

Case COL 110406.ESCR  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Colombia: Sowing the seeds for future violence**

The International Secretariat of OMCT requests your urgent action to ensure respect for the right of return to their land for internally displaced persons in Colombia.

***Colombia's legislation must be rapidly corrected in order to ensure the right of internally displaced persons to return to their land. Without such changes, extremely serious future conflicts between returning displaced persons and those who have occupied their land will almost certainly take place and imperil hopes for sustainable peace.***

According to information provided by the Colombian Commission of Jurists, a member of the OMCT Network,

Approximately 2'600'000 persons are reported to be internally displaced in Colombia today. About 60% of them are small peasants that have been dispossessed of their plots of land by paramilitary forces. Afro-Colombians and indigenous populations, who are among the poorest and the most vulnerable, have been disproportionately affected as many cases of violence have been reported in the past, including torture, disappearances and extra-judicial executions.<sup>1</sup> In the last year, OMCT has also registered many cases of assassination of human rights defenders assisting displaced persons.<sup>2</sup>

As the Special Representative of the United Nations Secretary-General on Internally Displaced reported, control over the land is central to the conflict in Colombia and an equitable process of land reform and distribution is key to a lasting solution.<sup>3</sup> This imbalance in access to resources is reflected in the fact that an estimated two thirds of the peasant framers share 2.8% of arable land while a few landowners monopolise around 60% of arable areas.<sup>4</sup>

The right of the internally displaced persons to return to their land must be secured because addressing the socio-economic dimension in a conflict is a cornerstone in reaching genuine peace and justice. Unfortunately, current legislation in Colombia promises to effectively prevent internally displaced persons from returning peacefully to their land.

Colombia's Justice and Peace Law (law 975), which is being considered by the Colombian Constitutional Court, must be modified to respond to correct the deficiencies described below and which have been pointed out in the past by OMCT.<sup>5</sup> Applying the provisions of this law as they presently exist will result in hundreds of thousands of internally displaced persons, who fled their lands and possessions to avoid war, being denied access to their land and reparation for the harm and lost they have suffered.

The law will effectively prevent victims of the conflict from regaining their lost lands and properties, while those who disposed them will benefit from impunity and keep what they have taken. Under the law, demobilized paramilitary will go unpunished for the grave human rights violations, war

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<sup>1</sup> See: U.N. Doc E/CN.4/2005/88/Add.2, para.37. Report the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, mission to Colombia, 10 November 2004. See also: OMCT Urgent Appeal, Colombia: Serious rights violations of the indigenous populations Nasa and Awa, 7 July 2005, Case COL 070705.

<sup>2</sup> See Observatory urgent appeal COL 013//1005/OBS 099 [www.omct.org](http://www.omct.org).

<sup>3</sup> See U.N. Doc. E/CN.4/2000/83/Add.1, para.104. Report of the Representative of the Secretary-General on internally displaced, Profiles in displacement: follow-up mission to Colombia, 11 January 2000.

<sup>4</sup> *Ibid.* page.9

<sup>5</sup> See: Open letter to the European Union/Committee of EU Council for Latin America (COALT) of 30 August 2005; Open letter: The European Union should not support a demobilisation process in Colombia that contributes neither to justice nor to peace of 2 September 2005.

crimes and crimes against humanity that they have committed.<sup>6</sup> Further, the short time-limits for the investigations provided by the law and decree 4760 of 2005 represent an obstacle to the right of the victims to know the truth.

In addition, victims are excluded from participating in the judicial proceedings and they can only request reparations for acts that have been the subject of a court judgement; this limits severely the potential cases for reparations given the impunity from prosecution granted by the law to the paramilitary. The only assets to be used for reparation for victims are to come from the illegally obtained assets of the perpetrators. However, the law does not oblige perpetrators to report or handover these assets and so there will be, in reality, little or no funds available for the payment of reparations. The State is not obliged to provide funds for reparations from the national budget. In reality, this law protects perpetrator's ownership over properties and lands they have usurped and does not promise more than random reparation for victims.<sup>7</sup>

The denial of the right to reparation, justice and truth for the victims who suffered decades of violence - in exchange of the demobilization of the paramilitary - will feed the social unrest in Colombia. The law, in effect, protects the perpetrators of human rights violations at the expense of their victims. It will perpetuate the economic and social imbalances, widespread poverty, extreme disparities in allocation of land and inequalities in access to resources that are at the root of the present conflict.<sup>8</sup>

Sustainable peace in Colombia cannot be reached unless socio-economic inequalities especially in land distribution are addressed. Unfortunately, Colombia's Justice and Peace Law will further deepen these inequalities and deny the rights of those who suffered the most from the long standing internal conflict. The restoration to internally displaced persons of the lands from which they have been evicted and dispossessed is vital as, in addition of being part of their right to reparation, it would enable them, by returning to their land, to escape the precarious and vulnerable condition of urban poor. Lasting peace will also depend on the social reinsertion of displaced persons by providing them with opportunities for work and a source of revenue.

### **Requested action:**

Please write to the authorities in Colombia urging them to:

1. Amend the Justice and Peace law to make it compatible with Colombia's international obligations as to guarantee the rights of victims to reparation, justice and truth. This is in support of the recommendations made by the High Commissioner for Human Rights.<sup>9</sup>
2. Lift the immunity granted to the paramilitary.
3. Restore lands to dispossessed internally displaced persons and ensure security for their return. With this regard, special attention must be accorded to displaced indigenous population, women and children in particular.

### **Addresses:**

- Misión Permanente de Colombia ante las Naciones Unidas en Ginebra. Chemin du Champ d'Anier, 17-19, 1209 Ginebra. FAX : + 41.22.791.07.87; TEL.:+ 41.22.798.45.55. E-mail: [mission.colombia@ties.itu.int](mailto:mission.colombia@ties.itu.int)

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<sup>6</sup> See OMCT Report to the UN Committee Against Torture on the implementation of the Convention Against Torture and Other Forms of Cruel, Inhumane and Degrading Treatment or Punishment by Colombia, June 2004.

<sup>7</sup> Colombian Commission of Jurists, Law of Impunity Can Be Approved Today in Colombia with No Guarantee of the Right to Reparation (Bulletin Number 3), 20 June 2005.

<sup>8</sup> See OMCT report to the UN Committee on Economic, Social and Cultural Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights by Colombia, October 2001.

<sup>9</sup> U.N. Doc. E/CN.4/2005/10, para.142. Report of the High Commissioner for Human Rights on the situation of human rights in Colombia, 28 February 2005.

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Please also write to the diplomatic representations of Colombia in your respective countries.

We would much appreciate being informed of any action you undertake in response to this appeal. Please quote the code of this appeal in your reply.

Geneva, 11 April 2006.