

Rural women: recover land with equity

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Given the incredible number of lands abandoned or dispossessed by armed actors –estimated in 6.8 million hectares by the Project of Social Action for the Protection of Land and Heritage of Displaced Populations- a program for the Restitution of Property recovers high importance as an essential component of a process of truth, justice and reparation. How should the rights of rural women to land be taken into account in the design of the restitution? Under Resolution 1325 of the United Nations Security Council, what are the measures of prevention, protection and participation guarantees required for these women to recover their land?

Historical obstacles

Historically, women's rights to land have received little legal and social recognition. The only figures available regarding the participation of women in agrarian reform projects of the past, allocations to rural women heads of households never exceeded 11% of the total. This is due to the low valuation of their productive role and the orientation of agricultural policies (until the mid-nineties) to "families with male head" as beneficiary unit of land allocation.

On the other hand, in recent decades there has been progress in regulations, such as joint titling to peasant couples, established with Agrarian Reform Law 160 of 1994. Access to credit was also granted; access to the title of the property in case of abandonment by one of the partners, and the allocation of land to association groups of displaced women heads of household (Law 731 of Rural Women). These provisions remain in force in the text of the last law (Rural Development Statute of 2007, annulled).

However, these legislative advances are not reflected in the implementation or in actual changes of social recognition, nor in women's full possession of the right to property. In practice and before the prejudices of many officials, women still have difficulties in accessing credit and other necessary services for production. In contexts of violence, ignorance about rights increases the risk of losing assets and makes it difficult to recover them.

Recognition of the Court

Historical inequities and exclusion of women promote actions of domination and control by the armed groups. This was acknowledged by the Constitutional Court Order N° 092 of 2008 on *Protection of fundamental rights of women displaced by the armed conflict*. It identified the disproportionate impact of forced

displacement on women and the risk of being dispossessed of their lands and assets, more easily, by illegal armed actors, given women's historical position regarding property, especially rural real estate.

Court Order N° 092 of 2008 also acknowledged the existence, first, of patterns of violence and gender discrimination of a structural nature in Colombian society and, second, of specific problems of displaced women, resulting from the combination of vulnerability factors they suffer. Among structural obstacles are those –aggravated- to access to land ownership and to protect their wealth forward looking, especially in the return and resettlement plans.

Accordingly, the Court ordered the Government to formulate a special program to facilitate women's access to land. Several organizations (of displaced persons and women) developed guidelines, only partially adopted, and have generated debate between the Court, Social Action and such organizations.

In the midst of the debate is the tension between facilitating access (Social Action proposes to remedy with land calls, for displaced women who meet certain requirements to compete) and restoring rights (implying positive actions for all displaced women in the context of a property restitution program).

Double disadvantage

The disproportionate impact of the conflict carries a double disadvantage for women when claiming restitution rights, both for being victim and for being rural women. The following are only some elements of this double disadvantage:

Lack of formal knowledge. Many times, their partner has mediated the traditional relationship between women and rural property or ownership. A displaced widow



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typically faces greater difficulties in legal issues: she does not know of the existence of titles, has no information about the type of property, no evidence of possession and, sometimes, does not know the dimension of what land and its derivatives may represent in economic terms. This lack of formal knowledge reduces her chances of access to justice to protect or recover her property.

Greater legal informality. The informality of land ownership among the rural sectors of the country has been noted, in many places, as one of the major obstacles to further actions for prevention, protection, rehabilitation and restitution. In addition, there are no effective protection mechanisms in case of widows, women with missing husband or abandoned. This shows a disadvantage in the legal sense: they have no papers to verify the marital relationship or their husband's possession of land.

Thus, displaced women are at increased risk of vulnerability and re-victimization in land disputes through the courts, as they do not have titles of their land and face more difficulties than any other citizen for ignorance of ways to access justice, or lack of resources to travel to their area of origin or to pay legal assistance. This situation is aggravated by recent regulations (Law 1152 of 2007 and Law 1182 of 2008 of

adverse possession and enjoyment of false tradition) allowing the new occupants of a property, after being there for more than three years, become legal owners if the land is not protected (inscribed in the register of abandoned property).

Risk of other violence. Rural women are particularly vulnerable to sexual violence, domestic exploitation, recruitment of sons and daughters, and also, when they are indigenous or African descendants, racial

discrimination. This has resulted in threats, recognized by the Ombudsman's Office, a body which has consider this situation to include gender indicators in the Early Warning System.

The debts of the agrarian reform

In the investigation: Dispossession of Land and Territories. Conceptual Approach, of the Area of Historical Memory of the National Commission for Reparation and Reconciliation (CNRR for its acronym in Spanish) are mentioned various forms of dispossession, including violent occupation;

forced sales and purchases; falsification of titles; seizure and auction of abandoned property, and revocation of titles of plots of agrarian reform.

The Memory Group has no data yet on how these different forms of dispossession affect women. But information from various organizations indicate the parcels of land reform are highly appreciated by the armed actors or by those who come after them, particularly when the plots belong

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to the widows of smallholders who have appropriated that land.

Some times, illegal actors buy the debts, some others, they make revoke the titles granted by INCODER, claiming abandonment or not permitted sale, caused by them. In other cases (as in the village of Chengue, in Ovejas, Sucre department) parcels of land reform, now abandoned and in the hands of third parties, were already seized when INCORA bought them.

The debts of land reform particularly affect women. The allocation of land to displaced female heads of household (Act 160) were conducted under the subsidies regime of 70% and they were left with a debt of 30% of the total value of the property. This is the case of associative enterprises Valle Encantado and Nuevo Horizonte, in Córdoba department.

María Zabala, a recognized leader in Valle Encantado, tells she and most of displaced women of the associative group owned land before the displacement, but not under their own names but through their family or under the name of the killed husband. With displacement, they lost the lands. This loss was not considered in the new allocation, because the allocation pointed them as widows and displaced population in the midst of a humanitarian crisis, but not in their quality of victims entitled to reparation.

Therefore, the associative enterprises of displaced women in the Caribbean coast have not received any debt relief, even though all of them are on the verge of bankruptcy. Like many others, these women are at risk of losing the plot because of the debt, due to their limited capacity to mobilize family labor



and their limited experience in managing credit, always denied to women.

These experiences teach the allocation of land alone, without accompaniment or recognition of the losses, does not meet the goals of restitution of rights in equity.

Women initiatives: “this land is mine”

Rural women have been not only victims. They have known how to “tie up the skirt,” as María Zabala says. For decades, they have participated in peasant struggles and in rural organizations. It suffices to mention the women leaders of the National Peasant Users Association (ANUC for its acronym in Spanish), who stand out in the struggle for land; or the ones of the National Association of Peasant, Black and Indigenous Women in Colombia (ANMUCIC for its acronym in Spanish) who promoted their claims in the laws of agrarian reform and rural women.

In recent times, the leadership of women has become more risky and, therefore, several prominent leaders for their courage in defending the land have been killed, including two in Cordoba, Yolanda Izquierdo and Ana Isabel Gómez, who in many ways worked in the recovery of lands taken by paramilitaries.

Women’s organizations have had a significant impact on the Constitutional Court, which resulted in Court Order N° 092. They have also impacted the regions and, more silently, dedicated to provide legal advice. For example, the Women’s House proposes to accompany applications for protection and the Initiative Alliance of Colombian Women for Peace (IMP) is looking for new legal strategies to prevent the seizure of land of women, to achieve integral reparation, and titling in name of women of Valle Encantado and other three communities.

Institutional initiatives: towards... gender justice?

In the development of the law of justice and peace, the CNRR will end this year the design of the Property Restitution Program, and has currently initiated restitution pilot projects with the Territorial Commissions for Restitution of Property in Mampuján (Bolívar) and Turbo (Urabá). In Turbo, for example, in 40% of the lands abandoned



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by displaced populations, the right to land (ownership, possession or occupation) had been in head of a woman. These findings show the importance of implementing, with regard to land, specific actions already identified from Court Order N° 092.

In the proposal of *Guidelines for a program to facilitate the access to land to displaced women*, developed by several organizations from Court Order N° 092, many of those specific measures of protection or restitution were identified, including the following ones:

- ✓ Conduct information campaigns on land rights of women
- ✓ Improve the Unique Register of land and abandoned territories (RUPTA for its acronym in Spanish), including sex and type of marital relationship, to identify non-formalized rights of widows (this proposal was included in the RUPTA).
- ✓ Develop mapping of vulnerability (social, family, gender and tenure) in

areas at risk, to qualify the protection measures. (Protection of Land and Heritage of Displaced Populations Project, designs a pilot issue in this regard).

- ✓ Generate routes of access to justice and legal advice, to women who demand the restitution of their lands.
- ✓ Relief the debt as part of the integral restitution of rights (a measure guaranteed by the Constitutional Court and included in the Restitution Program designed by the CNRR).
- ✓ Reverse the burden of proof in administrative and judicial proceedings for recovery of land.
- ✓ Entitle protected or recovered lands, primarily those of women.

These recommendations are intended to create a new institutional purpose with regard to lands: not only restore them, but also change the previous and present conditions of discrimination of women, and promote the full exercise of their rights to land and equity with men. ▀