Longing for Home
Return of Land to Colombia’s Internally Displaced Population

The Latin America Working Group Education Fund conducts public education to encourage U.S. policies that promote human rights, justice and peace in Latin America. The LAWGEF serves a coalition of nongovernmental, religious, humanitarian, and grassroots organizations.

While the crisis is largely invisible to the world, Colombia has the second largest number of people internally displaced after Sudan. An estimated 3.6 million people were displaced by political violence between 1985 and September 2005, 2.9 million in the last decade alone. Between 1999-2004, more than 90,000 people sought political asylum in other countries.

More than 30,000 paramilitary fighters, responsible for a large part of this displacement, were demobilized over the last three years following an accord between the Colombian government and paramilitary leadership. An additional 10,000 combatants, paramilitaries and guerrillas, were demobilized individually during this period. Yet the discussion of how this affects Colombia’s internally displaced population has barely begun, internationally and within Colombia. Because these excombatants are in possession of much of the land obtained by violence and coercion from internally displaced persons, what will happen to the land and to those who fled from violence must be discussed in the context of the demobilization. Donors to the demobilization effort, like the United States, have an obligation to ensure the rights of internally displaced persons are not harmed by the aftermath of the demobilization.

Why They Flee
Colombians flee their homes because of violence and threats by rightwing paramilitary forces, leftwing guerrilla forces, and conflict between the army and insurgent groups. According to the International Committee of the Red Cross, “displacement tends to be a deliberate strategy, not a result of the conflict.” Often, people do not simply flee conflict but rather are displaced as part of a deliberate strategy to obtain their land, whether for personal profit, to clear corridors for military advantage or drug trafficking. According to the UN, “illegal acquisition of land through threats and violent acts is a common cause of displacement and large tracts of land have illegally ended up in the hands of drug lords and paramilitary groups.”

While it is difficult to specify the exact responsibility of each armed actor in contributing to displacement, it is fair to say that for many years, paramilitary violence was the leading cause. Paramilitary groups would round up and kill local leaders, causing rural families to flee in terror, and then use the land they abandoned to consolidate their local power, finance their operations, protect drug production and trafficking, and launder drug profits. In some cases, people were forced under threat to sell their land titles at low cost, meaning that some land obtained by violence will be legally titled. Paramilitaries have dropped fliers from helicopters with the message, “If you don’t sell you will die,” amputated the index finger of a victim to include the fingerprint on false paperwork and assassinated land owners to force family members to sell. In one case, for example, palm company businessmen accompanied by paramilitaries called the families of an Afro-Colombian community in the Bajo Atrato region to a meeting and proposed to buy their land to plant African palm plantations. “The armed men warned them that they must negotiate... or they would negotiate with their widows.”

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Executive Summary

While the crisis is largely invisible to the world, Colombia has the second largest number of people internally displaced after Sudan. An estimated 3.6 million people were displaced by political violence between 1985 and September 2005, 2.9 million in the last decade alone. The crisis continues: the number of people fleeing their homes from political violence increased 8 percent from 2004 to 2005, estimated at more than 310,000 people displaced in 2005.

More than 30,000 paramilitary fighters, responsible for a large part of this displacement, were demobilized over the last three years following an accord between the Colombian government and paramilitary leadership. Yet the question of how this affects Colombia’s internally displaced population has barely begun, internationally and within Colombia. Because these excombatants are in possession of much of the land obtained by violence and coercion from internally displaced persons, what will happen to the land and to those who fled from violence must be discussed in the context of the demobilization. Donors to the demobilization effort, like the United States, have an obligation to ensure the rights of internally displaced persons (IDPs) are not harmed by the aftermath of the demobilization.

Colombians flee their homes because of violence and threats by rightwing paramilitary forces, leftwing guerrilla forces, and conflict between the army and insurgent groups. While it is difficult to specify the exact responsibility of each armed actor in contributing to displacement, it is fair to say that for many years, paramilitary violence was the leading cause. Paramilitary groups would round up and kill local leaders, causing rural families to flee in terror, and then use the land they abandoned to consolidate their local power, finance their operations, protect drug production and trafficking, and launder drug profits.

Displacement is often referred to as Colombia’s “reverse land reform,” taking land from the poorest sector of the population. Estimates of how much land was appropriated through violence range from 2 million to nearly 7 million hectares. One Colombian Bishops’ Conference/University of the Andes study estimates that the lands taken by paramilitaries from the internally displaced population equal twice the amount of land given out by Colombia’s agrarian reform institute between 1993 and 2002.

Some 30,000 paramilitaries have demobilized over a three-year period as a result of negotiations, and to date virtually none of the land they stole through violence has been returned to its rightful owners, nor have those owners, mostly poor farm families, been compensated for its loss. As part of the “Justice and Peace law” governing the demobilization, in order to receive benefits, including no or reduced prison time, excombatants are supposed to reveal their illegally acquired assets, including land. However, without serious international and domestic political pressure, this requirement is unlikely to be enforced. Moreover, the vast majority of the paramilitaries have demobilized under previous legislation, which does not require return of illegal assets.
Solutions. Return of land is an enormously complicated endeavor. Any solution must recognize that many internally displaced persons will not choose to return, whether for lack of security, inadequate support for resettlement or the pull of urban life. And accommodation in the interests of peace must be made to reintegrate paramilitary excombatants into productive opportunities, including through land titling. But an honest effort should be made to return land stolen through heinous acts of violence and to provide other durable solutions and reparations to so many who have suffered so much. Such an honest effort has not even yet been discussed, much less begun.

For U.S. policy, it is important to note that land was often acquired as a way of laundering drug profits, so that land return and investigation of paramilitary assets plays a valuable role in counterdrug strategy. But the United States should support return of land and restitution to Colombia’s internally displaced as a matter of urgent humanitarian concern and simple justice.

Recommendations for U.S. policy:

• Urge the Colombian government to insist upon full disclosure and return of illegally held land by demobilizing excombatants who wish to obtain benefits under the Justice and Peace law or the law governing individual demobilization, rather than accepting casual offers of a small quantity of land by paramilitary leaders.

• Urge the Colombian government to carry out a systematic review of land that has been lost by internally displaced persons fleeing violence. This review should pull together the substantial existing information, drawing upon databases including those maintained by the government’s Acción Social, Procuraduría General, Defensoría del Pueblo, agrarian reform institute, Banco Agrario, Counternarcotics Bureau, police and Attorney General’s financial asset investigations, and civil society initiatives like CODHES’s surveys and the Catholic Church’s Sistema RUT. While this is enormously complex, progress can be made by starting with a few extreme cases of massive displacement as well as with collective lands belonging to indigenous and Afro-Colombian communities.

• Urge the Attorney General’s office to vigorously investigate the illegally held assets held by demobilized excombatants and provide adequate funding and technical advice to help it meet this goal. Insist that the Attorney General’s office require that the “actas” or written confessions provided by the paramilitaries who seek to be covered by the benefits of the Justice and Peace law include detailed information about the exact locations and numbers of properties they acquired through violence or other illegal means.

• Ensure that USAID does not fund any project, for excombatants or others, on land obtained by violence, by setting up a system to carefully screen land titles. Similarly, urge the Colombian government to make transparent its projects to reintegrate excombatants and ensure that these projects are not taking place on land obtained by violence. To identify a starting point, areas of massive displacement and areas of collective land titles granted to indigenous and Afro-Colombian communities, as well as protected environmental areas, should be off-limits to such projects for excombatants.
The Colombian government bears a large share of responsibility for internal displacement, not just because the armed forces failed to protect citizens, but more directly because of the pattern of collaboration between members of the army and paramilitary groups. The following excerpts are just two of many examples of alleged collaboration between members of the army and paramilitaries carrying out acts of terror that caused displacement.

Survivors told Human Rights Watch that while [army] soldiers maintained a perimeter around El Aro, an estimated twenty-five ACCU [paramilitary] members entered the village, rounded up residents, and executed four people in the plaza.... Witnesses said that paramilitaries told store owner Aurelio Areiza and his family to slaughter a steer and prepare food from their shelves to feed the ACCU fighters... The next day, witnesses told Human Rights Watch, paramilitaries took Areiza to a nearby house, tied him to a tree, then tortured and killed him. They added that the ACCU gouged out Areiza’s eyes and cut off his tongue and testicles. One witness told journalists who visited El Aro soon afterwards that families who attempted to flee were turned back by soldiers camped on the outskirts of town. Over the five days they

“If these families have been displaced by the violence, let them not be displaced again by indifference.”

- Father Rafael Castillo Torres, Archdiocese of Cartagena*

*Catholic Relief Services, “Project Ruth Database,” http://www.crs.org/our_work/where_we_work/overseas/latin_america_and_the_caribbean/colombia/ruth.cfm
remained in El Aro, ACCU members were believed to have executed at least eleven people, including three children, burned forty-seven of the sixty-eight houses, including a pharmacy, a church, and the telephone exchange, looted stores, destroyed the pipes that fed the homes potable water, and forced most of the residents to flee. When they left on October 30, the ACCU took with them over 1,000 head of cattle along with goods looted from homes and stores. Afterwards, thirty people were reported to be forcibly disappeared.\(^7\)

In another infamous example:

On January 17, 2001, an estimated fifty paramilitaries pulled dozens of residents from their homes in the village of Chengue, Sucre.

“They assembled them into two groups above the main square and across from the rudimentary health center,” the Washington Post later reported. “Then, one by one, they killed the men by crushing their heads with heavy stones and a sledgehammer. When it was over, twenty-four men lay dead in pools of blood. Two more were found later in shallow graves. As the troops left, they set fire to the village.” Among the reported dead was a sixteen-year-old boy, whose head was severed from his body.

The Washington Post reporter interviewed more than two dozen residents who said that the Colombian military helped coordinate the massacre by providing safe passage to fighters who identified themselves as paramilitaries. They said that the military sealed off the area by conducting a mock daylong battle, allowing the paramilitaries to search out and kill the Colombians they had targeted for death.

Months earlier, local authorities warned military, police, and government officials that paramilitaries planned to carry
out a massacre. Yet their pleas for protection proved futile. Even as paramilitaries moved toward Chengue to commit the massacre, timely information from local police on their vehicles, whereabouts, and direction was ignored by military commanders responsible for the area.⁸

A smaller number of people are displaced by the U.S.-funded aerial eradication program, which destroys both illicit drug crops and families’ food crops. These displaced persons are expressly not covered by government programs for internally displaced persons (IDPs). Therefore, the number of people affected is hard to quantify; the nongovernmental organization Consultancy on Displacement and Human Rights (CODHES) has attempted to estimate its impact.

Is it still happening? Internal displacement is far from a problem of the past. Indeed, the number of people fleeing their homes from political violence increased 8 percent from 2004 to 2005, estimated by CODHES at more than 310,387 people displaced in 2005. This displaced population in 2005 took refuge in 754 of Colombia’s 1,121 municipalities and 31 of Colombia’s 32 provinces. From the start of President Uribe’s first term in August 2002 until the end of 2005, 1,011,270 people have been displaced, according to CODHES. Even the official government figures, which undercount substantially, estimate 746,689 people during the same time period.⁹

Among the reasons for displacement in

“When violence came we had no choice but to leave everything behind and go to the city. We never imagined then that displacement was going to be a trip with no end, with no point of arrival.” *

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2005: increased offensives by the FARC guerrillas; paramilitary violence, including ceasefire violations by those involved in the negotiations and the emergence of new paramilitary and drug trafficking groups; widespread use of landmines; aerial spraying; and intensifying conflict between the army and insurgent groups and between paramilitaries and guerrillas.¹⁰

How much land was lost? Estimates of how much land has been appropriated through violence range widely, but experts agree on the enormity of the problem. CODHES estimates that between 1995 and 2003, people were forced to abandon at least 4.8 million hectares of land.¹¹ The Comptroller General estimates 2.6 million hectares,¹² while a consultant contracted by the Colombian government’s Acción Social estimates 6.8 million.¹³ Estimates of exactly how much of this land is currently possessed by paramilitaries also vary. The National Social Ministry of the Colombian Bishops’ Conference estimates that at least 1.2 million hectares remain in the hands of paramilitaries.¹⁴

Displacement is often referred to as Colombia’s “reverse land reform,”¹⁵ taking land from the poorest sector of children, particularly adolescents, stopped attending school after their displacement, whether from the lack of places in new schools or inability to meet school fees or buy supplies. Only 13-21 percent complete some secondary school. Less than half have any health system coverage. According to CODHES, the great majority of the displaced population earns less than a dollar a day. Some 40 percent of the displaced are unemployed, and their income is halved compared to what they earned before they were forced to flee their homes.¹⁸ This loss of income substantially affects the Colombian economy as well as the IDPs themselves, according to a Social Ministry study.¹⁹

Impact on ethnic minorities. Afro-Colombian and indigenous communities have been affected by displacement far beyond their percentage of the population. Afro-Colombians were displaced from lands to which, in a landmark achievement, they had only recently acquired permanent title. In 1993, the Colombian Congress passed Law 70, which recognized the “inalienable” land rights of Colombia’s Afro-Colombian communities – their rights to the land that they had lived on and farmed for generations. By January 2006, the

“One never ceases to be a ‘displaced person.’
It is a stigma, a way of life.” *

The Displaced Population Today
Between 41-47 percent of the IDP population is under 15 years old.¹⁷ Many

the population. Indeed, a study by the Colombian Bishops’ National Social Ministry and the University of the Andes estimated that the lands taken by paramilitaries from the internally displaced population equal twice the amount of land given out by Colombia’s agrarian reform institute between 1993 and 2002.¹⁶

The Colombian government issued collective titles for 5.1 million hectares to benefit Afro-Colombian communities.²⁰ According to the Afro-Colombian displaced persons association AFRODES, “Paradoxically, this legalization of collective property… not only has been unable to stop the systematic violations of the rights of Afro-Colombian communities, it appears to have been a factor contributing to increased violations.”²¹ Illegal armed actors, especially paramilitaries, used violence and the threat of violence to displace

these communities in order to obtain their land. While it is difficult to quantify, some estimate that as much as over 60 percent of the Afro-Colombian population of collective lands have been displaced.\(^\text{22}\)

The displacement of indigenous people has an impact that cannot be assessed merely in numbers. Loss of indigenous territory also means loss of indigenous culture and way of life. The United Nations has cautioned, “a number of indigenous peoples of Amazonas, Putumayo, Caquetá and Guaviare continue to be at risk of extinction.”\(^\text{23}\)

Beyond the economic hardships of their lives, internally displaced persons continue to face threats and discrimination. Often, the assumption is made that IDPs from guerrilla-controlled areas are sympathizers of the guerrillas, for example. According to a displaced person interviewed by Doctors without Borders, “to be displaced is like being branded with a mark that you can never remove... They look at us like we are bad. Like they say, ‘who knows what armed group they belong to.’ And it’s the reverse; you have to keep running so you don’t get confused with the (armed) groups...”\(^\text{24}\)

The UN Representative on the Human Rights of Internally Displaced Persons, Walter Kälin, expressed his concern in a June 2006 visit to Colombia over violence and intimidation directed against those defending the rights of IDPs and IDP leaders themselves.\(^\text{25}\)

What benefits does the Colombian government provide for IDPs? Colombia has some of the world's most advanced legislation in terms of recognizing the rights of IDPs, but there is an “enormous gap,”

* Catholic Relief Services, “Luz’s Story.” This testimony was given by Luz Esthela, a displaced mother of four from Tolima.
according to Colombia’s Constitutional Court, between the rights granted the displaced by law and the actual governmental response. The Constitutional Court declared in a Ruling T-025 in February 2004 that the Colombian government’s failure to meet the needs of the displaced population is unconstitutional, and urged redress; a year after the ruling, the Court declared the ruling had not been complied with.

As the Colombian Commission of Jurists and Jesuit Refugee Services sum up the government’s response:

*The program’s coverage is insufficient, provision of assistance is begun a number of months after the IDPs have requested it, due to the delay in the process of registration in the SUR, the assistance does not cover basic and cultural needs of displaced persons and few beneficiary families are able to obtain an extension. According to the Inspector General’s Office and the Ombudsman’s Office, lack of fulfillment by the State in terms of humanitarian assistance has reached alarming levels: a recent study by these entities revealed that just 30.41 percent of households individually displaced between 1997 and 2004 and 8 percent of families displaced massively received emergency assistance.*

Besides the difficulty of obtaining emergency assistance, aid to transition IDPs into self-sufficient economic activity is woefully inadequate. For example, in practice most displaced persons cannot obtain credit.

International donors, including the United States, play a critical role in funding and supplementing the limited assistance the Colombian government provides to IDPs.

### Aid to IDPs vs. aid to excombatants.

The distribution of aid between excombatants and IDPs violates basic tenets of fairness, according to the Colombian government’s Procurador General (Inspector General), who has pointed out that the Colombian government has budgeted almost eleven times more per person for demobilized paramilitaries than for the victims, the internally displaced population. Donors also need to address this question of fairness as they support reintegration programs. The U.S. Congress, for example, authorized the spending of some $20 million for the paramilitary demobilization in FY06 and is poised to do so again in FY07 without appropriating additional funding. The administration originally proposed taking all of this aid from existing

### Properties Returned by Illegal Armed Groups

**2003 – February 15, 2006**

<table>
<thead>
<tr>
<th>Demobilized Group</th>
<th>Date</th>
<th>Place</th>
<th>Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autodefensas Campesinas del Magdalena Medio</td>
<td>February 7, 2006</td>
<td>La Merced, Puerto Triunfo, Antioquia</td>
<td>15 vehicles</td>
</tr>
<tr>
<td>Bloque Resistencia Tayrona</td>
<td>February 3, 2006</td>
<td>Guachaca, Santa Marta, Magdalena</td>
<td>7 vehicles</td>
</tr>
<tr>
<td>Bloque Central Bolívar – Sur de Bolivar</td>
<td>January 31, 2006</td>
<td>Buena Vista, Santa Rosa, Sur de Bolivar</td>
<td>8 vehicles</td>
</tr>
<tr>
<td>Frentes: Nordeste Antioqueño, Bajo Cauca y Magdalena Medio del Bloque Central Bolívar</td>
<td>December 12, 2005</td>
<td>Remedios, Antioquia</td>
<td>2 helicopters</td>
</tr>
<tr>
<td>Bloque Catatumbo</td>
<td>December 10, 2004</td>
<td>Finca Brisas de Sardinata, Campo, Tibú, Norte de Santander</td>
<td>105 rural estates, 58 urban areas, 10 boats, 45 mules</td>
</tr>
</tbody>
</table>

economic aid to Colombia, including from programs for the displaced and alternative development. Members of Congress who believed aid to the victimizers should not come from aid to the victims, or from alternative development programs, objected, and a tug-of-war resulted with members who protected the “hard” side of the package. A compromise will probably result.

What should be done about returns?
The United Nations’ internationally recognized Guiding Principles of Internal Displacement require that solutions for IDPs must be designed by IDPs themselves, and that IDPs have a choice as to whether to return to their place of origin or resettle elsewhere; all returns must be voluntary. The principles state that:

competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced person to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.

The principles also assert that:

competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparations.

In Colombia, most IDPs surveyed at this time do not wish to return to their place of origin. In many cases, they are fearful of continued violence; lack of programs to facilitate returns is another obstacle. The Colombian

“We all sleep in the same room. There are ten of us and we pile on top of each other. Some days we have no food for our children and we just stay here looking at each other.”

government currently has budgeted only for returns of 30,000 people in its four-year development plan for 2002-06.\(^\text{29}\) According to the RUT survey, some 64.7 percent of the sample wished to remain in the municipality to which they were displaced; 21.7 percent want to relocate to another place, 12.4 percent would like to return to their place of origin, and 1.2 percent would like to leave the country. As the security situation improves, more may wish to return.

The variety of land tenure complicates efforts to document and return land. While many of those displaced held proper legal title to their land, others rented or farmed the land without title.

**What is on the table regarding return of land as the demobilization unfolds?**

Some 30,000 paramilitaries have demobilized over a three-year period as a result of negotiations, and to date virtually none of the land they stole through violence has been returned to its rightful owners, nor have those owners, mostly poor farm families, been compensated for its loss.

Human rights organizations and organizations serving the displaced have sharply criticized the demobilization process and the law governing it as placing enormous obstacles in the path of restitution of land and adequate reparations to victims. As part of the “Justice and Peace law,” in order to receive benefits, including no or reduced prison time, excombatants are supposed to reveal their illegally acquired assets, which would include land. However, according to the UN High Commissioner for Human Rights’ office in Colombia, there are no real penalties for noncompliance with the Justice and Peace law, so “the obligation of demobilized persons to hand over property acquired as a result of illegal activities depends almost exclusively on their willingness to do so.”\(^\text{30}\) Moreover, paramilitaries who transfer title to third parties as front men, known as “testaferros,” are essentially protected—regulations...
attached to the Justice and Peace law expressly permit the Attorney General’s office not to pursue return of these properties. Paramilitary drug lords have registered much of their illicitly obtained property in the hands of third parties as a way of ensuring laundering of their profits.

The land is to be handed over to the National Reparations Fund, managed by Acción Social. To date, little or nothing has been handed over to this fund; the real test, however, will come only after the Attorney General makes public the list of paramilitaries who will be covered by the demobilization law. In the three years of the demobilization process, only the Catatumbo Bloc has turned over to the government a significant number of properties, 105 rural and 58 urban properties in the area of La Gabarra, Tibú municipality. Even in this case, only one person actually received their property back—and that came with several years of unpaid utility bills. Demobilizing paramilitary leaders have made an offer, as if it were a gift rather than an obligation, to return 100,000 hectares of land. “100,000 hectares is barely an initial down payment of all that they have, which is more than a million,” said a high-ranking security official to Colombia’s El Tiempo.
Another disturbing feature of the Justice and Peace law is that it requires the victim to confront his or her victimizer in court and ask for the return of property, jeopardizing his or her security. It also places a burden of proof upon the victim to demonstrate that this particular paramilitary member was responsible for the displacement and would require proof of ownership, which the many IDPs without proper land title could not provide. To give a sense of how difficult the process is, to receive direct reparations from a specific paramilitary leader, the victim would have to know who displaced him or her; know the culprit’s actual name, not just nom de guerre; and figure out where and when this culprit would be appearing before a prosecutor. In reality, few victims will choose to or be able to go this route.

To make matters worse, the paramilitaries seeking to obtain benefits under the Justice and Peace law are only a “small minority of the total of excombatants,” probably as few as 2,000 of the 30,000. Only the most severe violators who fear long prison sentences or extradition will seek coverage by the Justice and Peace law. The remaining 28,000 are demobilized under a law governing individual demobilizations (law 782 passed in 2002). If there is little leverage on paramilitaries demobilized under the Justice and Peace law, there is almost no leverage on the rest to return properties. Law 782 requires no return of illicit gains or reparations to victims.

The government has sought to play down expectations of return of land or reparations to IDPs. According to President Uribe, “The perpetrators must ask to be pardoned and return stolen properties, but there will not be total rehabilitation and compensation for the victims; it would be demagoguery to promise this.” The initial reaction from the head of the National Commission for Reparation and Reconciliation (CNRR), set up to advise the government on reparations as the demobilization unfolded, was that he did not know “if the Commission is going to incorporate IDPs because there are many persons displaced from the countryside for reasons other than violence. There will be some IDPs who are going to be considered as victims and, therefore, to be dealt with by the CNRR, whereas others must be attended to by the [government’s agency dealing with IDPs] Social Solidarity Network.” The government’s intentional lowering of expectations for return of land is profoundly discouraging to victims’ representatives. For example, according to AFRODES, an association of Afro-Colombian displaced persons, “The governmental warning about the impossibility of total reparations has been perceived as deeply discouraging for those of us who continue to be the object of systematic violations.”

In August 2006, a draft decree by the Uribe Administration spelling out the demobilization law’s regulations was leaked to the Colombian press. The decree would, in terms of reparations, further protect the rights of demobilizing paramilitaries at the expense of their victims. The provisions maintain that reparations are to be made collectively by paramilitary groups rather than by individuals, which limits individual responsibility to turn over assets obtained by violence. In response to the Constitutional Court decision that angered paramilitary leadership by stating that both licit and illicit wealth should be made available for reparations, the decree notes that every demobilized person can keep enough assets to “live adequately,” based upon the needs of the particular individual – a substantial

“When I left my town, I had a farm; I had my fields of maize, yucca and other things. I had my animals, my family, my home, and my life.”

loophole. The regulations, whose content will be important in determining reparations and return of land, were still in draft form at the time of writing.

The Uribe Administration appears to be negotiating with paramilitary leadership some productive projects which would serve both to reintegrate paramilitary troops and to serve as reparation to internally displaced families. Half of the number of people benefited would be excombatants, and one-quarter each displaced persons and ordinary small farmers. These negotiations have been completely untransparent and raise many practical and fairness questions, among them the token nature of reparations, possibilities for corruption, the greater benefits to excombatants and the danger to displaced persons of being resettled close to their victimizers (although the IDPs considered for these projects may be only those displaced by the guerrillas). In addition, if paramilitary leadership act as project managers, this process could help to consolidate continued local power of demobilized paramilitary bosses over their former troops.39

Moreover, the Colombian government has provided no assurances nor mechanisms to ensure that the productive projects to benefit demobilized paramilitaries do not involve lands obtained by violence. This issue also affects international donors, including USAID, who support the reintegration of excombatants. USAID’s initial list of projects for the CAPP agribusiness program, for example, included the URAPALMA palm company, against which there are allegations of use

“There’s no relief. You arrive to a place you think is safe and then comes pain and hunger. It never ends.”*
of threats and violence to obtain land. When informed of this problem, to its credit USAID promised to check land titles to try to avoid such cases, but it is by no means clear it has established adequate screening mechanisms to prevent this.

One effort to protect IDPs land rights was a 2001 decree (Decree 2007) to limit the sale, transfer of issuance of property deeds in zones where there has been forced displacement. This decree, however, is virtually unknown even by local government officials and by displaced persons themselves. To make matters far worse, the Uribe Administration has been advancing legislation, like bill 319 debated but not passed in 2005, which would make it easier for those currently in possession of land to acquire title, in ways that would violate the rights of those who have been displaced.

A particular concern is what will happen to the collective land from which Afro-Colombian and indigenous communities have been displaced. Since Afro-Colombian and indigenous communities are deeply rooted to their lands and way of life, solutions that involve individual returns and resettlement in urban areas rather than return to their specific collective lands may be especially inadequate. The Justice and Peace law has no provision whatsoever for indigenous and Afro-Colombian communities to make community claims for return of land and reparations; the mechanisms are solely for individuals and have no special provisions for ethnic minorities.

Moreover, other laws passed recently or being considered would further limit Afro-Colombian and indigenous communities land rights. For example, the forestry law passed in December 2005 would make it easier for timber companies to obtain logging concessions without adequate consultation with Afro-Colombian or indigenous communities. USAID funded Chemonics to promote aspects of this controversial bill. However, if the government does manage to obtain greater return of land from paramilitaries, those who resettle may be still at risk from paramilitaries, drug traffickers and guerrillas. For example, in 2005 President Uribe handed over 447 hectares to 20 IDP families from lands seized by a drug trafficker. But the families were unable to occupy the land due to threats from associates of the drug trafficker. Full demobilization of the underlying structures of paramilitary forces and protection from guerrilla violence is a necessary condition for successful return of land. Simply handing over the land is far from enough—returns must be voluntary and, as much as possible, protection must be guaranteed.

Conclusion

Return of land is an enormously complicated endeavor. Any solution must recognize that many internally displaced persons will not choose to return, whether for lack of security, inadequate support for resettlement or the pull of urban life. And accommodation in the interests of peace must be made to reintegrate paramilitary excombatants into productive opportunities, including through land titling. But an honest effort must be made to return land stolen through heinous acts of violence and to provide other durable solutions and reparations to so many who have suffered so much. Such an honest effort has not yet even been discussed, much less begun.

As the Colombian government’s Procuraduría General (Inspector General’s office) asserted in an influential USAID-funded study:

The return of victims’ land, houses and goods is a goal that the government should assume in its totality, even if the effective solutions are gradual given the budget and legal limitations. However, the lack of financial resources and difficulties in
ensuring that those responsible for violations return stolen goods and make reparations for harm caused should not limit the government’s responsibility to make reparations to those affected. It is unacceptable to assert that the displaced population should not be due reparations, especially return of land and possessions. For U.S. policy, it is important to note that in many cases land was acquired as a way of laundering drug profits, so that land return and careful investigation of paramilitary assets plays a valuable role in counterdrug strategy. But the United States should actively support return of land and restitution to Colombia’s internally displaced as a matter of urgent humanitarian concern and simple justice.

“We are neither from here nor from there. At this point, we would rather take risks and go back home, and see if we can regain part of what we lost.”


Displaced children go to school.
Recommendations for U.S. Policy

To promote the return of land to IDPs:

• Urge the Colombian government to insist upon full disclosure and return of illegally held land by demobilizing excombatants who wish to obtain benefits under the Justice and Peace law or the law governing individual demobilization, rather than accepting casual offers of a small quantity of land by paramilitary leaders. Urge the Colombian government to change the regulations for the Justice and Peace law to ensure that land obtained by violence held by third parties is included in the land to be returned.

• Urge the Colombian government to carry out in a timely manner a systematic review of land and property that has been lost by internally displaced persons fleeing violence. This review should pull together the substantial existing information, drawing upon existing databases and other information sources including those maintained by the government’s Acción Social (SUR registry), Procuraduría General, Defensoría del Pueblo (including information held by municipal representatives, personeros), agrarian reform institute INCODER (including the RUP survey), Banco Agrario, Counternarcotics Bureau, financial asset investigations by the police and Attorney General’s office, and civil society initiatives like CODHES’s surveys and the Catholic Church’s Sistema RUT. Also urge the Colombian government to strengthen the Regional Commissions for the Return of Property established by the Justice and Peace law to help carry this out. While this is enormously complex, progress can be made by starting with a few extreme cases of massive displacement, with land included in the RUP database, as well as with collective lands belonging to indigenous and Afro-Colombian communities. USAID technical assistance in implementing this review could be valuable.

• Urge the Attorney General’s office to vigorously investigate the illegally held assets held by demobilized excombatants and provide adequate funding and technical advice to help it meet this goal. Insist that the Attorney General’s office require that the “actas” or written confessions provided by the paramilitaries who seek to be covered by the benefits of the Justice and Peace law include detailed information about the exact locations and numbers of properties they acquired through violence or other illegal means. Urge the Attorney General to vigorously prosecute cases against demobilizing paramilitary leadership responsible for massive displacements so that these crimes are included in the severe abuses covered by the Justice and Peace law.

• Ensure that USAID does not fund any project, for excombatants or others, on land obtained by violence, by setting up a system to carefully screen land titles. Similarly, urge the Colombian government to make transparent its projects to reintegrate excombatants and ensure that these projects are not taking place on land obtained by violence. To identify a starting point, areas of massive displacement and areas of collective land titles granted to indigenous and Afro-Colombian communities, as well as protected environmental areas and land included in the RUP database, should be off-limits to such projects for excombatants. In addition, farms where mass graves have been reported should be off-limits for reasons of justice as well as the need to protect them for future exhumations.

• Make known U.S. objections to any law which would limit the rights of victims, as for example bill 319 in 2005 which would have made it easier to legalize property acquired through violence.
• Support expansion of the OAS’s demobilization monitoring mandate to include verifying the return of land and reparation to IDPs.
• Urge the Colombian government to carry out an information and training campaign directed at victims, especially the displaced population, to inform them of their rights to return of land and reparation. The Colombian government should establish clear, accessible mechanisms through which victims can claim rights.46
• Fund programs by the Defensoría del Pueblo to train public defenders about the rights of victims to land (which requires understanding rural civil laws, while public defenders generally are only familiar with criminal law). Urge the Colombian government to establish within the Defensoría a special team to attend to the needs of victims.
• Urge the Colombian government to investigate and prosecute attacks and threats against IDP leadership and those who defend the rights of IDPs, using several cases as examples.

To protect land rights of Afro-Colombian and indigenous communities:
• Urge the Colombian government to establish a special mechanism for Afro-Colombian and indigenous displaced persons and communities to present claims for return of land.
• Encourage the Colombian government to meet with representatives of Afro-Colombian and indigenous communities to ensure that their land claims are being included and discuss solutions. Properties that have been only provisionally provided to Afro-Colombian communities under Law 70 must rapidly receive proper permanent, collective land titles.
• Ensure that USAID refrains from supporting laws that diminish Afro-Colombian and indigenous land rights or weaken collective land titling.

• Encourage the Colombian government to increase investment in development projects designed and implemented in coordination with local government authorities and Afro-Colombian and indigenous leadership, and increase U.S. aid to such projects.

To provide for the emergency and long-term needs of IDPs and prevent further displacement:
• Urge the Colombian government to properly implement the Early Warning System to address IDPs’ security, including ensuring a civilian government presence, such as representatives of the Defensoría, in at-risk communities.
• Encourage the Colombian government to ensure that all displaced persons can register with the SUR, eliminating obstacles to registration, as required by the Constitutional Court; increase budgetary resources to IDPs and expand the three-month limit for emergency needs.
• Urge the Colombian government to work with IDP leaders, associations and communities to find durable solutions to displacement.
• Replace the aerial spraying program, which contributes to forced displacement and does not provide a permanent solution to drug production, with increased alternative development programs with manual eradication designed and implemented with community and local government participation.
• Increase U.S. funding for IDPs, particularly for long-term durable solutions, as well as to the Defensoría del Pueblo and Procuraduría, to help defend the rights of displaced persons. Ensure that any funding for reintegration of excombatants are not drawn from funding for internally displaced persons or other vulnerable groups.
Endnotes

1 Conferencia Episcopal de Colombia, Secretariado Nacional de Pastoral Social (National Social Ministry of the Colombian Bishops’ Conference) and Consultoría para los Derechos Humanos (Consultancy for Human Rights and Displacement, CODHES), Desafíos para construir nación, El país ante el desplazamiento, el conflicto armado y la crisis humanitaria, 1995-2005 (Bogotá: 2006).

2 There are three principal Colombian sources of numbers and demographics: the ngovernmental agency, CODHES; the Colombian government registry, SUR, and the Catholic Church’s Sistema RUT. The government’s registry, SUR, is believed to undercount the IDP population (bureaucratic obstacles to registration, IDPs’ fear of being labeled, and other problems discourage registration); it registers 1.7 million people as internally displaced between 1995 and November 2005. The SUR registry has a significant lag time – it updates figures for 2005, for example, according to registrations taken through December 31, 2006, so in early 2006 the 2005 figures will appear lower than they do when fully updated at the end of 2006. A third survey, Sistema RUT, which includes IDPs surveyed by the Catholic Church since 1990, covers a smaller number of IDPs but provides more detailed data on their circumstances. The UNHCR estimates the total number of internally displaced persons at 3.4 million, a sizeable portion of the 25 million IDPs worldwide. UNHCR, “Desplazados Internos, 2005,” http://www.acnur.org/biblioteca/pdf/3937.pdf.


10 Information in this paragraph from CODHES, Boletín No. 68, Bogotá, May 6, 2006.


15 Colombia’s Comptroller General’s office has used this term. “En los últimos 20 años: Narcotraficantes realizaron gigantesca contrareforma agraria,” junio 2005.


17 According to all three main data sets – CODHES, the Colombian government’s SUR, and Catholic Church’s RUT.

18 According to a study by the University of the Andes and the Catholic Church’s Social Ministry, Nancy McNally, Caritas Internationalis, “Colombians Displaced by War Lose over $2 billion USD a Year,” May 16, 2006.

19 Ana María Ibáñez, Hacia una política proactiva para la población desplazada, Conferencia Episcopal de Colombia, Secretariado Nacional de Pastoral Social, Uniandes 2006.


27 According to a study by the University of the Andes and the Catholic Church’s Social Ministry, Nancy McNally, Caritas Internationalis, “Colombians Displaced by War Lose over $2 billion USD a Year,” May 16, 2006.


32 www.altocomisionadoparalapaz.gov.co.

33 “En la Gabarra los dueños de nada. 13 meses después de la desmovilización, nadie recupera sus bienes,” El Tiempo, February 2, 2005. “Todavía debe casi tres millones de pesos que le dejaron de ‘regalo’ las autodefensas por cuentas atrasadas de luz y de teléfonos,” declaración “del único de los propietario de casas devueltas por los ‘paras’ en la Gabarra que vive en el caserío.” Almost three million pesos are still owed, that’s what the paramilitaries left as a present for the internally displaced. Sabas Pretelt de la Vega stated that “they have offered these hundred millions of pesos that left the paras in La Gabarra who lives in the village.”

34 Even so, it is not certain whose land is involved, and some may be intended for excombatants. Minister of the Interior Sabas Pretelt de la Vega stated that “they have offered these lands as reparations to internally displaced and also potentially to be used by the demobilized excombatants.” As of July 2006, even some 100,000 hectares have not materialized.

35 Jhon Jairo Torres M., Paramilitares desmovilizados ofrecen devolver 100 mil hectareas para reparar a las víctimas. El Tiempo, March 28, 2006. In addition to the land offered or turned over by paramilitary groups, the Colombian government in July 2006 ordered the return of some collective lands that African palm companies had allegedly acquired by coercion from Afro-Colombian communities.


37 In an interview given to Swedish newspaper “Svenska Dagbladet,” cited in El Espectador, May 24, 2005, cited in Colombian Commission of Jurists and Jesuit Refugee
service, Broken Promises, Follow-up of the application of international recommendations on forced displacement in Colombia, 2004-2005 (Bogotá, 2005), p. 60.


43 INCODER manages a database called RUP – Registro Unico de Predios Abandonados – created in 1997 to register land lost through displacement. As of March 2006 it only has registered some 2,000 properties, and it does not cover collective territories, so its use is limited. Procuraduría General de la Nación, “Seguimiento a Políticas Públicas en materia de Desmovilización y Reinserción,” Tomo 1, Bogotá: Junio 2006, p. 230.

44 The Colombian counternarcotics bureau (DNE) manages a program of land and asset confiscation of illicit drug profits; the lands held by this program should also be considered in return of land to IDPs since some would have been stolen from IDPs and were stolen by paramilitary drug lords who owe reparations.

45 While these regional commissions could be helpful, return of land cannot be left solely to the National Reparations Commission and regional commissions, which likely will have neither the staff nor the land expertise to carry out this complicated task.

46 As the Procuraduría General has pointed out, while demobilized combatants have centers in several parts of the country where they can register and mobile teams to help them, victims have no such clear and decentralized mechanism. Procuraduría General de la Nación, “Seguimiento a Políticas Públicas en materia de Desmovilización y Reinserción,” Tomo 1, Bogotá: Junio 2006, p. 284.

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