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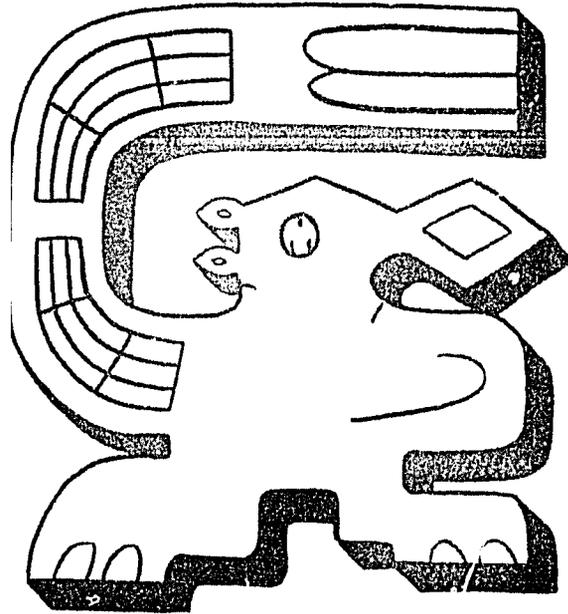
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Title Problems in Rural Areas of Colombia: A Colonization Example

*By Joseph R. Thome***

One of the most inadequately discussed aspects of land tenure problems in Latin America is that of title insecurity. Yet the number of rural holdings exploited without a title or over which there is a conflict as to ownership probably runs into the hundreds of thousands.¹ In Colombia alone the last agricultural census places some 47,000 farms in this category,² a figure roughly equivalent to the total number of productive farms in the prosperous Department of Valle del Cauca. As the census, however, was far from accurate in the areas of the country where title insecurity is most common, this figure vastly understates the land title problems in Colombia.

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¹ See, Frederic de Debuyst, "Tipología Socioeconómica de los Países Latinoamericanos, El Variable Social", *Revista Interamericana de Ciencias Sociales*, Segunda Epoca, Volumen 2, número especial, 1963, pp. 162-163.

² Departamento Administrativo Nacional de Estadística, *Censo Agropecuario de 1960, Resumen Nacional, Segunda Parte*, (Bogotá: Imprenta Nacional, 1964), pp. 43-45.

The exploitation of farms without secure titles may produce serious economic and social repercussions. For example, it hinders an adequate exploitation of the land by burdening the title-less producer with problems in obtaining credit and water concessions, possible involvement in eviction litigation, and severe restrictions in commercially dealing with the property in question. Furthermore, it can create social unrest and conflict, particularly in those cases where farmers without title are physically evicted from their possessions by the title holders or other persons claiming ownership.

It is the purpose of this paper to examine some aspects of the title insecurity situation in Colombia, with particular reference to the problems existing in colonization areas. Initially, this will consist of a general discussion of the main elements which cause land-title problems, and a brief summary of some of the more important agrarian legislation in this field. The powers granted to the Colombian Institute of Agrarian Reform (INCORA) in relation to title insecurity problems will then be described, as well as the manner in which these powers have been exercised.³ The balance of the paper will concentrate on a case study from an area of widespread colonization in the Llanos Orientales. This will illustrate the complexity of the title insecurity problem, as well as demonstrate the alternative courses of action INCORA can adopt to solve similar problem situations. In conclusion, it will be argued that INCORA still faces many obstacles in attaining a comprehensive solution to the title insecurity problem.

Causes for the Problem. Title insecurity has long been and still remains common in Colombia. Many factors have contributed to the creation of this problem. There is, for instance, the difficulty in identifying lands. In part, this can be traced to the practice by the Spanish crown and subsequent national gov-

³ Law 135 of 1961. This law represents Colombia's first attempt at a comprehensive agrarian reform. It incorporated all useful prior agrarian legislation, provided new legal remedies, and created a special, semi-autonomous entity to carry into effect the principles of the law: the Colombian Institute of Agrarian Reform (INCORA).

ernments of granting indeterminate and often overlapping titles to huge holdings of land.⁴ The lack of accurate cadastral surveys, inadequate descriptions of boundaries,⁵ and the failure of many people to register their titles, particularly to inherited properties, have made identification even more difficult. In addition, obsolescent inefficient legal practices and institutions, such as probate procedures and the notarial and registry systems, have further complicated the title situation in rural areas.⁶ Other important factors have been the conflicting, arbitrary and sometimes unrealistic land laws and judicial interpretations which made it very difficult to prove the validity of titles and failed to establish clear criteria for distinguishing public domain land from privately owned property.⁷

In addition, land title problems in rural areas of Colombia have been further complicated during the last thirty years by colonization movements or invasions of idle lands by impoverished *campesinos*. These movements in a sense represent a sort of "popular" land reform, carried out by an unfavored sector of society too impatient to wait for government projects or too dubious of their reach and effect. Usually only affecting public domain lands, these colonizations should not have created any conflicts with land owners. But sometimes the same lands had

⁴ A lawyer at INCORA has calculated that the sum of the area of all such grants would be equivalent to a nation at least twice as large as Colombia.

⁵ For an example see: Andrew Pearse and Salomón Rivera, *Tensa, Boyacá: Un Estudio de un Area de Minifundio*, Informe Técnico 4 (Bogotá; Facultad de Sociología, 1965).

⁶ José J. Gómez, *Régimen de Tierras*, (Bogotá: Universidad Externado de Colombia, 1963), pp. 8-32. For an analysis of the inadequacies of the Colombian registry system, see José María Córdoba, *Crimen y Tierra*, (Bogotá: Litográficas Cor-Val, 1962), pp. 98-124.

⁷ See: Gómez, *op. cit.*, pp. 8-32; Albert O. Hirschman, *Journeys Toward Progress: Studies of Economic Policy Making in Latin America*, (New York: Twentieth Century Fund, 1963), p. 102; also Supreme Court decision of May 26, 1934, cited in Germán Orozco Ochoa, *Jurisprudencia de la Corte Suprema de Justicia de 1887 a 1944*, Volume III, (Medellín: Editorial Gran América, 1945), p. 273.

already been claimed as private property by other individuals, either through questionable titles or illicit extensions of their legally owned properties. In other cases, *colonos* have entered into idle and uncleared lands they thought to be in the public domain, but which were in effect privately owned property. At times, property known to be privately owned has been purposely invaded. As a consequence, serious title conflicts have developed involving the *colonos*, owners, supposed owners and the state; conflicts which in the past have often degenerated into physical fighting and created serious social and political problems for Colombia.⁸

Law 200 of 1936. This situation became particularly critical during the twenties and early thirties; a period marked by the forced evictions of *colonos* (squatters), at times with the cooperation of the police and with a complete disregard of the eviction procedures prescribed by law. Armed clashes between the *colonos* and those claiming ownership were often the result.⁹

To the reform-minded administration of Alfonso López (1934-38), these social conflicts were caused by a number of complex and inter-related factors. Among these were the inequitable distribution of lands in populated areas; the illegal concentration of public domain lands in large, unexploited properties and the eviction or exclusion of *colonos* from such lands; as well as most of the other title-insecurity factors previously described.¹⁰ What was needed, then, was new, comprehensive agrarian legislation that would "resolve the factual problems in an equitable manner, based on social reality and not in sterile concepts of law or legal fictions."¹¹ A primary goal was to provide legal security and protection to those working the land.

⁸ As noted by Monseñor Germán Guzmán, *et. al.*, *La Violencia en Colombia*, Tomo I, (Bogotá: Ediciones Tercer Mundo, 1963), pp. 399-420, such conflicts were among the main causes for the *Violencia* of the thirties, late forties and early fifties.

⁹ Hirschman, *op. cit.*, pp. 102-110.

¹⁰ *Motivos de la ley 200*, cited by Gómez, *op. cit.*, pp. 1-16.

¹¹ *Ibid.*, p. 11.

Thus was enacted Law 200 of 1936, a very progressive law and the forerunner for the subsequent Agrarian Reform Law of 1961. The following are among the more important provisions contained in this statute:

1. A presumption of private ownership over lands economically exploited (Article 1);
2. A presumption that lands *not* economically exploited were in the public domain (Article 2);
3. Stricter requirements for evicting *colonos* (Article 4; Articles 17 to 22);
4. A 5 year prescription period for *colonos* who entered into and cultivated privately owned lands under the good faith assumption that they were in the public domain (Article 12);
5. Reversion of title to the state, without any compensation, of those lands not economically exploited for a continuous period of ten years (Article 6);
6. Giving jurisdiction to all actions arising from Law 200 to a newly created body of traveling "land judges" (Article 25).

During the first years following its enactments, the law was successful in diminishing the social conflicts in rural areas, mainly by securing the possessions of most *colonos*.¹² In addition, its new criteria for determining ownership to lands helped immensely in terminating the uncertainty and endless litigation over titles caused by prior Supreme Court decisions.¹³ Once the immediate problems and conflicts subsided, however, succeeding administrations, more conservative in nature, ignored or softened the more important provisions of Law 200. Thus, Law 4 of 1943 did away with the controversial land judges and returned their jurisdiction:

¹² Hirschman, *op. cit.*, p. 109. Unfortunately, it also had the effect in some cases of bringing about evictions of sharecroppers and day laborers for fear that they would become squatters on the land.

¹³ For judicial interpretations of Law 200, see Supreme Court Decisions of July 24, 1937, XLV Gaceta Judicial 329; March 9, 1939, XLVII Gaceta Judicial 798; December 2, 1942, LV Gaceta Judicial 194, etc.

to the local civil courts (which generally favor the vested interests in their community). And the reversion of title provisions were never exercised until after the enactment of Law 135 of 1961.

Although other laws aimed at rural problems were enacted in the interval between 1936 and 1961, such as Law 100 of 1944 and Decree 1483 of 1948, these were fairly conservative in nature and were never fully implemented. Under this legislation, some properties occupied by *colonos* were purchased from their nominal owners and subsequently sold to the *colonos*. Merely piecemeal measures, they represented an unrealistic solution to the agrarian problem. As a result, "spontaneous colonizations", and land invasions once more became common. And with them again came the evictions, clashes and conflicts of earlier times.

Necessity of Enforcing Legal Rights of Colonos. *Colonos* who settle on privately owned lands have over the years obtained certain legal rights. Thus, a legal eviction requires a judicial proceeding in which the owner must prove his title and compensate the *colono* for the improvements and other expenses made in the the land.¹⁴ Furthermore, a *colono* may, through prescription (adverse possession), obtain ownership over the land possessed.¹⁵ But these rights have often proved more theoretical than practical. Most evictions, for example, do not comply with the legally established procedure. The evicted *colono* would then have to initiate a civil action for damages against the owner. Obtaining title through prescription also requires litigation. The average *colono*, however, rarely has a knowledge of his legal rights. Even if he did, he generally has no means to cover the expenses involved in their enforcement. Moreover, he is often exploited by lawyers or "tinterillos" (one who practices law without a degree).

Similarly, while *colonos* have long had the privilege to ob-

¹⁴ Civil Code, Articles 946 to 985. Law 200 of 1936, Article 4; Article 4; Articles 17 to 22.

¹⁵ Either through the extraordinary prescription of the Civil Code (open, continuous and adverse possession for a period of twenty years (Articles 2531 and 2532) or through the Law 200 prescription (Eco

tain, free of charge, titles to the public domain lands they settled,¹⁶ the distribution of these titles have in the past been very poorly administered. *Colonos* have had to incur relatively large expenses to obtain their titles. Not understanding the procedure involved, they have also been exploited by private "*tituladores*", who charge a fee for undertaking the transactions involved and pocket the money without providing any services.¹⁷ Furthermore, large landowners are still driving out *colonos* from public domain lands.

That is, *colonos* have been provided with certain basic legal rights and protections, particularly by Law 200, which have not been fully implemented or fairly administered. Obviously, it is not sufficient that social legislation exist; the conflicts and problems will continue unless all parties concerned have access to fair judicial or administrative proceedings where such legislation will be objectively enforced. But the Colombian *campesino* can not be expected to assert his legal rights individually. Furthermore, he has traditionally lacked any strong rural federation or organization to which he could appeal for support.¹⁸ Consequently, he requires the assistance of public entities for resolving his title insecurity problems.

INCORA's Role vis-a-vis Title Insecurity. The Agrarian Reform Law of 1961 (Law 135), which also created INCORA, recognized the need to provide comprehensive solutions to the title-insecurity problem. Thus, it gave INCORA the functions

conomic exploitation of the land for a continuous 5 year period under the good-faith assumption it was public domain land—Article 12).

¹⁶ Eg., Law 200 of 1936, Article 1; Law 97 of 1946. For a legal study of public domain lands, see Josefina Amézquita de Almeida and Wenceslao Tovar Mozo, *Régimen Legal de Baldíos en Colombia* (Bogotá: Editorial Temis, 1961).

¹⁷ For a comprehensive case study of a colonization region and its problems, see Ronald Lee Tinnermeir, *New Land Settlements in the Eastern Lowlands of Colombia*, (The University of Wisconsin: unpublished Ph. D. Thesis, 1964).

¹⁸ The rural organization movement, however, is beginning to show signs of strength, particularly in the Atlantic coast.

of "clarifying the situation of lands from the point of view of their ownership" and "facilitating the cure of title defects".¹⁹ For these and other purposes, the law delegated to it the powers to administer public domain lands, to apply the reversion of title provisions of Law 200, and to acquire privately owned property through purchase or expropriation.²⁰ INCORA has been vigorous in exercising these powers. It has, for instance, applied the reversion of title provisions to obtain for the public domain 1,477,770 hectares of formerly privately owned property. Furthermore, from December of 1961, to April 30, 1965, it has adjudicated to 936,017 hectares of public domain lands among 21,467 *colonos*. Much of this land had been previously obtained by INCORA through the reversion of title provisions.²¹

Particularly effective have been INCORA's efforts to improve the procedures for adjudicating public domain lands. Thirty *Comisiones de Titulación*, (title teams) each composed of a lawyer, topographers and other personnel, have been stationed in areas of large scale colonization to provide free services to those *colonos* claiming less than 50 hectares.²² These teams perform all the technical tasks, such as surveying the land and drawing up the necessary documents. All the small *colono* has to do is present a simple petition for adjudication. In addition, INCORA has contracted the services of 40 lawyers to undertake the necessary transactions in other areas not covered by the title-teams. However, these services do not suffice and the private *titulador* problem still persists in many parts of the country. While the efficiency of some of the *comisiones* and lawyers leave something to be desired, their defects are decreasing with time and experience (and they constitute a definite improvement over the previously existing situation). INCORA plans to extend these

¹⁹ Law 135, Article 3.

²⁰ *Ibid.*, Articles 22 to 42 and 54 to 67.

²¹ The above figures are derived from INCORA's Division of Public Domain Lands. No exact statistics are available on the last point.

²² Those claiming over 50 hectares have to pay for their own surveys of the land, the fees of the expert witnesses who inspect the land, as well as other expenses.

services and to annually distribute 30,000 titles to public domain lands.

Neglected for many years, however, or only taken care of sporadically, were title conflicts occurring in relatively isolated regions : in general, those taking place outside of official INCORA projects. Yet, in conjunction, these conflicts affect thousands of people and have created serious social problems. It became apparent that something had to be done about these problems. Aware of this situation, INCORA established a new department entitled "*División de la Tenencia de la Tierra*" (Land Tenure Division) in 1965, whose general purpose is to clarify the ownership situation of the land in areas of the country not falling within specific land reform projects.²³ Still limited in personnel and experience, the Division as of now is only intervening in small scale title-conflicts between *colonos* and owners, generally in response to complaints from individual *colonos* or rural organizations.

Eventually, the Division hopes to undertake a more efficient approach to the problem "by methodically investigating in areas of the country *not* falling within specific land reform projects, the legal aspects of the tenure and exploitation of the land in order to obtain the proper application of those laws which regulate the relations between occupiers, possessors, owners, and holders in the respective zones".²⁴ These investigations would consist of a complete study of the title situation, forms of tenure, existing rural organizations, size of farms, extent of public domain lands, etc. Once the results were known, the Division would take the necessary action, such as registering property in the cadastral rolls; adjudicating titles to public domain lands; applying the reversion of title provisions; and collaborating in curing other title defects, particularly by initiating prescription actions or probate proceedings.

INCORA has thus recognized the seriousness of the title-

²³ Internal INCORA Resolution No. 02075 of March 25, 1965.

²⁴ *Ibid.*, Article 1, Section D. (Author's translation and emphasis).

insecurity problems in Colombia, particularly those arising from the *colono* movements or invasions, and has embarked upon comprehensive projects to resolve the situation. This will be a long and arduous task. Perhaps the extent and complications of these problems can best be understood by describing a particular case in an area of extensive colonization and title insecurity in the Llanos Orientales (Eastern Plains).

Problems in areas of colonization. The occupation and cultivation of lands, regardless of their ownership, by titleless *campesinos* has long been and remains common in all areas of Colombia. A recent study of the *minifundia* problems in Colombia, for instance, indicated that in the Department of Atlántico there are 1500 farms with less than 3 *hectares* which are exploited without a title, a figure equivalent to 21 percent of all the *minifundia* in the Department. A similar situation exists in the Departments of Magdalena and Bolívar.²⁵ This problem is even more intense in the frontier areas of Colombia. Nowhere is this more true than in the Llanos Orientales, an area encompassing the Department of Meta, part of the Department of Boyacá and the territories of Vichada and Arauca.

Stretching beyond the easternmost range of the Colombian Andes, the Llanos constitute a vast area of grassy plains interspaced with patches of rainforest which extend to the Northeast into Venezuela and to the East and South meet the vast Amazon jungles. Long the "promised land" of Colombia, the Llanos have until relatively recently remained unexploited and largely uninhabited due to the lack of roads and other means of transportation. However, the opening of some key roads, the advent of air transportation, and the presence of violence in other rural sectors of Colombia have in recent years caused thousands of people to stream into the Llanos. Most of these have been landless *campesinos* or *colonos* seeking to open virgin lands and become landowners. Others come from the middle or upper class, hoping

²⁵ Consejo Social Agrario (INCORA), *El Problema del Minifundio y Algunas Soluciones Para Su Reestructuración; Informe de la Primera Reunión* (Bogotá: Imprenta Nacional, 1963), pp. 78-79.

to make their fortune with cattle, rice or african palm. These movements are changing the nature of the Llanos: although still predominantly a cattle region, agricultural activities are now of great importance.

Newer *colonos*, however, are finding it increasingly difficult to obtain adequate lands in the Llanos. The open plain is generally only suitable for extensive cattle production, and most of the land suitable for agriculture and with access to markets has already been claimed or occupied. As a result, the new *colono* is forced to go into the remote and inaccessible areas, or to "invade" unexploited lands owned or claimed by someone else. In either case, this usually entails clearing forest in order to obtain a plot of land to cultivate.

The Situation in the Sabana de la Macarena. Despite such difficulties, the Llanos still constitute a rapidly developing frontier area. A case in point is the Sabana de la Macarena in the Department of Meta. Bound in the West by the imposing Sierra de la Macarena mountain range and to the South by jungle, and only some 110 kilometers South of Villavicencio, the capital of the Department, this area is fairly representative of the development problems common in the Llanos. Some ten years ago the region had but a few *vaqueros* (cowboys) and some large cattle ranches. Its one settlement, San Juan de Arama, did not even appear on the maps of Meta. Today, San Juan is a bustling town of 3,500 people, complete with airport, beer halls, a primary school, "hotels", commerce, police detachment and the ever present houses of ill repute. The *vereda* (township) as a whole now has some 12,000 inhabitants, most of them "colonos" or *jornaleros* (hired hands).

As elsewhere in the Llanos, many problems plague the *colono*. Transportation, for instance, remains inadequate and expensive.²⁶ Nor are the elements kind: floods, plagues and disease peri-

²⁶ Save for 19 Km. stretch near San Juan, an all weather road connects this town to Villavicencio. But that short stretch makes the region almost inaccessible during the long 8 month rainy period. As a result, La Sabana de la Macarena suffers from poor access to markets and excessive transportation costs.

odically threaten crops and cattle.²⁷ Malaria and amebiasis are common and usually treated with home remedies as medical facilities are almost nonexistent. In addition, the *colono* has to contend with the high cost of basic necessities and lack of credit facilities. Even more serious are the land title problems; almost all the title-insecurity elements previously described exist here: indeterminate boundaries, poor registry systems, invalid "hoarding" of public domain lands by private individuals, and inadequate enforcement of the laws.

Because of the prevailing insecurity, the holdings, or "*mejoras*" (land which has been cleared and cultivated) of the *colonos* have a very high changeover, and many are sold after only a few years of cultivation to an arriving *colono* or to an adjoining owner. These transactions are generally made through a *carta-venta*, a contract through which the seller transfers whatever rights he has over the land. This is then registered with a notary. In the Llanos, these *carta-ventas* are often the only "title" which can be obtained.

The volatile mixture of title insecurity and widespread colonization has led to conflicts between the *colonos* and those claiming ownership over the same lands. Fortunately, these conflicts are sometimes settled peacefully. There is, for instance, the recent case of a particular landowner who has clear title to a ranch with some 4,000 hectares. Of these, about 3,000 Hs. are *sabana* or grazing land with about 400 head of cattle. The other 1,000 were originally *monte* (forest), most of which have been occupied and partially cleared by some 60 *colonos* whose holdings range from 5 to 100 Hs. There, the *colonos* grow rice, sugar, cacao, bananas, and other crops. Some of the older and larger *colonos* also have cattle.

Rather than face a protracted struggle with the *colonos*, the owner decided to give them the lands they occupied, provided they would agree to leave his grazing land alone and refrain from watershed destruction. In order to make this division as

²⁷ Hoof and mouth disease, for example, has affected most of the cattle and swine in the area.

efficient as possible, he decided to convey title to the portion held by the *colonos* to INCORA, which would then distribute it among the *colonos* in accordance with the legally established procedures for adjudicating titles to public domain lands.²⁸ For these purposes, a topographer and lawyer from INCORA accompanied the owner to his ranch. The topographer measured the boundaries between the *colonos'* portion and the land to remain with the owner, and the lawyer met with the *colonos* to explain the plan, the procedures involved in obtaining their titles and their individual rights and obligations. All expressed agreement and satisfaction with the project. Subsequent to this, the owner will convey the agreed upon portion to INCORA, and the *colonos* will then apply to the INCORA *titulador* in Granada, a town about 40 Kms. away, for adjudication to the titles to their holdings.

But other landowners in the area are unwilling to settle their *colono* problems peacefully. In a neighboring cattle ranch, for instance, this problem is reaching alarming proportions. This *hacienda* is owned by an absentee rancher who claims that it covers 60,000 Hs. But *colono* leaders in San Juan maintain his title only covers 30,000 Hs. In any case, about 1,000 *colonos* have settled on 12,000 hectares claimed by the owner of the cattle ranch. These holdings range from a few hectares to about three hundred. Some have been exploited for over 20 years, the period established by the Civil Code for obtaining title through prescription. Almost all of these *colono* holdings were obtained by clearing *monte*, for the purpose of cultivating crops. Few, if any, impinge on the *sabana* or grazing land needed for the *hacienda's* cattle production.

Attempts to negotiate a peaceful solution have been unsuccessful, and the owner is now attempting to drive out the *colonos*, forcefully, if necessary. This is done by having his *vaqueros* tear down the *colonos'* fences and driving cattle over their crops. The *colonos* retaliate by killing his cattle, but it is still an uneven battle. Most of these *colonos* are extremely poor. One ruined crop often suffices to drive them away. The landowner, on the

other hand, can take the loss of a few head of cattle with little inconvenience. (There have been other cases, however, where the *colono* pressure was so great and persistent that the "owner" eventually abandoned his entire holding).²⁹

Physical clashes between the *colonos* and the *vaqueros* have occurred, causing the death of the son of a *colono*. Around San Juan, it is heard that some *colonos* have sworn to kill the landowner. But he only visits his hacienda about 2 or 3 times a year and is always well protected. Meanwhile, the police authorities at San Juan have cooperated in evicting some of the newer *colonos*, apparently without observing the legal procedures required. Obviously, government intervention is required to establish rational and just solutions to these problems. And the government entity naturally suited for this purpose is INCORA.

Alternative Actions available to INCORA. In other Department of Colombia, INCORA has solved similar *colono* problems by applying the reversion of title provisions of Law 200 of 1936. Under these provisions, title to that portion of a property over 1,500 Hs. which has been unexploited by its *owner* for a continuous ten year period reverts to the state (INCORA). It makes no difference that such land was flooded, inaccessible, or exploited by others who did *not* recognize or have awareness of the owner's title. The key point is whether or not the *owner* or his agents have in fact exploited the land during the prescribed period. Thus, in many cases of conflicts between the owners and *colonos*, INCORA has applied the Law 200 powers to obtain ownership of the lands involved and subsequently distribute them among the *colonos*.

Unfortunately, the reversion of title provisions only apply to *Departamentos* (States) and not to national territories which have not yet reached such status. In new *Departamentos*, they can

²⁹ One particular landowner in the Llanos who became involved in a bitter conflict with *colonos* lived so in fear of his life that he had the bedroom at his farm lined with sheets of steel. The pressure, however, proved too much and in due time he abandoned the entire farm to the *colonos*.

only be applied ten years after the date the territory became a Department. As Meta, where the Sabanas de la Macarena are located, did not become a Department until July of 1960, this measure can not be utilized before July of 1970.

What, then, could INCORA do to solve problems such as those of La Sabana de la Macarena? There are several alternatives open to it, among which the following appear to be the most practical:

1. To send into the area a team from its *División de Tenencia de la Tierra* whose initial task would be to make a definite study of the title situation.

2. Once it had been clearly determined which lands are privately owned and which in the public domain, INCORA would then proceed to adjudicate titles to those *colonos* whose holdings fall within the latter category.

3. As to those *colonos* within privately owned property, INCORA would have to conduct an individual study of each case in order to determine which of them have the necessary chain of possession which entitles them to ownership of their portions through the Civil Code or Law 200 prescriptions. In such cases, INCORA would help these *colonos* initiate the *juicios de pertenencia* (ownership actions) necessary for establishing prescription and getting the title so obtained recorded at the appropriate Property Registry.⁸⁰

4. For the remaining *colonos*, INCORA could try to move them to other public domain lands (a most difficult task), or try to convince the owner of the benefits of an amicable division. All else failing, INCORA could always use its expropriation powers to obtain the land involved. But expropriation is a very drawn-out and expensive process, often taking over two years.

5. Perhaps, as a last alternative, it could obtain a judicial order decreeing a *status quo* until such time as a definite solution can be reached. In any case, INCORA should make its presence

⁸⁰ See Law 120 of 1928 for the procedure for such *juicios de pertenencia*.

felt in the area in order to prevent illegal evictions and see to it that the legal rights of the *colonos* are duly observed. Such presence alone might be sufficient to maintain law and order in the Sabana de la Macarena. And it would have a great psychological impact by finally giving the peasant the feeling that the government, after all does understand his situation and is trying to solve his problems.

Conclusions. Title insecurity has long been a source of serious problems in Colombia. Absent in such a situation are the stability, security and opportunities necessary for promoting an adequate exploitation of the land and preventing social unrest. Fortunately, a concerted effort to eradicate these problems has been initiated by the Colombian Institute of Agrarian Reform. But this will not be an easy task; not only are the problems involved extremely complex, but obstacles exist which will unduly complicate INCORA's actions. This is particularly true as regards the problems in the colonization areas of the country.

INCORA's legal powers, for instance, remain insufficient. As previously pointed out, colonization movements and title problems are common in regions which are not Departments or have only recently gained the status; precisely those areas where INCORA cannot apply its most potent legal weapon: the reversion of title provisions of Law 200. In addition, these colonization movements could probably be held down to a more controllable level if INCORA could increase its parcelization projects in those areas of the country from which these movements derive. That is, easing the land pressure therein by acquiring private property, either through purchase or expropriation, for its subsequent distribution. But the laws severely restrict this type of action, making it both very expensive and time consuming.³¹

In addition, a *minifundia-latifundio* pattern appears to be developing in the colonization areas. Due to the almost insuperable hardships they face, *colonos* often have to abandon their holdings,

³¹ Law 135 of 1961, Articles 54 to 67; Decrees 1489 and 1904 of 1962.

or sell them to a more prosperous neighbor, after only a few years of exploitation. They clear the land, but the benefits are reaped by those who can afford a long term investment. Many of the larger holdings in the Llanos have been formed through this process. If this development is to be halted, *colonos* must be given security over their holdings. This means not only a title, but adequate credit facilities and access to markets. INCORA's resources, however, appear inadequate to fully resolve this problem.

Other factors exist over which INCORA has limited or no control. These include the lack of cadastral surveys; inadequate law enforcement and judicial administration; inefficient probate and registry procedures; and a political climate which somewhat inhibits INCORA's actions. Many of these obstacles can be removed through new legislation. Law 135, for instance, should be amended to make it more workable, particularly by eliminating the exceptions to the application of the reversion of title provisions and streamlining the eminent domain procedures. Laws creating special land judges, or agrarian courts, and reforming the registry procedures would also be most helpful.

In other areas, the assistance of internal agencies would be of vital importance. These are already playing an important role, as demonstrated by AID's financing of INCORA's supervised credit programs, and the assistance given to the aerial-photo surveying projects in the Llanos Orientales. These areas would also benefit greatly from assistance in building access roads. While this would mostly mean financing, perhaps much could be achieved through *acción comunal* (community development) programs, in which the Peace Corps could play an important part. As they have done in the past, Peace Corps volunteers could also continue to assist INCORA in surveying public domain lands to be distributed among *colonos*.

In any case, an important start has been made in eradicating Colombia's land title problems. It is to be hoped that INCORA will be able to overcome the remaining obstacles and finally attain a comprehensive solution to these problems.