

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AMR 23/2077/2015

17 July 2015

Colombia: National Development Plan threatens to deny the right to land restitution to victims of the armed conflict and allow mining firms to operate on illegally acquired lands

Several key provisions of Law 1753, which was approved by Congress on 9 June, and through which the government has implemented the 2014-18 National Development Plan (NDP), must be repealed since they threaten to legitimize the mass land grabs that have marked Colombia's armed conflict, Amnesty International said today.

Peasant farmer, Indigenous and Afro-descendant organizations, and several congresspeople, have challenged the legality of several articles in the legislation and last month presented a claim before the Constitutional Court to rule on their constitutionality.

Law 1753 contains several provisions that might enable mining and other economic interests to gain legal ownership over lands that could have been misappropriated through crimes under international law and human rights violations during the course of the country's long-running internal armed conflict. This could undermine the right of many of these lands' legitimate occupants to claim ownership over them.

During the course of the five decade-old conflict some 8 million hectares of land has been illegally acquired from or abandoned under duress by mostly Indigenous, Afro-descendant and peasant farmer communities. Since 1985, about 6 million people have been forced from their homes and lands, largely as a consequence of the armed conflict.

Much of this land has been used for the development of agro-industrial, mining, oil or infrastructure projects. In many cases, civilian communities living in areas of economic interest were forcibly displaced to make way for the development of these projects, mostly by paramilitary groups and the security forces, either acting alone or in collusion with each other, and on occasions with the active support of companies and other economic interests, such as landowners and investors. Even if many of these economic interests played no part in forced displacement they often benefited from the forced removal of whole communities from areas earmarked for economic development.

In 2011, in an effort to address the issue of land, and of reparation for victims of human rights abuses and violations, the government of President Juan Manuel Santos approved the Victims and Land Restitution Law (Law 1448). Through Law 1448 the government initiated a programme of reparation, including land restitution, for some victims of the conflict. However, the land restitution programme has been [poorly implemented](#) and only a fraction of the land that has been illegally acquired or abandoned has thus far been returned to its rightful occupants. The provisions of Law 1448 and other legislation also threaten to prevent the restitution of large areas of misappropriated lands.

Law 1753 could further undermine the land restitution process through the creation of Projects of National and Strategic Interest (Proyectos de Interés Nacional y Estratégicos, PINES). PINES are considered to be of “public interest” (utilidad pública) and thus cannot be the subject of land restitution. As such, Law 1753 provides a means by which many economic interests could develop projects on land that may have been illegally acquired, often through violence, thereby legitimizing land grabs and effectively denying the right to return to many of those forced out of their properties. The coal mining region of central Cesar Department is one of those earmarked for PINES projects. In recent years, Amnesty International has spoken to many witnesses and received information about the forced displacement of peasant farmers from lands they lawfully occupied and that are now under the control and ownership of multinational mining companies.

Law 1753 also re-introduces the policy of creating Strategic Mining Areas that was established by Law 1450 of 2011, which approved the 2010-14 NDP. Amnesty International is concerned that this will further undermine the right of Indigenous and Afro-descendant communities to collective ownership over their territories, a right that is enshrined in Colombian and international law, by making it easier for mining companies to operate in collective territories, which are often located in resource-rich areas.

In 2012, the state National Mining Agency declared millions of hectares of land, which included Indigenous reservations and Afro-descendant collective territories, to be Strategic Mining Areas and quoted an Interior Ministry statement that claimed that these areas did not have to be subject to consultation with such communities since their creation merely expressed the expectation that a mining project might develop. The consultation process would, instead, have to be carried out by the mining interest securing the concession. This sought to circumvent Constitutional Court jurisprudence that had established that the creation of such areas was dependent on prior consultation with the Indigenous (and by extension, according to Colombian jurisprudence, Afro-descendant) communities affected.

The Constitutional Court recently suspended the creation of Strategic Mining Areas, but the policy has been reintroduced through Law 1753. As such, these areas could provide a means to give legal security to those mining interests that have sought to secure mining concessions in these territories. Amnesty International is concerned that many of the areas included in the original Strategic Mining Areas are those in which Afro-descendant and Indigenous communities have faced years of killings and threats as they have opposed the arrival of national and multinational mining interests on their territories.

In the context of on-going peace talks between the government and the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, FARC), Amnesty International is concerned that mechanisms are being put in place both to ensure that economic interests can continue to derive economic benefit from lands that may have been misappropriated and that they are not effectively investigated over their possible criminal responsibility in crimes under international law and human rights violations.

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