Americas – ALCA.

<sup>16</sup> Informe Alternativo Al Sexto Informe Periódico Presentado Por El Estado De Colombia Al Comité De Derechos Humanos, Junio De 2010, [www2.ohchr.org/english/bodies/hrc/docs/ngos/CCJ\\_Colombia99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CCJ_Colombia99.pdf)

<sup>17</sup> *ibid*

<sup>18</sup> Figures given to ABColombia by the Jesuit Refugee Service during a visit in 2010 (originally quoted in a speech given by the Personería of Buenaventura, 10th December 2009)

<sup>19</sup> Informe Alternativo Al Sexto Informe Periódico Presentado Por El Estado De Colombia Al Comité De Derechos Humanos, Junio De 2010.

<sup>20</sup> *ibid*

<sup>21</sup> Mesa Nacional de Garantías: Mesa Temática sobre la situación de defensores, defensoras, víctimas y organizaciones que reclaman sus derechos a la tierra, los territorios y la restitución (National Workshop on Guarantees: Thematic Workshop on the situation of defenders, victims and organisations who claim their rights to land, territories and restitution).

<sup>22</sup> CENSAT Agua Vida (Friends of the Earth Colombia), Conflictos socio-ambientales por la extracción minera en Colombia: Casos de la INVERSIÓN BRITÁNICA (Socio-environmental conflicts over mineral extraction in Colombia: Cases of British Investment), January 2010.

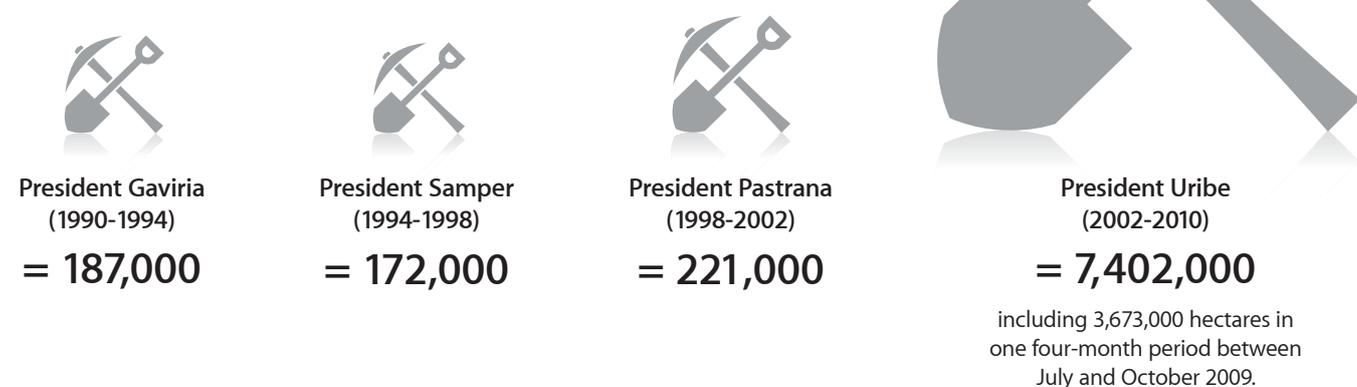
<sup>23</sup> Statement UN Independent Expert on Minority Issues, Gay McDougall, on the conclusion of official visit to Colombia, 1-12 February 2010.

<sup>24</sup> Zoë Amerigian and Lindsey Pace, 'Inside Latin America: Latin America Faces a New Gold Rush and Modern Conquistadores', Council on Hemispheric Affairs, 14 February 2011. Accessed on 19 May 2011 at <http://www.thecuttingedgegenews.com/index.php?article=31948&pageid=24&pagename=Society>

from human rights violations and forced displacement. Legalising the possession of land illegally obtained through violent forced displacement is multi-faceted. For years communities have been applying to register their land-rights, only to discover that in a matter of a few months, land has been concessioned to multi-national extractive companies. Meanwhile, the communities'

own applications languish in obscurity. In other cases, even though land has been identified for return to displaced communities, they are discovering that they do not have full rights over it, often because it has already been sown with oil palm. The case of Cocomopoca is illustrative of this.

## Land under mining concessions (in hectares) between 1990 and 2010.<sup>25</sup>



Illegal gold mine near Quibdó, Chocó Department, causing deforestation and water contamination

## CASE STUDY: COCOMOPOCA

**COCOMOPOCA is an autonomous ethnic-territorial organisation that represents the Afro-Colombian population in the municipalities of Atrato, Bagadó, Cértegui and Lloró in the Pacific Coastal region of Colombia. Their territory is located in an important geostrategic region in terms of access to mega-projects and continental investments, minerals and potential hydro-electrical resources. They have been pursuing their entitlement to collective territorial rights under Colombian Law 70 (introduced in 1993) since December 1999. When they applied for their collective title to 172,000 hectares they numbered 30,000 inhabitants. Today, nearly ten years later, there remain only 17,000 people; the rest have been forcibly displaced by paramilitary and guerrilla groups with interests in the land, mining or in securing corridors via land or river for transporting coca.**

**INCODER<sup>26</sup> (the Colombian Institute of Rural Development) has announced a date in June 2011 when Cocomopoca will finally be handed their title deeds. This is, however, the sixth date that the community has been given in ten years. Furthermore, the community has been notified that their title deed will not be for the 172,000 hectares that is rightfully their territory, but only 72,000 hectares of their collective entitlement. Having been informed initially of this the community went on to discover that 50,000 of those 72,000 hectares have already been concessioned to the mining company, Anglo Gold Ashanti. Additionally, 6,000 hectares of the 72,000 has been requested by public institutions, leaving only 16,000 hectares of their ancestral lands.**

**According to UN expert McDougall, “in the face of ... economic interests and mega-projects ... the rights of communities are ‘inconvenient rights’ and the laws put in place to protect them are equally inconvenient.”<sup>27</sup>**

<sup>25</sup> Mesa Nacional de Garantías: Mesa Temática sobre la situación de defensores, defensoras, víctimas y organizaciones que reclaman sus derechos a la tierra, los territorios y la restitución (National Workshop on Guarantees: Thematic Workshop on the situation of defenders, victims and organisations who claim their rights to land, territories and restitution).

<sup>26</sup> INCODER (Instituto Colombiano de Desarrollo Rural) is the government department responsible for issuing land titles.

<sup>27</sup> Statement UN Independent Expert on Minority Issues, Gay McDougall, on the conclusion of her official visit to Colombia, 1– 12 February 2010 pg 12

## Victims and their rights

Under international law, victims of politically motivated violence have the right to learn the truth about the violence they have suffered and to justice, reparations and non-repetition of these events.<sup>28</sup> Key to this process is the restitution of land.

The first formal step in this process was taken under the Uribe administration with the passing of the 'Justice and Peace' law (Law 975) of 2005, which facilitated the demobilisation of illegal armed groups.<sup>29</sup> According to the National Commission for Reparation and Reconciliation (CNRR) established by the Colombian government, 1,800 paramilitaries testified under the 'Justice and Peace law'<sup>30</sup>, resulting in confessions to 6,000 murders and the location of 2,989 mass graves with approximately 500 bodies identified and returned to their families.<sup>31</sup>

Revealing the whereabouts of mass graves, finding the bodies and beginning the process of identification has been immensely important for the families of the victims, but compared with the scale of the violence it is far from adequate. The Colombian Attorney General's Office estimates that there are 27,300 cases of forced disappearances for political reasons that remain unsolved.<sup>32</sup>

As this process nears its end, 4,346 paramilitaries out of a total of 31,671, expressed an interest in benefiting from the 'Justice and Peace Law' between November 2003 and mid-2006<sup>33</sup> with only 228 of these giving a full confession and only two middle-ranking paramilitary leaders sentenced; however, even these convictions are currently under appeal.<sup>34</sup> Nor has the whole process ensured non-repetition of these crimes, as the statistics demonstrate. 1,130 forced disappearances occurred in the last three years, and 280,041 people were displaced in 2010 alone. At least 45 community leaders working on land restitution rights, processing the application of Law 975 have been murdered.<sup>35</sup> Furthermore victims taking part in this process and the human rights groups supporting have been threatened.<sup>36</sup>

The Colombian government's principal mechanism for reparation has been 'administrative reparation' in accordance with Decree 1290 of 2008. It provides a monetary value for various abuses. It is a flawed process, often providing monetary benefits that are already the rights of the victims under Colombian law. It also excludes acts committed by the guerrilla and state agents. This is an important

aspect since extrajudicial killings by the army were declared a systematic process by UN Rapporteur Philip Aston, accounting for 887 deaths between 2001 and 2010.<sup>37</sup> Land restitution has been particularly ineffective: the CNRR reported that during its first five years of operation only 1,500 hectares were returned out of 6 – 10 million hectares illegally acquired by the paramilitaries (AUC).<sup>38</sup>

As the 'Justice and Peace' process advanced, human rights NGOs recognised that the legal framework would not ensure that third parties (i.e. the economic and political infrastructure) behind the paramilitary strategy would be exposed, leaving paramilitarism free to re-emerge. In 2007 the then UN High Commissioner for Human Rights observed that in some areas of Colombia: "the paramilitary groups (continue to) hold political and economic power."<sup>39</sup> It is therefore essential that any future policies to tackle the dismantling of the military structures also ensure that the political and economic structures are dismantled, along with any influence that these groups have with the security forces and government officials. If these structures are not dismantled they will impact on the restoration process.<sup>40</sup>

### Continued operation of paramilitary groups

Although paramilitary groups were supposedly demobilised under the previous administration, they continue to operate in collusion with the security forces and play a role in consolidating the interests of powerful economic sectors. Many of the middle ranking paramilitary commanders did not engage with the Justice and Peace Process but re-formed and led paramilitary groups,<sup>41</sup> albeit with new names, such as Águilas Negras, Los Rastrojos, Nueva Generación etc. These groups are now officially referred to as criminal gangs (*Bandas criminales – BACRIM*) and are estimated currently to number approximately 6,000.<sup>42</sup> The Santos administration's insistence that paramilitaries groups are nothing more than criminal gangs, prevents the victims being recognised as of politically motivated violence, and thus denying them the right to truth, justice and reparation and land restitution. Since the reformation of the paramilitary groups 89 forced displacements have been attributed to BACRIM.<sup>43</sup>

<sup>28</sup> The rights of victims of forced displacement have been codified under the auspices of the UN as the 'Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons'. See Housing and property restitution in the context of the return of refugees and internally displaced persons. Final report of the Special Rapporteur, Paulo Sérgio Pinheiro, E/CN.4/Sub.2/2005/17, 28 June 2005. These principles are discussed in the following paragraphs.

<sup>29</sup> For detailed information on this process please see the joint report by the Social Department of the Colombian Catholic Church (SNPS) and ABColombia agencies CAFOD, SCIAF, and Trócaire, The Colombian Conflict: For the Rights of the Victims, 2009.

<sup>30</sup> The demobilisation process began in 2003 under degree 128; those responsible for crimes against humanity were processed under Law 975 of 2005 known as 'the Justice and Peace Law'.

<sup>31</sup> National Commission for Reparation and Reconciliation, Reparations, more than numbers, Bulletin 10 of October 2009 (Comisión Nacional de Reparación y Reconciliación, 'La Reparación, más que cifras'). Consolidated information up to October 2009.

<sup>32</sup> 'Breaking the Silence, In search of Colombia's disappeared', Lisa Haugaard and Kelly Nicholl, Latin America Working Group Education Fund and U.S. Office on Colombia, December 2010, page 3.

<sup>33</sup> Figures from National Unit of Justice and Peace Prosecutors, information updated to May 31, 2010 ([www.verdadabierta.com/reconstruyendo/1856-estadisticas](http://www.verdadabierta.com/reconstruyendo/1856-estadisticas)), and Inter-American Commission of Human Rights, Annual Report 2010. The Justice and Peace Law provided for the demobilization of those who acknowledged the commission of crimes of "atrocious acts of ferocity or barbarism, terrorism, kidnapping, genocide, and murder committed outside combat or placing the victim in a condition of defenselessness" National Unit of Justice and Peace Prosecutors, information under consolidation and verification proceedings updated to June 30, 2010 cited in IACHR 2010 annual report.

<sup>34</sup> Two guilty verdicts were handed down in the framework of the Justice and Peace Law: the verdict in the case of Mampuján-San Cayetano and Isla Múcura by the Tribunal in late June 2010, and the one for the 32 acts committed by the Border Front of the Catatumbo Bloc, on December 2, 2010. In both cases, a decision on the appeal is still pending before the Criminal Court of the Supreme Court of Justice (MAP-OEA 15th Report).

<sup>35</sup> 'Ya son 45 los líderes de víctimas asesinados por reclamar sus tierras; en 15 días murieron 3', (45 victims' leaders have now been assassinated for claiming their lands, 3 murdered in 15 days), El Tiempo newspaper, 3 June 2010, [www.eltiempo.com](http://www.eltiempo.com).

<sup>36</sup> Joint report by the Social Department of the Colombian Catholic Church (SNPS) and ABColombia agencies CAFOD, SCIAF, and Trócaire, The Colombian Conflict: For the Rights of the Victims, 2009, page 1.

<sup>37</sup> Center for Research and Popular Education/Peace Programme (Centro de Investigación y Educación Popular CINEP/Programa Por la Paz, False Positives' 2010: Clamour for Truth and Justice ('Falsos positivos' 2010: Clamor por la verdad y la justicia), Bogotá, May 2011, page 5.

## Land restitution in the Victims' Law

In August 2010, when President Santos took office, he promised to address the issue of land restoration to the victims of the conflict, something that was not achieved through the Justice and Peace Law. To this end the proposed Victims Law (hereafter called the Bill) which is currently being debated in the Colombian Congress, includes a specific chapter on land restitution.

**“...the policies of restitution and return for those displaced from land constitute a huge, outstanding debt that Colombian society is urgently obliged to repay.”**

Agricultural Minister Juan Camilo Restrepo<sup>44</sup>

The Bill, and the chapter on land restitution, represents a positive move towards respecting the right of victims, but there are a number of severe limitations and challenges which the Bill does not address.

**How much land will be returned and to whom?** Firstly, this Bill should not be confused with an agrarian reform since it does not address the problem of land concentration. Although the proposed restoration of land is an important step, there is a strong possibility that the vast majority of stolen land may be effectively excluded from restitution programmes. The Bill is planning to restore approximately 2.2 million hectares of land to victims of forced displacement<sup>45</sup>; 500,000 of this will be restored in advance of this Bill under the *Plan de Choque*.<sup>46</sup> At moderate estimates, this amounts to approximately one third of the total amount of land from which people have been forcibly displaced.<sup>47</sup>

The Bill is proposing a positive move to include a key international principle, *presumption of dispossession*, which removes the burden of proof of dispossession from displaced people. This will apply not only to those who have property titles but also to people with informal tenure. However, those who have informal tenure may encounter greater difficulties because the process has not been clearly defined in the Bill; women will be particularly disadvantaged.

The Constitutional Court, in decision 092 of 2008, pointed out that women often only had their land rights protected via their male partners. Informal marriages, lack of knowledge about how their partners acquired the land and the variety of types of land tenure mean that female heads of households are extremely vulnerable to losing their right to their land.<sup>48</sup>

**What period counts as eligible?** There has been debate around the date from which victims will be recognised as being entitled to reparation under the Bill. In the current drafts, the Bill proposes to recognise victims in general from January 1, 1985 and for land restitution from January 1, 1990 up to January 2010. However, many consider that both land restitution and reparation to the victims should be assessed from 1980, because mass displacements by the paramilitaries were taking place from that date.<sup>49</sup> Furthermore, land restitution is normally initiated as a part of a transitional process once an internal conflict has finished. This is not the case in Colombia, where people continue to be internally displaced on a daily basis.

The implementation of the Bill on restitution of land is designed to be applied over a ten year period, with the Government designating approximately US\$25 billion for its implementation. The State recognises only 4 million victims, which according to the Colombian government amount to approximately one million families, including the displaced population. It calculates that this would mean restoring land to approximately 350 families daily for the next 10 years.<sup>50</sup>

The Minister of Agriculture, Juan Camilo Restrepo, has told INCODER to 'accelerate' its rate of land restitution in order to meet the target of 500,000 hectares under the *Plan de Choque* by the end of 2011.<sup>51</sup> Between August 2010 and May 2011, INCODER formalised the property rights relating to 187,780 hectares of land and restored 9,984 hectares to forcibly displaced and disposed *campesinos*.<sup>52</sup> The Hacienda de Las Pavas (Las Pavas Ranch) is part of 500,000 hectares in the *Plan de Choque*.

<sup>38</sup> International Centre for Transitional Justice, Justice and Peace, in debt to the victims ('Justicia y Paz, en deuda con las víctimas'), 11 July 2010.

<sup>39</sup> UN High Commissioner for Human Rights 'Report on the situation of human rights in Colombia', A/HRC/4/48 5 March 2007 para29

<sup>40</sup> Mesa Nacional de Garantías: Mesa Temática sobre la situación de defensores, defensoras, víctimas y organizaciones que reclaman sus derechos a la tierra, los territorios y la restitución, Bogotá, 4 April 2011, page 22.

<sup>41</sup> Annual Report of the UN High Commissioner For Human Rights And Reports of the Office of the High Commissioner and of the Secretary-General Report of the UN High Commissioner For Human Rights on The Situation of Human Rights In Colombia A/HRC/7/39, 29 February 2008, Para 41

<sup>42</sup> Interview with Álvaro Villarraga, coordinator of the Disarmament, Demobilization and Reintegration -DDR- area of the National Commission for Reparation and Reconciliation (CNRR), and responsible for their most recent report on criminal gangs. Mr. Villarraga spoke to *Semana* news magazine about the challenge these criminal gangs represent for the country. Current estimates of the number of members of these groups range between from 6,000 and 10,000. Martes 18 Enero 2011 "Las Bacrim tendrían unos seis mil hombres, en seis estructuras".

<sup>43</sup> Mesa Nacional de Garantías: Mesa Temática sobre la situación de defensores, defensoras, víctimas y organizaciones que reclaman sus derechos a la tierra, los territorios y la restitución

<sup>44</sup> 'Colombia busca atacar el vínculo entre conflicto de tierras y violencia' (Colombia seeks to deal with the link between conflict of land and violence), BBC Mundo, 7 February 2011, accessed on 19 May at [http://www.bbc.co.uk/mundo/noticias/2011/02/110207\\_2020\\_colombia\\_restitucion\\_tierras\\_gz.shtml](http://www.bbc.co.uk/mundo/noticias/2011/02/110207_2020_colombia_restitucion_tierras_gz.shtml)

<sup>45</sup> It should be noted: although 2.2 million hectares have been mentioned on several occasions it is still not certain that this will be the final amount.

<sup>46</sup> PLAN DE CHOQUE was the first step in the Santos administration's public policies on land and rural development; the plan was to be completed between October, 2010 and April 2011.

<sup>47</sup> As stated in the introduction of this report, the statistics vary considerably regarding the amount of hectares abandoned due to forced displacement from 1.2 million to 10 million.

<sup>48</sup> Internal Displacement Monitoring Centre and Norwegian Refugee Council, Building Momentum for Land Restoration. Towards property restitution for IDPs in Colombia, November 2010

<sup>49</sup> However, it should be recognised that forced displacement goes back at least 30 years.

<sup>50</sup> Information given to ABColombia during a meeting with the Vice President Angelino Garzon, March 2011.

<sup>51</sup> Se han formalizado, restituido y adjudicado más de 313 mil hectáreas: gobierno' ('More than 313,000 hectares have been formalised, reinstated and awarded: government'), *El Espectador* newspaper, 15 Mayo 2011. [www.elespectador.com](http://www.elespectador.com).

<sup>52</sup> Ibid

## CASE STUDY: LA HACIENDA DE LAS PAVAS (HEREAFTER CALLED LAS PAVAS)



Las Pavas community during their displacement in Buenos Aires, Bolivar Department

The Las Pavas community were forcibly displaced on two occasions by paramilitaries, but on both occasions they returned; finally they were expelled from their territory by the national police, when a consortium of palm companies were sold 1800 hectares of their land by the state department INCODER.

*“It was an illegal eviction because they did not take into account the claim on the land made by the peasants”* Banessa Estrada, the community’s lawyer

On 6 May 2011, the 123 families of the Las Pavas farming community received the long awaited news that the Constitutional Court had declared the actions leading to their forcible eviction in 2009 illegal and ordered that their land be restored to them. The decision obliges the Colombian government to re-open the process that the community began in 2006 to have their legal claim on the land acknowledged.<sup>53</sup>

*“We are very happy, because without land we are nothing. It’s not just about working on the land; we want to restore our territory, environment and culture. This is what we are seeking to regain.”* Las Pavas community leader, Misael Payares, 4 April 2011

The Las Pavas community formed a co-operative (La Asociación de Campesinos de Buenos Aires – ASOCAB) to resist their displacement, to have their territory returned to them and their land ownership recognised. Whilst they were pursuing their claim to their land, a palm oil consortium, C.I San Isidro and C.I Tequendama S.A (a subsidiary of the DAABON Group), bought five plots of land on the Las Pavas estate totalling 1800 hectares. The peasant farmers were forcibly evicted from their land by the Colombian police in July 2009; the police informed them that their land had been sold to a palm oil company.

PDPMM (Programme for Development and Peace of the Magdalena Medio), an ABColombia partner organisation, came to the assistance of the Las Pavas community, providing them with legal advice and challenging the eviction. Following this violent eviction these families have lived in a situation of displacement taking refuge in a small village called Buenos Aires on the edge of their territory.

In the process of negotiating the return of their land with the Colombian State, in a meeting on 25 March 2011, the community were told that the government wanted them to ‘lend’ (prestar) their land to the palm company. Attaching these conditions to land returned to communities who were violently displaced is to remove the communities’ autonomy over their land, denying them their right to manage it.

**Current EU policies promoting the use of bio-fuels are a major factor driving mono-cultivation of palm oil and sugar cane. In Colombia this is increasing the risk that land belonging to displaced communities will end up, “by dubious or illegal means, in the hands of businesses.”<sup>54</sup>**

**Who are the victims?** ‘Victims should be treated equally’ – UN Pinheiro Principle 4. The Bill is looking to restore land to victims forcibly displaced by the conflict but it appears that not all victims will be covered. The current government’s adoption of the term criminal gangs or BACRIM (Bandas Criminales) to describe new paramilitary groups changes the definition of the violence they perpetuate against the civilian population from being politically motivated to criminally motivated.<sup>55</sup> Victims of politically motivated crimes have a range of entitlements that are not available to those who suffer criminally motivated activities. These include the right to truth, justice and reparation and land restitution.

**How are the Victims consulted?** ‘Ample consultation with affected groups should be carried out’ – UN Pinheiro Principle 14. The majority of those displaced since the 1980s are small-scale farmers (campesinos), indigenous and Afro-Colombian communities. There is also a legal obligation to consult Afro-Colombian and Indigenous communities, but despite this the Bill lacks a mechanism to guarantee their right to consultation and consent.<sup>56</sup> Therefore, the first challenge the Bill encountered was its illegality with respect to lack of consultation; transitional provisions were added giving the President has extraordinary powers for six months to issue a decree that regulates and guarantees the rights of indigenous

<sup>53</sup> For more detailed information on this case go to <http://retornoalaspavas.wordpress.com/cronologia-del-caso-las-pavas/>

<sup>54</sup> ‘Colombia’s robber barons ruling jungles with guns and whisky. Farmers in Chocó province say mining and logging firms are pushing them off the land by force or trickery’, Guardian newspaper, 19 October 2009. Accessed on 19 May 2011 at <http://www.guardian.co.uk/world/2009/oct/19/columbia-robber-barons-choco>

<sup>55</sup> See: ‘Las bandas criminales son eso, bandas criminales, no son grupos armados ilegales, son parte de una banda de crimen organizado, que eso quede bien claro’, dijo Juan Manuel Santos. (‘The criminal bands are exactly that, criminal bands, they are not illegal armed groups, they are part of organised crime, let that be crystal clear’ says Juan Manuel Santos), in El Espectador newspaper, 7 February 2011. Accessed on 19 May 2011 at <http://www.elespectador.com/noticias/judicial/video-249439-consejo-nacional-de-seguridad>

<sup>56</sup> In compliance with the International Labour Organisation (ILO) Convention 169, to which Colombia is a signatory, Article 330 of the Colombian Constitution establishes the right of the indigenous population to free, prior and informed consultation on projects that will affect their land, lives or culture.

peoples and Afro-Colombians.<sup>57</sup> As a result there have been several consultation meetings with indigenous groups regarding this Bill; however, the time allocated for the consultation process is proving to be insufficient. The pace has disregarded indigenous and Afro-Colombian peoples' processes leaving many unaware of the consultative meetings. In the case of Afro-Colombians, there has been controversy regarding which legitimate authorities should be consulted.<sup>58</sup>

**Land Restitution outside of a transitional process:** Land restitution is normally initiated as a part of a transitional process once an internal conflict has finished. This is not the case in Colombia, where people continue to be internally displaced daily and where illegal armed groups continue to operate. This has implications for the safety of those returning.

**Safe and dignified returns for communities and their leaders:**

Community leaders and human rights defenders working on land issues have been subjected to assassinations, threats, intimidation, and persecution through the judicial system for the work that they have done in upholding community's rights and pursuing land restitution. The UN High Commissioner for Human Rights, in her March 2011 Report, stated that she was "especially concerned about the murder of leaders, peasant farmers and internally displaced persons involved in land restitution cases."<sup>59</sup> Some of the leaders murdered had already received threats against their lives, and as such were in receipt of special protection measures for their safety. She went on to express serious concern regarding the "high rate of murders of displaced persons."<sup>60</sup> According to the National System for Integral Assistance to the Displaced Population, (SNAIPD), 1,499 homicides of displaced persons were committed between 2007 and March 2010.<sup>61</sup>

Many community leaders and human rights defenders working on land issues have been subjected to systematic stigmatisation designed to de-legitimise their work and, as a result, desensitise the Colombian public to attacks and assassinations of these leaders. Stigmatisation has been carried out by government officials, presidential advisors, former President Uribe, and army officers amongst others. When President Santos came to office he promised to stop these kinds of verbal attacks. While this has changed the environment in which defenders are working, such stigmatisation has not entirely stopped. In March 2011 the commander of the armed forces, General Alejandro Navas, stated that the indigenous peoples were part of the illegal war that the guerrilla perpetrated against the army.<sup>62</sup>

Restitution of land to victims of forced displacement can only be carried out in safety and with dignity if illegal armed groups

and their structures are dismantled. As long as they exist, so will the threat. Mobile phones and bullet-proof vests may offer a measure of protection to community leaders, but they continue to be targets.<sup>63</sup> Therefore, the Bill will need to be accompanied by political will to tackle illegal armed groups as a means to ensure the protection of communities and their leaders.

**Support for small-scale agricultural models and rural development:**

For the victims to return with dignity they will need sufficient resources, not only for the initial return but also to restore their land to a productive state. Without this provision, renewed displacement could occur due to lack of food security. There is very little in the National Development Plan to support a small-scale agrarian model of development and whilst the preamble to the Victims Law states a commitment to revitalising small-scale agriculture, there is nothing concrete in the articles of the Bill.<sup>64</sup> The government has a programme of loans and financing projects that accord with national planning goals in industrial agriculture and mining. The same support needs to be given to victims if they are to have any chance of keeping their land and not being forced to sell; establishing their livelihoods after being displaced for so long will take both time and governmental support. It will be essential for the Colombian National Development Plan and foreign trade and aid policies to promote and support a small-scale agrarian model and provide resources over the long term to small-scale farmers, in order to create access to markets and to ensure food security for this sector of the population.

**National land audit:** The incompleteness of the land register in Colombia is a major obstacle in resolving land rights issues. The Constitutional Court has set out two steps that need to be undertaken; one is to carry out a census of land to identify every single property that has been lost by IDPs in Colombia and the other to update the cadastral system for registering ownership of land.

Without a national land audit there are no guarantees for international investments. Many could find themselves involved in court cases as victims seek to have their rights over their land recognised. All businesses that choose to invest in Colombia (especially in industries that require large amounts of land, such as mining, timber, agriculture and oil and gas) risk having some kind of interaction with or impact on the conflict.<sup>65</sup> Data provided by a national land audit could help provide businesses with the information they need to ensure that in purchasing land they are not becoming accomplices in a land theft carried out by intimidation, forced displacement and murder.

<sup>57</sup> Internal Displacement Monitoring Centre and Norwegian Refugee Council, Building Momentum for Land Restoration. Towards property restitution for IDPs in Colombia, November 2010.

<sup>58</sup> Public statement, made on 26 October, 2010; public declaration from the National Afro-Colombian organisations regarding the prior consultation process and general laws (Victims Law and the National Development Plan). (Pronunciamento de las Organizaciones Afrocolombianas Nacionales sobre la Consulta previa y las leyes generales. (Ley de víctimas y Plan Nacional de Desarrollo)

<sup>59</sup> Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/16/22, 3 February 2011.

<sup>60</sup> Ibid Para 95

<sup>61</sup> Ibid Para 95

<sup>62</sup> "Intensifican ofensiva contra grupos subversivos y criminales," Diario El Liberal, 4 de marzo de 2011. See: [www.ejercito.mil.co/?idcategoria=279193](http://www.ejercito.mil.co/?idcategoria=279193), "Los indígenas son manipulados por los grupos armados ilegales para su protección, que los toman como escudo para su protección, también son instrumentos de la guerra jurídica que los ponen contra la tropa. De igual manera el modus operandi de estos grupos es disparar desde las casas y utilizando niños." It is stated later on the army website that the indigenes are not complicit with the guerrilla but victims of the guerrilla. However, the specific statement that he made actually does accuse indigenous peoples of being instruments in a legal war against the troops.

<sup>63</sup> Mesa Nacional de Garantías: Mesa Temática sobre la situación de defensores, defensoras, víctimas y organizaciones que reclaman sus derechos a la tierra, los territorios y la restitución (National Roundtable on Guarantees: Thematic Roundtable on the situation of defenders, victims and organisations who claim their rights to land, territories and restitution), 4 April 2011, Bogotá, page 22.

<sup>64</sup> Internal Displacement Monitoring Centre and Norwegian Refugee Council, Building Momentum for Land Restoration. Towards property restitution for IDPs in Colombia, November 2010.

<sup>65</sup> ABColombia, Fit For Purpose: how to make UK policy on Colombia more effective, 2009, page 27.

## The British Government

The UK Embassy in Colombia has taken action to help protect human rights defenders including visiting defenders and communities at risk. In addition the G24 under the British Presidency is part of an international group observing the process of handing back land to the victims in Curbaradó and Jiguamiandó, mentioned earlier in this report. These initiatives are positively supporting the victims. The British Government needs, however, also to consider how it can prevent British companies from exacerbating this situation. One way is to provide detailed advice and support to British businesses and companies listed on the London Stock Exchange, to foster understanding of the context in which they would be investing and to ensure that they do not end up benefitting from human rights abuses or legalising stolen lands. The UK Trade and Investment's (UKTI's) new Strategy, Britain Open for Business, a five year plan designed to provide practical support to exporters and inward investors, has identified Colombia as one of 19 high-priority markets. UKTI plans to intensify its efforts and direct resources to help UK companies seize opportunities in these markets. The UK cannot support companies under this strategy unless it ensures that any resources provided to them will not support the legalisation of land grabs and further violate the rights of victims. Before implementing this programme in the case of Colombia, it will be essential that robust polices are in place to ensure that companies benefitting from this plan respect, protect and fulfil human rights obligations in conformity with national and International norms.<sup>66</sup> If the UKTI plan to promote British business in Colombia remains a priority, there is a need to ensure that companies investing in Colombia report on the human rights impacts of their corporations. This reporting should be structurally and implicitly built in to company reporting. This is important not only for Colombia but also for all British companies. With the amendments to the Companies Act 2006 human rights impacts could be included as an explicit requirement.<sup>67</sup> This would also be an important step in the UK's practical implementation of the 'Protect, Respect and Remedy' framework adopted by the UN Human Rights Council in relation to business and human rights.

Equally, it is essential that the British government ensures that UK money, particularly through Export Credits, does not finance projects that take advantage of these human rights abuses. The Government's Export Credits Guarantee Department (ECGD) portfolio to date has 'fuelled human rights abuses, environmental damage and poverty'.<sup>68</sup> Reforms of the ECGD ensure transparency and accountability should be put in place before any funding is considered for companies working in Colombia, particularly since one of the negative side effects of the current ECGD portfolio identified by critics is 'large scale human displacements'.<sup>69</sup>

Companies should also be required to submit detailed impact assessments for project approval including information on a range of key human rights and environmental considerations. Without these the British taxpayer could well end up contributing to projects which benefit from the human rights violations and land grabs mentioned in this briefing.

With the strong emphasis on developing the extractive sector in Colombia and with British companies, including those listed on the London Stock Exchange, holding a wide range of concessions in Colombia, it will be important that the UK can hold these companies to account for their human rights record overseas. This is why the current UK reforms to civil litigation are so concerning. The so called Jackson reforms will significantly restrict the ability of claimants and their lawyers to recover legal costs from defendants.<sup>70</sup> This threatens to make human rights claims against multinational corporations economically unviable in the UK, with devastating consequences for human rights claims against multinational corporations.

## EU policy

While some trade opening can reduce poverty and inequality and can be an engine for development, the EU-CAN Agreement with Colombia and Peru currently under discussion could rather be used as a means of legalising the theft of land from which people have been forcibly displaced.

Some people have argued that a free trade agreement with Colombia will encourage Colombia to improve its human rights situation. This is unlikely since the EU has had the Generalised System of Preferences (GSP+) agreement for several years which includes the democratic clause, and this agreement continues, despite the level of human rights violations in Colombia. It is far more likely that Colombia will address the human rights and land situation if the European Parliament and member states refuse to ratify the agreement.

The initial restoration of land under the Victims Law will need to be supported over the long term if it is to be successful. A key moment for the European Union will be its new Country Strategy (2013). Resources for small-scale agricultural models of development to enable farmers to remain on their land and draw a livelihood from it, will be essential if peasant farmers receiving land under this Bill are not to run a risk of being dispossessed of their territory once again.

<sup>66</sup> UK companies should pay special attention to investments made on collective territories owned by indigenous and Afro-Colombian groups. Colombia as signatory of the 169 ILO Convention, is obliged to guarantee previous, free and informed consultation of any private or public investment in ethnic territory. Therefore companies must take into account this condition in their financial projections and planning. In practice, this right has not been fully guaranteed for a number of reasons, one of which is: the government does not have sufficient economic and human resources capacity to monitor free, previous and informed consultations. There is a need to strengthen State's capacities. The British cooperation strategies should include State's capacity building as one of its objectives.

<sup>67</sup> For details on how to improve company reporting using the existing framework with some key but simple improvements see: Corporate Social Responsibility Coalition, Towards an effective UK Regime for environmental and Social Reporting by Companies, May 2011, [www.corporate-responsibility.org](http://www.corporate-responsibility.org)

<sup>68</sup> The Jubilee Debt campaign, Briefing on the campaign to reform the ECGD, [www.jubileedebtcampaign.org.uk/End%20Britain%27s%20Dodgy%20Deals+6263.twl](http://www.jubileedebtcampaign.org.uk/End%20Britain%27s%20Dodgy%20Deals+6263.twl)

<sup>69</sup> *ibid*

<sup>70</sup> For further information see the Corporate Social Responsibility Coalition, Implications of the Jackson Civil Costs Reforms for Human Rights Cases against Multinational Corporations [http://corporate-responsibility.org/wp-content/uploads/2011/05/jackson\\_analysis5.pdf](http://corporate-responsibility.org/wp-content/uploads/2011/05/jackson_analysis5.pdf)

# Recommendations to the British and Irish Governments and the European Union

## Ensure that the new EU Country Strategy on Colombia (2013) prioritises and promotes:

- Funding and specific measures to support the peasant-farmer economy and projects promoting food security and livelihood opportunities for victims.
- Funding and technical expertise to enable the Colombian government to collate the land cadastres that are currently in existence and to carry out the additional work needed to complete the national land audit in accordance with the Constitutional Court rulings.
- Measures to ensure that no aid money is given to projects located on land that has been forcibly expropriated.
- Support and fund programmes to facilitate displaced peoples' safe and sustainable returns to their lands.
- Funding and specific measures to support and build on the capacities of the State and ethnic groups to implement free prior and informed consent processes.
- An effective and comprehensive protection programme for beneficiaries of the Land Restitution Bill.

## Promote ethical business and trade:

- The current EU-CAN Agreement should be declared a mixed agreement; as such it would have to be expressly ratified by the Parliaments of all 27 member states. Since the human rights conditions currently do not exist for the implementation of the EU-CAN Agreement with Colombia and Peru, we recommend that the UK and Irish parliaments and members of the European Parliament should refuse to ratify it.
- Insist that British, Irish and European companies comply with indigenous peoples' right to free, prior and informed consent within their territories in line with ILO Convention 169, recent Constitutional Court rulings and the UN Declaration on the Rights of Indigenous Peoples, endorsed by Colombia in 2009.
- Ensure that British, Irish and European businesses do not profit from displacement or other human rights abuses. The burden of proof must be on the companies to show that no displacement has taken place.

## Ensure the safety and protection of human rights defenders working on land issues by fully implementing the European Guidelines on human rights defenders. In particular:

- Insist that the European Delegation has an identified person to act as the EU 'focal point' for human rights defenders. There should be clear and concrete criteria for taking action when human rights defenders are at risk.
- Make statements in support of defenders and community leaders working on land restitution, issue public declarations when defenders and victims receive death threats and carry out regular visits by high level officials to these organisations.

## Recommendations to the British Government:

- Require companies to report fully on their social and environmental impacts, explicitly including human rights impacts, and identify future risks by strengthening the current provisions of the Companies Act 2006.
- Amend the Jackson proposals to clarify that they do not apply in respect of litigation against multinational corporations, in cases where the ability of victims of corporate harm to obtain a remedy would be undermined.
- Implement a management and monitoring system to ensure the Export Credits Guarantee Department (ECGD) complies with wider government policy on human rights, the environment and sustainable development.
- Fully implement the UK 'Business and Human Rights Tool Kit' which demonstrates the UK's commitment to 'promoting responsible corporate behaviour amongst UK companies operating (or considering potential opportunities for operating) overseas'.

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## About us

ABColumbia is a group of leading UK and Irish organisations with programmes in Colombia. We work on questions of human rights, development and forced displacement. ABColumbia's members are CAFOD, Christian Aid (UK and Ireland), Oxfam GB, SCIAF, and Trócaire. Amnesty International and Peace Brigades International are observer members.

ABColumbia develops the collective advocacy work of members. Our members work with around 100 partner organisations in Colombia, most of them with little access to decision-making forums nationally or internationally.

If you would like to be kept informed of new ABColumbia publications and news, please register at [www.abcolombia.org.uk](http://www.abcolombia.org.uk)

The Social Department of the Colombian bishops' conference / Caritas Colombia (Secretario Nacional de Pastoral Social, Caritas Colombiana – SNPS), as part of the Catholic Church, seeks to translate into practice the Church's work for peace and reconciliation, the defence of human rights and assistance to victims of the conflict. The department provides emergency food, shelter and advice for the displaced. Through its offices around Colombia, it also offers help to vulnerable communities in matters of protection and support.

For more information, in Spanish, on the work of SNPS see [www.pastoralsocial.org](http://www.pastoralsocial.org)

# ABColumbia

CAFOD, Christian Aid, Oxfam GB, SCIAF, Trócaire  
**Working for Peace and Human Rights in Colombia**

Romero House, 55 Westminster Bridge Road, London SE1 7JB

**Tel:** +44 (0) 207 870 2216/7

**Email:** [abcolombia@abcolombia.org.uk](mailto:abcolombia@abcolombia.org.uk)

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