

LAND TENURE FORMALIZATION & ILLCIT CROPS

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Introduction

At this historical juncture, with the country having achieved peace after 50 years of internal conflict, Colombia has an opportunity to fully realize its potential as a modern state. However, to capitalize on this opportunity the country must address longstanding structural deficiencies that have disproportionately rural communities. These conflict-affected regions characterized by low state presence, lack of economic opportunities, and the presence of illegal crops. While rural-related grievances are often not only the source of conflict, failure to address them can further increase the potential for conflict. The purpose of this document is to highlight the importance of secure land tenure rights as a part of a wider rural development strategy that can effectively roll back the presence of illegal crops.

In 2016 the Government of Colombia (GoC) and the Revolutionary Armed Forces of Colombia (FARC) signed a Peace Agreement (the Agreement) effectively putting an end to a decades-long conflict. The need to bridge the gap between the “two Colombias”: the urban upper middle-income one with advanced levels of development and the rural countryside plagued by years high levels of poverty, insecure land tenure rights, and the presence of illicit crops. In conflict-affected regions, informal land tenure is as much a reflection of the armed conflict as it is the weak presence of the state that struggles to offer basic services and legal economic opportunities.

At the center of land tenure formalization to curb illicit crop production are smallholder farmer families. The United Nations Office on Drugs and Crime (UNODC) surveyed 6,350 families in 29 municipalities where there is a strong presence of illicit crops, high levels of poverty, and a growing trend of homicides. According to the survey, 57% of the households located in areas with presence of illicit crops suffer from monetary poverty, coca cultivated areas are half a hectare, and that although 59% of the respondents claimed to be "owners of the land", only 13% of them have a document that certifies them as formal owners.

Following the introduction, this document is divided into four sections. The first section focuses on the link between informal land tenure and the presence of illicit crops. The second section analyses the impact of land formalization on curbing illicit crop production. The third section puts forward a series of recommendations to promote land tenure formalization as part of a wider rural development strategy. The fourth and final section includes concluding remarks.

I. Informal land rights and illicit crops

Most drug crop cultivating areas are greatly affected by poverty, physical isolation, landlessness, insecure land rights and conflicts over natural resources¹. This occurs in countries such as Afghanistan, Bolivia, Myanmar, and Peru. Land tenure informality coupled with the lack of up to date cadaster information pose an important obstacle to economic activity, curb productive investment, and stifle growth. In the case of Colombia, low access to land, high informality in tenure and its concentration in rural areas contributes to the expansion of illicit crops and their geographical concentration. The planting of coca leaf often takes place at the agricultural frontier where the lack of state presence and abundant natural resources have generated an environment rife for the illicit economy. The latest figures produced by UNODC show an increase of 17% in coca cultivation area reaching 171,000 hectares in 2017 (maximum historical of area planted). The greatest concentration of crops is found in areas that have experienced coca cultivation constantly over the last decade. In these areas, insecure land property rights coupled with conditions of persistent underdevelopment and low state presence have fueled the illicit rural economy for decades.

Informality in land tenure in Colombia's municipalities affected by illicit crops can be as high as 70 or 80 percent. Lessons from neighboring countries Bolivia and Peru, suggest that securing land rights and access to land incentives public and private long-term investments. Similarly, evidence collected by the Ministry of Justice and UNODC reaffirm that land titling in drugs-affected contexts increases the sustainability of substitution programs and disincentives replanting. Formalization also facilitates access to the financial system, government services, and constitutes an important factor to combat poverty and achieve socio-economic stabilization whilst strengthening the capability of the state to govern effectively.

A study² which examines the effect of the formalization of land ownership, provides a distinct insights into the "Registry and Cadastre Registry and Modernization Program", implemented between 1995 and 2000, in areas that had natural conditions for planting coca (a sample of 192 municipalities during a period of ten years). According to this study, a one-standard-deviation increase in the formality index for smallholders is related to a reduction in the share of the municipal area allocated to coca crops of 0.101 percentage points. That is, the formalization of one additional hectare of land with respect to small landholders in an average municipality is associated with a decrease of approximately 1.4 hectares of land allocated to coca within that particular municipality, *ceteris paribus*.

¹ Jelsma, M. (2018, January 10). Human rights, illicit cultivation and alternative development. Retrieved from <http://www.druglawreform.info/en/issues/alternative-development>

² Juan Carlos Muñoz-Moraa SantiagoTobón Jesse Willemd'Anjouc (2018March) The role of land property rights in the war on illicit crops. Retrieved from: <https://www.sciencedirect.com/science/article/pii/S0305750X17303455>

II. Land tenure formalization and curbing illicit crops

To date, 6.8 million people (60% of rural inhabitants) and 30 to 50 million hectares suffer from insecure tenure rights because of defects in their title or informal land occupation. For approximately 150 thousand families engaged in illicit crop production, land tenure informality can be as high as 80%. In 2016, the UNODC estimated that at least 48% of coca leaf production was concentrated in ten of Colombia's poorest municipalities and 32% of coca crops are situated in National Parks and in areas with presence of ethnic minorities. A recent UNODC socio-economic survey directed at 6,350 households in municipalities with coca leaf crops indicates that 57% live in conditions of monetary poverty, and 47% in conditions of multidimensional poverty. Living conditions of rural families involved in the cultivation and harvesting of illicit crops are well below the national average. The same study indicates that the average net income per hectare cultivated with illicit crops amount to only 56% of the national minimum wage. The survey further indicates that 41% of the respondents are younger than 19 years old and that in nearly 30% women are heads of households.

A number of positive economic and social outcomes are commonly associated with formal and well-defined land property right systems in rural and urban areas. The National Land Agency is in charge of promoting access to land and land tenure formalization through the "Formalize to Substitute" (FS) program. This program is part of a larger government led rural development policy known as the Comprehensive Rural Reform. This program is included in the Agreement and is to be implemented over a fifteen-year period. By December 2018, FF it had delivered over 1,500 titles in areas affected by illicit crops to over. Given its recent creation, it is early to analyze the impacts of the Program. But one fact that stands out Colombia's land tenure registry is not fully systematized, common technical standards for cadastral surveying are non-existent, and cartography lacks the required scale for parcel identification in 59% of the national territory.

Land-titling programs disincentives replanting. Evidence collected by the Ministry of Justice and UNODC supports the thesis that land titling in drugs-affected contexts increases the sustainability of substitution programmes and disincentives replanting. However, small growers are not given viable economic alternatives once the crops are destroyed, experts contend that crops and growers are pushed into harder-to-reach areas. In Colombia, academic research has indicated that this 'cultivation-eradication-relocation' or balloon effect has taken place on occasions when enforced eradication campaigns were not followed by development interventions that allow commercially viable cash crops.

III. Recommendations for curbing illicit crop production

International and local experience indicates that the substitution of illicit crops should come along with rural development programs and security conditions. In light of this, the GoC continues to pursue a rural development agenda to counter the proliferation of illicit crops. However, the following aspects must be considered:

i. A well-functioning cadaster system can contribute to poverty reduction and improve equitable distribution. As it is an instrument /tool of wider land policy, these positive impacts are possible in the context of conducive land governance that increases land tenure security. Cross-country econometric research has argued that security of property rights does have a significant impact on overall growth, but also that initial access to assets affects subsequent outcomes³. Also, communities with greater tenure security spend less time defending their properties informally. Moreover, an efficient cadaster and property registration system can enable land markets, both sale, and rental, to reach maximum productivity, especially when in conjunction with sound credit and labor markets. In Nicaragua, greater tenure security through registered titles helped bring the level of households' investment close to the optimum and increased the value of land by almost 30 percent. In Costa Rica, there are estimates of a positive correlation of 0.53 between farm income and title security.

ii. In Colombia, approximately 63% of landowners are men, while 27% are women. Colombian women often find it difficult to prove their property ownership following the loss of a husband, particularly in cases where widows and abandoned women were informal marital partners with informal land rights. Particularly in rural areas, culturally speaking, women do not consider themselves the landowner despite legal protection even in the event of informal marriages. Beliefs about male ownership are so deeply ingrained that women do not pursue or exercise the rights they are afforded by law. Furthermore, in Colombia much is still unknown about the impact land titles can have for women's empowerment and youth retention in rural areas. Information disaggregated by sex, age and ethnicity are sorely lacking and GOC entities need help to use evidence and manage pertinent information as it relates to land titling and its impact.

iii. Scaling-up FS, despite the importance of the link between formalization and illicit crop substitution, the advances of FS to date have been very few since it only takes place in 11 of the 43 municipalities that have families linked to the program. In order to achieve a massive approach of FS, the rural cadastre should be strengthened, as a requisite condition for land tenure formalization;

iv. Improving the economic situation of the families through the implementation of productive projects, that link producer to markets, along with technical assistance programs of at least three years of duration;

vii. Putting in place social programs that allow incremental development and improving public goods such as roads, agricultural produce collection centers, health services, and education; and,

ix. Most municipalities, lack the management capacity, resources, systems, and data to properly manage, monitor, evaluate, and report on the use of resources affecting service

³ World Bank (2016, November 2) FIRST PROGRAMMATIC TERRITORIAL DEVELOPMENT POLICY FINANCING. Retrieved from: <http://documents.worldbank.org/curated/en/593461479480212965/text/107992-REVISED-PUBLIC-PD-CO-Territorial-Development-DPI-P158520-revised-Dec-5-CLEAN-12052016.txt>

delivery. Weak management capacity is even stronger in municipalities affected by the cultivation of drug-linked crops and the armed conflict.

By implementing these policies, the government could create the requisite environment for developing the countryside and addressing, among others, the conditions of poverty and neglect that drove thousands of smallholder farmers with no formal land titles to illicit crop cultivation.

IV. Conclusion

The Agreement positions agricultural development as one of the three pillars that will drive the Colombian economy and lift millions from poverty. Its fifteen-year implementation period opens a window of opportunity to tackle rural poverty and underlying causes like access to land and insecure tenure rights, both cause and effect of the presence of illicit crops.

The National Development Plan for 2019-2024 (largely crafted to meet targets across all 17 Sustainable Development Goals SDGs), sets plans and policies to combat poverty and remedy the lack of economic opportunities in Colombia's historically neglected countryside. SDG Target 1.4 calling on the equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, along with Indicator 1.4.2 "*Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure*" are part of the government's plan for meeting the 2030 Agenda.

These objectives are key tenants of implementing agenda item one of the Peace Agreement. Therefore, peace implementation opens a window of opportunity to address issues that had not been part of the land agenda before and generates momentum to advance in strengthening tenure security. Concrete steps have been taken, these include the anticipated implementation of the World Bank financed Multipurpose Cadastre project to establish a multipurpose cadastre to strengthen tenure security and provide access to cadastre information.

In the specific case of illicit crop farmers, in addition to microeconomic incentives, formalization of land tenure serves a deterrent, as it increases the costs and risks of participating in illicit activity. Because it is illegal, any owner of a property that is used to plant coca is at the greatest risk of losing it to the authorities through asset forfeiture. Additionally, land ownership rights would generate productive programs with responsible partners, relations with suppliers and buyers, mortgage guarantees for financing, capitalization of improvements in property infrastructure and associations of producers to search economies of scale. A very important issue is the symbolic effect of the formalization of property. Through the social recognition of families as landowners, their link with the territory is reinforced and the possibility of participating in community programs and new government-led projects is broadened.

The low levels of access to land and the high degree of informality of tenure have a two-way relationship with illicit crops. On the one hand, they have been the basic conditions for the extension of the agricultural frontier into protected lands. On the other, the expansion of illicit crops, boosted by the strengthening of drug trafficking and the armed conflict, has had detrimental impacts on land access and tenure.