
Far from the Promised Land:

Land Restitution on Colombia's Caribbean Coast

Recommendations

FOR THE COLOMBIAN GOVERNMENT:

To implement the Victims' Law and land titling:

- Implementing the Victims' Law will be an exercise in futility unless more progress is made in preventing future displacement. The government must take a more vigorous approach to dismantling illegal armed groups, particularly paramilitary successor groups, including by disciplining, investigating and prosecuting members of the army, police and local officials that aid, abet or tolerate them, and the landowners and companies that employ them to coercively expand landholdings. Achieving a peace agreement with strong measures for truth and justice with the FARC guerrillas, as well as a future agreement with the ELN, will also contribute to reducing displacement.
- Encourage local authorities to vigorously implement the Victims' Law. This should include requiring local governments to conduct broad outreach to victims' organizations representative of victims in the local area; to be responsive to the recommendations of victims' organizations in drawing up plans for implementation; and to include such plans and their budgets in municipal and regional development plans. The national government should provide adequate resources to municipal governments and victims' attention centers to apply the law, above and beyond the resources already available to displaced persons.
- Take decisive steps to ensure that the forums created for victims' participation such as the Victims' Roundtables and CTJCs are viable spaces in which victims feel they can safely speak up and in which their perspectives are respected and have an impact. The Ombudsman's Office should issue instructions and ensure that its representatives actively work to achieve this goal. Any threats or attacks against victims participating in these spaces must be investigated promptly and appropriate protection issued immediately.
- Ramp up provision of legal advice and accompaniment to victims for land restitution and reparations via the Ombudsman's office, local *personeros*, and nongovernmental organizations. Expanded partnerships with nongovernmental organizations with experience in accompanying victims and communities at risk would help to accomplish this goal.
- Provide immediate and effective protection for all land restitution judges and magistrates.
- Monitor land restitution units, judges, INCODER agents, notaries and Territorial Transitional Justice Committees to ensure that they are not being coopted by those who benefited from stolen land. The Attorney General's office and Inspector General's office should investigate, discipline, prosecute and dismiss corrupt officials.

- Continue and expand the collective titling of land which is currently occupied by Afro-Colombian and indigenous communities, as well as the individual titling of campesino land. In many areas, such as the Afro-Colombian communities in and near Cartagena, these processes appear stalled and renewed efforts must be made to accelerate titling.

To ensure that restitution and titling creates sustainable livelihoods:

- Prioritize rural development investments in restitution areas. To ensure sustainable development, investments must be made in return areas and be integrated into local and regional development plans where they exist. Supporting each returning family individually, monetarily or with technical support, has its place but will not result in strong rural regional economies in which families and communities play an active role. Scaling up investments by focusing on entire communities or groups of returning families and integrating investments into existing regional development initiatives is the only path to sustainable development in restitution areas and the best approach for ensuring returning families are able to stay on their land and benefit from their farming investments.
- Investments should prioritize the strengthening of and creation of farming associations. Strong associations can facilitate farmers' access to credit, increase their access to new markets and decrease the cost of inputs. Investments in associations should prioritize organizational strengthening, the creation of business plans, training in new farming techniques, and support to access credit, connect to financial institutions, carry out market studies and increase farmers' control over the value chain of their products. Support for associations does not need to be tied to one product but rather focus on fostering strong organizations and enhancing members' capacity to manage and gain from the value chains of various products.
- Efforts must be made to support collective returns for female heads of households and widows. Collective returns should be accompanied by investments in women's associations, allowing "returning" women greater opportunity to benefit from their land through agricultural and business endeavors.
- Attention to resource management is necessary to make farming endeavors sustainable, particularly in the face of climate change. Investments in agriculture for returning families should emphasize climate-smart agriculture, creating conditions that allow families to produce food, engage in local and regional markets and protect natural resources. There are models of climate-smart agriculture investments being made in Colombia by international and local nongovernmental organizations which provide important examples.
- Securing collective land title for Afro-Colombian communities is essential, yet titling must be accompanied by investments in agriculture systems to enhance food security and increase earnings. Investments must be consulted with and agreed to by communities and must include technical support and the development of business plans designed by communities and aligned with communities' development priorities and training.

To ensure protection for returned and returning communities:

- The Attorney General's office should prioritize effective investigations and prosecutions of threats and attacks against land rights leaders and returned and returning communities. It should focus efforts on areas where land restitution efforts are taking place.
- Provide effective protection to returned and returning communities at risk, designing prevention and protection plans in close consultation with communities. Protection should be extended whether communities are returning via the Victims' Law or on their own initiative. Local protection plans may identify a mix of solutions, including investigations into threats and attacks, greater

presence of a local ombudsman, creating risk maps, or removal of a corrupt official. They may include a fixed bridge or road, electrification, cellphones and transport. Plans may also include investing in community-based rural development projects and legalizing land titles. Communities may call for army or police patrolling around area perimeters in a way that does not put them at risk. Afro-Colombian and indigenous communities require a differential focus. There is no one-size fits all solution; the only workable solutions are those designed collectively by communities.

- As part of these prevention and protection plans, the Ministry of Interior should establish and local authorities should implement an emergency reaction protocol in order to engage civilian government authorities, police and military and hold them accountable for their obligations to provide 24-hour, urgent protection to returned and returning communities and land rights leaders. The Early Warning System's risk reports should be made public and disciplinary sanctions should be issued if its warnings are disregarded by local authorities or military officials.
- Civil society's own collective protection programs should be respected and protected, including humanitarian zones of refuge, *planes de salvaguardia*, and *planes de vida*. The Ministry of Defense and Ministry of Interior should instruct the army and police to respect, rather than undercut, these initiatives.

FOR THE U.S. GOVERNMENT:

- Condition assistance for the Victims' Law on greatly improved actions to protect returned and returning communities and land rights leaders. Plans must be designed and implemented with the full participation of affected communities.
- Urge the Colombian government, using the leverage of human rights certification, to take a much more vigorous approach to dismantling paramilitary successor groups and investigating and prosecuting the army and police members and local officials that aid, abet and tolerate them, as well as the landowners and companies that may employ them. Without such vigorous action by the State Department, USAID's support for implementing the Victims' Law cannot succeed.
- Provide assistance for prevention and protection programs for communities and land titling. Provide increased legal accompaniment for victims via the Ombudsman's Office, *personeros* and nongovernmental human rights organizations with experience in accompanying victims and communities at risk. Carefully monitor these programs with input from victims' associations and human rights groups to ensure they benefit the intended population. Fund and work with existing campesino, Afro-Colombian, indigenous and victims' organizations rather than creating new ones, and ensure funding unites, not divides, communities and social movements.
- Under these conditions, continue assistance to strengthen the Victims' Unit and Land Unit. Target assistance for Victims' Law implementation to bottlenecks and needs not provided by other donors, as for example topographers to help prepare cases for land restitution judges. Encourage and support assistance via governmental and nongovernmental channels for sustainable economic development for returning communities, designed in consultation with those communities.
- Urge much greater progress by INCODER in meeting goals for collective titling for Afro-Colombian and indigenous communities, in close consultation with these communities, and ensure USAID contractors are effectively contributing to meeting these goals.
- Support as needed land mine surveys and removal, land mine education programs, and assistance to land mine survivors.