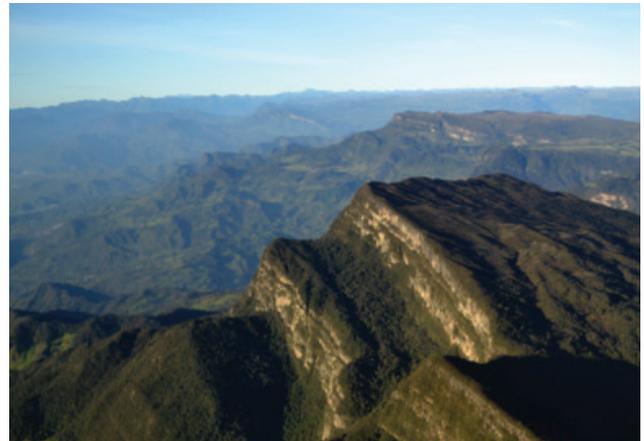


Land Rights, Conservation, and Peace in the Colombian Amazon

The Colombian Government and the Revolutionary Armed Forces of Colombia (FARC) signed a peace agreement on August 24, 2016, yet it failed to be approved by the National Referendum held on October 2, 2016. Despite this setback, the Congress approved a revised accord in November amongst protests from opposing groups. National politics aside, the possibility of a post-conflict agreement brought to light at the national level two often overlooked issues: *land rights and conservation*. For the Colombian Amazon, a reality with a peace agreement poses both a unique opportunity to resolve deep-rooted inequalities in land distribution and resource use and a challenge to indigenous peoples' land rights, exacerbated by the region's persistent political, economic, and social isolation.

Colombia's total territory is 1.1 million km², of which 45% is Amazon forest, and it is one of the most biodiverse countries in the world. The Colombian Amazon is also renowned for its cultural diversity; it is home to 62 ethnic groups from twelve linguistic families, representing 17% of the country's indigenous population, and 2.8% of its Afro-Colombian population. The Amazon region has also experienced continuous migration, driven mainly by the pervasive violence among armed guerrilla groups, paramilitary groups, and drug traffickers, which has resulted in the country having one of the highest internal displacement rates in the world.

The first migrants or *colonos* arrived in the Amazon in the 1950s, as refugees fleeing violence in the rest of the country. Then a series of imposed development programs promoted further incursion into the region, such as a multi-lateral financed cattle program, resulting in land accumulation by few landholders, and pushing colonists further into the forest. This generated new violence to control land, and made indigenous groups eager to protect their ancestral lands.



Chiribiquete National Park, Colombia © A. Chicchón

In the 1960s, oil was discovered in Putumayo, which attracted more migration to the otherwise isolated region. During the 70s and 80s, there was a third wave of migration motivated by drug trafficking and illegal crops, which generated confrontation over production and distribution. Within this context, from the early 1980s to 2000, armed guerrilla groups such as the FARC occupied approximately 4.5 million hectares of already deforested lands that were in the hands of *colonos*.

In parallel, beginning in the 1980s, there was a surge of indigenous land recognition and protected area creation in the Colombian Amazon. Currently, two thirds of the land in the Amazon is allocated for conservation and sustainable development, distributed in three large blocks: indigenous territories (53% with 25.6 million hectares), National Park System (almost 20%), and Forestry Reserves. Colombia's 1991 National Constitution recognizes the right to indigenous governance, and indigenous territories or *Resguardos indígenas* are collective lands equivalent to local municipalities. The Indigenous Territorial Entity (ETI) is the indigenous government structure organized to manage the territories, which gives them access to federal public funds.

These governance structures have not been fully implemented because they are still not regulated in laws. The Social Participation in Conservation policy for national parks includes a special management regime or *Regimen Especial de Manejo* (REM), which regulates territorial authority in overlap areas between indigenous lands and national parks. In the Amazon, seven national parks managed by the National Park System (*Parques Nacionales de Colombia*) overlap with 25 indigenous territories, covering 3.2 million hectares.

Although President Santos led a peace negotiation process that had been attempted before, a full agreement has never been adopted by all of society. The negotiations in La Havana, Cuba had limited civil society engagement, in particular from indigenous groups. Only in the last two months before the agreement was presented to the public, Colombia's Indigenous Organization for the Amazon (OPIAC) participated in the negotiation tables.

Challenges and Opportunities for Advancing Land Rights

The prospect of peace brings with it the following linked challenges and opportunities for securing land rights in the Colombian Amazon.

Challenge: Indigenous Collective Rights – One point of critical discussion has been access to land by ex-FARC members, who are claiming large areas of land for agricultural production. The only source of land left is the third block referred to as Forestry Reserves, which are located in eight jurisdictions. Over the years, the Colombian Institute for Rural Development (INCODER) allocated 7.8 million hectares of these lands to displaced farmers for Small-Farmer Reserves (*Reservas Campesinas*), to indigenous territories, for creation of urban centers, and to colonizers from conflict zones. In order to ensure that indigenous rights are respected, the allocation of new land areas will need to be carefully planned to avoid overlap with indigenous territories. In addition, the peace agreement calls for formally limiting the agricultural frontier and establishing protection zones by providing a two-year timeframe to develop an Environmental Zoning Plan. Land tenure and rights need to be secured in this timeframe, despite the weak land tenure structure in the Amazon, aggravated by conflicting public policies, weak governance, violence from armed groups, drug trafficking, planned extractive industries, and land insecurity. Colombian indigenous organizations have achieved important legal and policy mechanisms to secure their territorial rights over land use, such as Indigenous Territorial Entities (ETIs). However, this form of government has not been fully realized and regulated to date.

Opportunity: Peace agreement and collective rights – A peace agreement in itself could be an opportunity to fully implement existing legislation and regulations that secure indigenous rights and have been partially fulfilled, in particular with reference to land use agreements, territorial governance, and access to land security. Decree 2333 approved in November 2014 reaffirms existing collective rights and creates the institutional arrangements necessary to implement indigenous territorial management. This decree establishes an inter-institutional coordinating body made up of the Ministry of Interior, Ministry of Agriculture and Rural Development, Ministry of Environment and Sustainable Development, Geographic Institute Agustín Codazzi (IGAC), Superintendent for Land Notary and Registry, INCODER, and the National Commission for Indigenous Lands. One of the basic enabling conditions for the peace agreement's success is to incorporate the collective territorial governance established by indigenous organizations to manage over half the Amazon region and to influence the decisions being made.

Challenge: Valuing biodiversity and ecosystem services – Approximately, 41 of the 47 municipalities considered as high priority for post-agreement implementation include areas of high conservation value such as national parks and forestry reserves. Specifically, 17 of these municipalities have more than 50% of their territory under some form of strict protection. In addition to these conservation areas, indigenous lands house intact forests, high biodiversity, and carbon in over half the Amazon.

If the country wants to meet its target for net zero deforestation by 2021, then maintaining indigenous lands intact and limiting agricultural expansion with land use agreements will be key. Although the Amazon region has the highest deforestation rates in Colombia, rates within indigenous lands have been consistently lower over the past decade.

Opportunity: Consolidation and creation of protected areas and indigenous lands –

Although important national parks are located in the Amazon, now is the time to close conservation gaps and identify sub-national areas for conservation to ensure sensitive ecosystems are protected from future land use change and extractive resource activities. The conservation value of indigenous territories also needs to be recognized and conciliated with conservation interests in the peace agreement. Fully implementing the REM co-management policy with indigenous organizations will be a cornerstone of ensuring equitable governance.

Challenge: Displaced persons and gender rights –

Due to the violent conflict, hundreds of thousands of displaced men and women have migrated to urban and other rural areas across the country, including the Amazon. Despite legislation for their protection, especially for women, the laws have not been fully implemented and only a third of displaced persons have received resettlement assistance. An increase in resettlement without proper safeguards and policies in place could lead to increased deforestation, confrontation with indigenous peoples, and allocation of land use to unsustainable activities. Women are most vulnerable to forced displacement by armed groups, and still require additional attention because of their special legal protection.

Opportunity: National Development Plan –

The plan lays out the necessary enabling conditions for the peace agreement to be fully implemented in a socially and environmentally sustainable manner. Civil society will need to actively participate in its implementation and monitor political will to its full implementation, especially in light of the green growth goals established in the country's National Development Plan. In addition, indigenous territories need to be key elements of the Zones of Rural, Economic, and Social Development (ZIDRES) so they are more effectively implemented.

Challenge: Extractive activities – Regulated and unregulated mining is already causing socio-environmental conflicts in the Amazon. Indigenous territories are most vulnerable to mining and oil extraction because, as others, they do not possess sub-soil rights and projects considered to be in the national interest take precedence. Potential government-assigned mining concessions are planned, overlapping with several indigenous territories. Illegal and regulated mining poses governance, health, and river contamination issues that provoke confrontation. Increased extractive activities will establish access routes for more migration thus pressuring indigenous territories in particular.

Opportunity: Environmental zoning – One of the peace agreement's critical points is the Environmental Zoning Plan to identify areas off-limits to development or expansion, and areas of potential production according to land use type. Development of these plans will require reaching agreements with all the stakeholders, and indigenous organizations need to have access to these decision-making platforms and the capacity engage effectively in them to protect their lands.

Challenge: Local capacity – Environmental governance and land use regulation is fully decentralized to state and local governments, and also to indigenous authorities. However, weak technical capacity and limited budgets have prevented all territorial authorities from fully exercising their political and legal mandate. Despite increased technology for satellite imagery and geographic systems for forest monitoring and land use planning, there is limited detailed information to inform land use planning and cadaster, especially in areas of violence.

Opportunity: Spatial information – Implementing the peace agreement's land distribution proposals will require strong environmental governance by local governments and indigenous authorities. These organizations need sound, updated, and detailed geo-spatial information to make decisions on land reform and allocation.

Challenge: Sustainable local development – Sustainable rural economies have been attempted at local scales with varying degrees of success, depending on access to markets and local capacity. Indigenous communities have limited

options since in most cases they are in remote locations or have few supply chain options. As new areas may be opened for production, land allocation should be determined by land use capacity to avoid promoting productive activities that will not succeed due to poor soil conditions and limited market access. Indigenous communities in particular will need additional efforts to have equitable access to any government incentives or subsidies.

Opportunity: National and International Agreements – Colombia has ratified the UNFCCC and set goals for reduced deforesta-

tion. Given that the Amazon persistently has had the highest deforestation rates in the country, this region poses a higher challenge for local governments and indigenous organizations. International cooperation funds from Germany, Norway and the UK, under the *Visión Amazonía* program, could provide the leverage necessary to implement the peace agreement in the Amazon with the required social and environmental safeguards. This program has begun as systematic planning process with OPIAC and other indigenous organizations to identify priority activities for the plan's indigenous component.

Recommendations

Although most actions by civil society and indigenous organizations have been far removed from the peace negotiation held in 2016, there is still a general sentiment that society must work together to find solutions for peace. On August 18, 2016, the Inter-American Dialogue, with support of the Gordon and Betty Moore Foundation, brought together government, non-government organizations, indigenous organizations, and the private sector as a means of openly discussing the environmental and social implications of the peace agreement in the Amazon. There is also a joint effort led by the government to work with environmental and social organizations to articulate existing spatial and land rights information as the basis for the Environmental Zoning Plan.

- Land titling and respecting indigenous ancestral rights will be fundamental pillars for peace and prosperity in the Colombian Amazon.
- Existing indigenous governance policies and mechanisms need to be fully put in place and be the cornerstone to ensure a rights-based approach to implementing the peace agreement.
- More work is needed to generate a collective effort and consensus from both the conservation side and the land rights side on securing indigenous lands.
- Government agencies need to establish transparent participatory mechanisms for civil society input, in particular with indigenous organizations, conservation, and social justice groups.
- Local environmental authorities need to have the full capacity and information to implement the necessary environmental and social safeguards.
- There are efforts to create protected areas that could secure environmentally sensitive areas as “no-take” zones, such as areas to the north of Chiribiquete National Park.
- One of the points of the peace agreement requires limiting the agricultural frontier as one of the basic elements of environmental zoning and land tenure security. Resolving issues of illegal mining and illicit crops will be a fundamental piece of this effort.

Policy brief prepared by Paulina Arroyo, Moore Foundation, based on several interviews/information exchange with NGO representatives from Amazon Conservation Team, The Nature Conservancy, World Wildlife Fund, Fundación de Conservación y Desarrollo Sustentable, Fondo Patrimonio Natural, Instituto Sinchi, and Asociación Ambiente y Sociedad; with an OPIAC representative and with government representatives from Ministry of Post-Conflict, Parques Nacionales de Colombia, President's office for International Cooperation, and the Ministry of Environment and Sustainable Development. Input from Marisela Chavez, Moore Foundation. Feedback on final draft provided by Martin von Hildebrand, Gaia Amazonas and Eduardo Ariza, who are actively working with indigenous organizations and the government to ensure the peace process secures land rights.

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