

# Land Governance in an Interconnected World

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## Risks for the peace process in Colombia: the Land Fund and prospects for community and smallholder access to land

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### INTRODUCTION

- ❖ Land concentration has been at the center of the armed conflict in Colombia, both as cause and consequence.
- ❖ Historically, the distribution of landholdings has been highly concentrated in Colombia:
  - Gini coeficiente: 0.9
  - The top 1% of largest properties control 81% of land
  - 800,000 rural families have no access to land at all
- ❖ In November 2016, a Peace Accord was signed between the Colombian government and the FARC guerrillas that covers five major issues: i) comprehensive rural reform (CRR); ii) political participation; iii) ceasefire and disarmament; iv) solution to the illicit drugs problem; v) victims of the conflict. The CRR seeks to lay the foundation for the structural transformation of the countryside, create conditions for well-being of rural women and men and contribute to building a stable and long-lasting peace. A solution to the illicit drugs problem is closely related, as its success depends on effective implementation of commitments for the CRR.
- ❖ The Land Fund is an essential component of the CRR to advance in the democratization of access to land. It is to have 3 million hectares of land available during its first 12 years to benefit small-scale farmer communities and especially rural women without land or with insufficient land and the rural communities most affected by poverty and the conflict. Another 7 million hectares of land is to be formalized for small-scale farmer communities.
- ❖ Sources of land for the Fund are primarily:
  - Land made available from the legal cessation of ownership in favor of the state
  - Recovered land that once belonged to the state (*baldíos*)
  - Land available from updating parameters of the Forest Reserve Areas
  - Land acquired or expropriated for reasons of public utility (with due compensation)
  - Land donated or acquired with international aid
  - Resources from the national budget (for the purchase of land)
- ❖ To enable Peace Accord provisions to be incorporated into Colombian law, public policies and institutions, a special procedure was created in Congress and special faculties were given to the President. The Land Fund was formally created through this procedure. But other aspects central to the CRR have yet to be implemented, such as the multi-purpose cadaster and the mechanism to allocate land in the Forest Reserve Areas.
- ❖ There was a mechanism designed, the RESO (Registry of Subjects of Planning), for the Fund to distribute land to those with the greatest need, with a strong focus on rural women, based on criteria such as socio-economic conditions, having been a victim of the armed conflict, and experience with agricultural activities.
- ❖ The Land Fund faces various challenges, e.g. its institutional framework, lack of budget, extreme land concentration and policies like the ZIDRES law (Zones of Interest for Economic and Social Development in Rural Areas), which enables *baldíos* to be transferred to large companies not intended as Peace Accord beneficiaries.



### MATERIALS | METHODS

- ❖ Detailed analysis of the text of the Peace Accord
- ❖ Analysis of changes in norms and institutions resulting from Peace Accord implementation
- ❖ Review of official information sources with regard to the Peace Accord implementation process
- ❖ Analysis and calculations using official data on the various sources of land for the Land Fund

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### RESULTS

#### Risks for the Land Fund

Source	Type of obstacle	Comment
Land available from legal cessation of ownership	Norms	<ul style="list-style-type: none"> <li>• The procedure for legal cessation of ownership has traditionally been inefficient. In the Peace Accord implementation process to date, there has been no procedural reform to enable greater agility.</li> <li>• To the contrary, the new proposal for a Land Law would make the procedure even slower.</li> </ul>
	Development model	<ul style="list-style-type: none"> <li>• The structure of land use in Colombia involves large, extensive cattle ranches and use for speculative purposes. Legal cessation of ownership is an obstacle for engaging in such uses.</li> <li>• Even when the process is carried out, it does not always contribute to the effective democratization of access to land.</li> </ul>
	Political reasons	<ul style="list-style-type: none"> <li>• There is caution in Colombian society about taking measures that supposedly affect private property, which makes land redistribution processes more difficult.</li> </ul>
Baldíos – land that once belonged to the state	Norms	<ul style="list-style-type: none"> <li>• The decree that created the Land Fund establishes a category of beneficiaries who can afford to pay to receive a land title, which could make it difficult to recover <i>baldíos</i> that have been illegitimately appropriated, and instead enable <i>baldíos</i> to be given to those not considered eligible beneficiaries by the Peace Accord.</li> <li>• Other norms recently adopted give <i>baldíos</i> to others who are not small-scale farmer families or ethnic communities with insufficient land, and make it difficult to recover the <i>baldíos</i> if they have been inappropriately acquired or accumulated. That is the case with the ZIDRES, as well as with the regulation regarding “intelligent administration” of <i>baldíos</i> and the new proposal for a Land Law.</li> </ul>
	Development model	<ul style="list-style-type: none"> <li>• Behind the dispute over <i>baldíos</i> is a rural development model based on agro-industrial monoculture plantations, mostly for export. This model requires large tracts of land, including public lands or land recently distributed as part of agrarian reform processes.</li> </ul>
Land available from updating parameters of the Forest Reserve Areas	Norms	<ul style="list-style-type: none"> <li>• There is as yet no law passed during the Peace Accord implementation that recognizes rights over land occupied within Forest Reserve Areas.</li> </ul>
Land acquired or expropriated for reasons of public utility	Political reasons	<ul style="list-style-type: none"> <li>• There is caution in Colombian society about taking measures that supposedly affect private property, which makes land redistribution processes more difficult.</li> </ul>
Land donated at the national level or with resources of international entities		<ul style="list-style-type: none"> <li>• Insufficient land coming from donations and international aid</li> </ul>
Resources from the national budget	No budget	<ul style="list-style-type: none"> <li>• Resources from the national budget historically dedicated to agriculture (1% of the total), and more specifically to access to land (0.1%), are very limited.</li> <li>• Of all the issues in the Peace Accord, the Comprehensive Rural Reform is the most expensive to implement (estimated at 85.4% of total cost). This factor can make it difficult to implement, given the fiscal limitations of the Colombian government derived, among other things, from its dependence on commodities and the fall in international prices.</li> </ul>
Agrarian reform subsidy	No budget	<ul style="list-style-type: none"> <li>• Historically, few resources have been provided for this program. When the state participates in the land market, land prices increase, which renders the resources allocated for the program less effective.</li> </ul>
Resources from the National Land Agency	No budget	<ul style="list-style-type: none"> <li>• The resources allocated and the land available from the Agency are insufficient.</li> </ul>
Resources from regional entities or institutions	No budget	<ul style="list-style-type: none"> <li>• The budget deficit of municipalities in Colombia has reached US\$1.25 billion. Of the nearly 1,100 municipalities, 421 are in a vulnerable fiscal position, while 65 are at risk and 5 more are deteriorating.</li> </ul>



### CONCLUSIONS

- ❖ To consolidate peace in Colombia requires that historically marginalized rural communities make progress in obtaining access to land.
- ❖ Insufficient progress was made during the first year of Peace Accord implementation in terms of reforming norms, institutions and financing to comply with commitments on access to land, in particular those involving the Land Fund. Lack of full implementation places at risk the ability to effectively advance the comprehensive rural reform that was agreed.
- ❖ Some of the norms adopted actually contradict the objective of democratizing access to land, and instead promote a rural development model characterized by large-scale monoculture plantations that commercialize the countryside for the benefit of a few, at the cost of marginalized communities and victims of the armed conflict.
- ❖ Full compliance with the first item of the Peace Accord, the CRR, is fundamental to firmly overcome the era of violence and to build a legitimate state. The commitment by all Colombian public institutions to full implementation of the Peace Accord, accompanied by civil society and the international community, is thus an imperative.
- ❖ Urgent measures must be taken to rectify the digressions from Peace Accord commitments and to steer implementation toward full compliance, particularly once Colombia's Congress is back in session and the newly elected government takes power in 2018.

(Documents in Spanish)

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