

# Dispossession and Displacement:

Strategies for Orinoquia's Development



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## **General Objective:**

The purpose of this document is to show the reality of dispossession of lands and territories in the Attilanura region and surrounding provinces in Colombia, which began with successive waves of armed violence and was then consolidated through dubious legalization procedures. Indigenous peoples, peasants, the environmental future of the Orinoco-Amazon region have been seriously affected by these developments and the future of the country is at stake as it risks losing sovereignty over large areas of the national territory at the hands of economic conglomerates as a consequence of globalization dynamics.

## **The Problem:**

The unresolved conflicts generated by the accumulation of land in fewer hands while large portions of the population in rural areas lacks access to it have deepened during the periods of violence in the country. In the Eastern Plains, indigenous peoples and small farmers have been repeatedly affected by these waves of violence. Currently, in the context of the peace process, those who endured displacement from their lands and now return to claim them face a situation in which their rights are being impaired by the implementation of policies that allow the accumulation of lands categorized as state-owned wastelands (baldíos). Additionally, some lands are being handed over to new landowners arriving in the region from all parts of the world in search of investment opportunities to exploit its resources.

# Executive summary

After an armed conflict in Colombia that lasted over half a century and is now coming to an end, it is important to insist on its causes and in particular on the problem of access and control of land and territory. The issues of ownership, use and distribution of land have been, at least since the second half of the 20th Century and up to the present day, the main problems of the country. The central factor affecting these issues has been land grabbing, which has produced forced displacement, dispossession, and massive violations of human rights. As a result of this phenomenon, Colombia shows worrying figures, such as the dispossession of 8 million hectares, 7 million victims of forced internal displacement,<sup>1</sup> hundreds of thousands of people forcibly displaced across borders, and, with regards to the concentration of land ownership, the appalling Gini inequality

coefficient<sup>2</sup> of 0.88 in land ownership in the rural sector.<sup>3</sup>

It can be said that the main beneficiaries of this “agrarian counter-reform” have been, on the one hand, local power groups with ample economic muscle and political influence, as well as sectors related to the paramilitary groups in their various forms.<sup>4</sup> These actors saw in land grabbing a way to control territories through economic projects that in many cases were related to drug trafficking. On the other hand, domestic and foreign investors have benefited from these transformations. Thanks to the public policy of promot-

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1 Centro de Memoria Histórica. Una nación desplazada. Informe Nacional del desplazamiento forzado en Colombia, Bogotá: CNMH- UARIV, 2015.

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2 When the value is closer to 1, the land ownership is concentrated in few hands. Conversely, if the value approaches zero, land ownership is distributed more equitably.

3 “Atlas de la Distribución de la propiedad rural en Colombia”, IGAC, disponible en: [http://www.igac.gov.co/wps/wcm/connect/8beae7804dc-8d75abb1efb36b39898f6/1\\_notas\\_sobre\\_la\\_evolucion\\_historica\\_con\\_cubierta\\_1.pdf?MOD=AJPERES](http://www.igac.gov.co/wps/wcm/connect/8beae7804dc-8d75abb1efb36b39898f6/1_notas_sobre_la_evolucion_historica_con_cubierta_1.pdf?MOD=AJPERES)

4 The guerrillas have controlled territories for strategic reasons and have held ownership in some places. But due to the mobility that they needed to fight the war and the illegality of their activity, they did not become land holders of any import, although the widespread opinion in the country states otherwise.

ing the development of large agro-industrial, forestry, mining, energy and infrastructure projects, these investors have received long-term concessions and/or leases of large tracts of land to develop extensive business projects, on the basis that they have been declared of public utility (ZIDRES Law - Zones of Interest for Economic and Social Development in Rural Areas).

In this context, the government and the guerrillas of the Revolutionary Armed Forces of Colombia, FARC-EP signed in November 2016, the “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace”. In its approximately 310 pages, this document establishes the of six points of the agreement: (i) Toward a new Colombian Countryside: A comprehensive rural reform; (ii) Political Participation: A democratic opportunity to build peace; (iii) Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms; (iv) Solution to the Illicit Drugs Problem; (v) Victims, which contains the “Comprehensive System for Truth, Justice, Reparations and Non-Repetition”, which in turn include the Special Jurisdiction for Peace and a commitment regarding human rights; and (vi) Implementation and verification mechanisms.

This agreement seeks to put an end to the armed conflict between the Colombian state and the insurgent group and draws very relevant guidelines for structural transformations of the countryside, including welfare programs for the rural population, advancements toward solving the problems of land ownership and concentration, the exclusion of the rural population and the underdevelopment of rural communities, and, above all, measures to guarantee the non-repetition of the conflict through

the eradication of violence. To this end, the Agreement defines as its main pillars elucidating the truth, acknowledging the victims, and establishing the responsibility of those involved directly and indirectly in the armed conflict. It should be noted that while the peace accords offer opportunities for change, they also face some resistance, particularly with regard to items I and V; it has become evident, in the process of establishing the regulatory framework, that many members of the Congress of the Republic are less interested in developing than in limiting their implementation. A clear example is Decree Law 902 of 2017, approved within the “fast track” legislative procedure, which modifies the requirements to access state-owned lands (baldíos) and includes “new beneficiaries on valuable consideration”, which weakens the Family Agricultural Unit program.

The present report is about the Colombian Orinoco region, paying special attention to the grabbing of land and territories by political, economic and armed groups, particularly paramilitaries and/or drug traffickers. The aim is to provide elements to understand how the scramble for land has had an impact on the local campesino and settler population and the indigenous communities of the region.

In order to do this, we present the story of Yeny Chipiaje, an indigenous woman of the Sikuaní-Kubeo community, born in the town of La Primavera (Vichada). Her case shows how she became a victim and illustrates the impacts of agro-industrial enterprises in the Altillanura. Through her narrative we try to answer some of the questions raised by victims: why did the armed actors come to their territory? What have been the interests and who are the beneficiaries of the

conflict in this territory? Why have the victims not been duly acknowledged nor received reparations? Why have public policies in the area been aimed at promoting private sector interests? Surely these questions are the same as those posed by the victims in other regions of the country as they are witnessing how the economic power that has been accumulated through violence is in the hands of specific beneficiaries, their representatives or heirs.

We shall focus on the Eastern Plains region, which includes the Departments of Casanare, Meta,<sup>5</sup> Vichada, Guaviare,<sup>6</sup> Arauca,<sup>7</sup> Guainía and Vaupés. However, this report shall refer only to the first four and its purpose shall be to highlight the vast economic interests in the region, such as agro-industrial projects of monoculture plantations to produce agro-fuels and cereals, forestry projects, cattle-ranching, mining-energy ventures, as well as illicit crops. All these activities are carried out with an extractivist vision to meet the international demand for raw materials.

It should be noted that this dynamic of private investment was preceded by different military interventions and armed actions of paramilitary groups, who have consolidated their control of the territory. In that process, 3,000 leaders of the political movement Unión Patriótica (Patriotic Union) were murdered and disappeared in the 1980s and countless massacres were perpetrated, most notably one in the municipality of

Mapiripán (Meta). Such massacres were carried out by paramilitaries in complicity with the armed forces, leading to forced displacement, land dispossession, and abandonment of the territory. One of the objectives of the paramilitary strategy was to ensure territorial control in order to give way to corporate projects.

This report focuses on the land and the victims, and will thus show the mechanisms used for dispossession --characteristically pressure, violence, and other forms of intimidation. In many cases, the groups exerting such pressure also relied on the participation and collaboration of government officials willing to perform various types of actions to “legalize” or legally justify the dispossession of land to its rightful owners. The dimension of this problem can be measured by the number of applications submitted to the land restitution program (Law 1448 of 2011), which has received in the department of Meta alone 5,000 applications from victims of the conflict seeking restitution of their property. A similar situation can be observed in Guaviare, Vichada, and Casanare with 1,684, 720, and 679 applications, respectively.<sup>8</sup> This indicates that the region was the epicenter of violent land grabbing, especially by paramilitary forces. In addition to this, the public policies and the model of rural development that have been implanted have unleashed another wave of dispossession, as the one undergone by Yeny Chipiaje and her Sikuaní-Kubeo indigenous community. Campesinos and settlers have experienced a similar situation.

<sup>5</sup> Zona Veredal Transitoria de Normalización (ZVTN for the acronym in Spanish of Transitional Local Zone for Normalization): La Guajira, La Reforma and Yari in the municipalities of Mesetas, Vistahermosa and La Macarena, respectively.

<sup>6</sup> ZVTN: Charras and Colinas in the municipality of San José del Guaviare.

<sup>7</sup> ZVTN: Las Filipinas in the municipality of Arauquita.

<sup>8</sup> The new map of land restitution. Available at: <http://www.elespectador.com/noticias/politica/el-nuevo-mapa-de-restitucion-de-tierras-articulo-630320>

## EXECUTIVE SUMMARY

The document begins by narrating Yeny's life story and her situation as a victim. Then, it describes the geography of the eastern plains followed by a description of the violence and the ways in which the lands were seized and for what purposes or ends, demonstrating, on the one hand, the violation of rights and describing, on the other hand, the backdrop of dispossession. This is followed by a discussion of the institutional response to this problem, which in general has involved legalizing the dispossession and providing a "lifeline" to the corporations that have grabbed state-owned lands (baldíos) illegally. The next item of the report consists of the description of some characteristics of concrete territories and cases where it can be observed how agribusinesses and extractive projects benefited from the dynamics of dispossession and the rural development model. Finally, the central elements of the peace agreement with

the FARC guerrilla relating to points I and V shall be discussed, as these two points constitute for communities and victims a substantial step towards obtaining recognition and clarification of the facts from those who participated in various ways in the conflict. These points in the agreement open a possibility - perhaps the only one in a long time - for victims to learn the truth, receive reparations and obtain guarantees of non-repetition. This requires that solidarity organizations at the national and international level accompany and support the victims so that they can recover their lands.

Additionally, recommendations are made to the national government, the international community, and social and accompanying organizations of victims so that the land dispossession that followed forced displacement is not legalized by taking advantage of the current situation in the country.

# Recommendations

The following recommendations are based on the central premise that there is a historical debt regarding the land and territorial problem in the Orinoco region of Colombia.

Because of its location, extension, population density, cultural diversity and mining and energy resources, promoters of so-called “development” have been very keen on gaining access to the region. Consequently, conflicts in the region will continue, exposing both human life and biodiversity to a high risk.

The peace agreement between the Colombian government and the FARC

guerrillas, specifically in points I and V, addressed these endemic problems. So far, however, at the same time that the implementation of the accords is supposed to be taking place, other initiatives have been put forward that deny victims in the region their rights to land and the territory as well as compensation and/or reparation. On the contrary, dispossession has been legitimized and impunity is rampant, thus paving the way for repetition and re-victimization of entire communities and population groups. For this reason, we are making the following recommendations:

## *To the colombian government:*

### **Protection of Human Rights Defenders**

- Provide guarantees for the legitimate work of human rights defenders, social leaders, and environmentalists in the region, adopting urgent measures for their protection, due to the

fact that this is a zone of acute territorial conflict.

- In order to address the above, we suggest that the United Nations Declaration on Human Rights Defenders be applied.



### Peace-Building and Participation in Ending the Social and Armed Conflict

- Expedite the negotiations with the guerrillas of the National Liberation Army (ELN, for its acronym in Spanish) and make sure that in this process the rights of the victims of the armed conflict are given priority and that they are directly involved in the drafting of an agreement that ensures a stable and lasting peace.
- Ensure effective access of victims and their organizations to the Comprehensive System for Truth, Justice, Reparations and Non-Repetition (SIV-JRNR, for its acronym in Spanish) in a differentiated manner taking into account and showing respect for the cultural diversity of the region.

### Prevention of Land Grabbing and Dispossession and Guarantees for Victims

- Rigorously investigate and punish the material and intellectual authors of illegal land grabbing, forced displacement, killings and other crimes that affected and may continue to affect the indigenous and campesino population.
- Punish those responsible for environmental damage affecting the rights of future generations. This should be developed in coordination between the Office of the Comptroller, the Inspector General's Office for Agrarian Affairs, the Prosecutor General of the Nation, the Autonomous Regional Corporations, the National Land Agency, and the Land Restitution Unit by applying all applicable national and international legislation, in particular the recommendations of

the Committee on Economic, Social and Cultural Rights of United Nations of 2017 (E/C.12/COL/CO/6), specifically articles 13, 14, 16, 49, 50, the FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (Rome, 2005), mainly guideline 8, the United Nations declaration on the rights of indigenous peoples, and the declaration of the Paris Conference on Climate Change (COP21).

- With the active participation of the affected communities, carry out an adequate mapping of the territories which changed hands irregularly and through the use of violence, and refrain from allowing ZIDRES projects to be executed in those lands.
- Guarantee the right to prior, free and informed consultation in accordance with the existing national and international laws, the ILO conventions, and the United Nations Declaration on the Rights of Indigenous Peoples.<sup>9</sup>
- Ensure that the campesinos and indigenous victims of forced displacement can return to their lands, which are now considered to have reverted to state ownership (baldíos), and guarantee that their return occurs under dignified conditions and without the pressure of big business and armed actors.
- Comply with constitutional and administrative court rulings which recognize the land rights of indigenous peoples, Afro and campesino communities, such as SU 426-2016 in the Porvenir case, applying international standards such as the ILO-Conven-

<sup>9</sup> <http://www.acnur.org/t3/fileadmin/Documentos/Publicaciones/2011/7602.pdf>

- tion 169 and the UN declaration on the rights of indigenous peoples.
- Safeguard the basic rights of campesino and indigenous communities and ensure that they can manage their own development so that they do not see themselves subjected to pressure by foreign investors.
  - Ensure that there is no conflict between the regulations on land and the furtherance of agribusiness, on the one hand, and the Agreements and the rights of victims of land dispossession, on the other, especially Law 1448 of 2011 and the court rulings regarding the protection of rights of the forcibly displaced population.

## *To the international community*

- Comply with their extraterritorial obligations and put an immediate end to the activities of transnational companies registered in their respective nations that are violating the fundamental rights of campesino, Afro and indigenous communities in Colombia. Ensure that the actions of the companies operating in the territories affected by the armed conflict apply the principle of due diligence and any other Guiding Principles on Business and Human Rights of the United Nations of relevance, as well as the Voluntary Guidelines of the OECD.
- Ensure that the companies operate under a binding system of human rights norms projected towards the future, supporting the initiative for a UN binding treaty to hold transnational corporations accountable for human rights abuses.
- Commit to the protection of the environment in the region, which has a fragile ecosystem that is at risk due to changes in land use, intensive use of surface water and groundwater, the exploitation of natural resources, and, in general, business practices that show no respect for the environment and the inhabitants of the region. Additionally, ensure that all acts and actions that are executed by their agents or third parties, including the Colombian State, are in keeping with the regulations on free, prior, and informed consultation, ensure participation of the campesino and the ancestral communities of the region, and take into account the recommendations of academic institutions and other organizations, such as the von Humboldt Institute.<sup>10</sup>
- Monitor the economic contributions of the international community to the implementation process in order to ensure compliance with international conventions such as the Paris Agreement, taking into account that extractive and large-scale agribusiness policies (ZIDRES) in the fragile ecosystems of the Altillanura, the Orinoco and the Amazon are evidence of serious contradictions and of non-compliance with the commitments made through the peace accords.

<sup>10</sup> [http://www.humboldt.org.co/images/pdf/EAE\\_4\\_Consultas\\_Regionales.pdf](http://www.humboldt.org.co/images/pdf/EAE_4_Consultas_Regionales.pdf)

### *To the social organizations in the region*

- Document cases of land grabbing and of lack of guarantees for victims of dispossession and bring any evidence of such issues before the competent authorities in the region.
- Take into account the strategies and policies of dispossession and land grabbing in the Orinoco region so that in their activities they lend support to the awarding of lands to landless campesinos and indigenous people and to the recovery of the land by the victims of dispossession.
- Establish a joint strategy to contribute to the process of implementation of the peace Agreements with FARC and the negotiations with the ELN that favors the communities and the victims.
- Identify irregularities and serious violations of human rights, and search for tools to ensure that the State guarantees the rights of victims and identifies and prosecutes those responsible for the dispossessions.
- Monitor the implementation of the peace agreements and of the negotiations with the ELN aimed at ending the conflict.
- Monitor the damages to ecosystems and warn the local authorities and the international community about actual and possible damages to the biodiversity of the region.
- Organize and establish common actions to protect the life and rights of campesino and indigenous peoples and biodiversity in the region.

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