

Follow up on the Colombian Peace Agreements and Land Tenure Issues: transitions, property rights and tenure security

The Colombian Government proposed a comprehensive rural reform as part of the Final Peace Agreement to put an end to the armed conflict that has affected the country for the past 4 or 5 decades. The national government decided to ratify the agreements with the guerilla, asking the Colombian citizens to vote for the implementation of this agreement in a national plebiscite. In an unexpected result with a difference of more than 50.000 votes the country voted against its implementation.

The discourses and arguments behind the popular vote in the plebiscite are varied and respond to different logics. One of them, essential to most of the “No groups” relates to the tools described in the comprehensive rural reform regarding land tenure.

This paper analyzes the positions that claimed a negative impact of the land tenure points of the peace agreement on their property rights, in order to identify whether the claims respond to legal or practical arguments about land policy proposals, or to misleading perceptions based on the lack of understanding of the law. The analysis identifies what areas of the current policy and the proposed reform do have the potential to affect property rights and security of tenure of legally or legitimately acquired land.

The analysis is based on a legal examination of each type of argument against the land tenure points of the peace agreement that states what is currently established in the public policy on state land formalization in Colombia. Finally, the paper draws some policy recommendations for an effective rural reform in the Colombian context and the respect of property rights, using the concept “pardon” applied to land tenure in a post-conflict society.

1. The Peace agreements and land tenure policy: context

As presented before in the World Bank Conference 2016¹ the Peace Agreement contains four mechanisms to advance on land tenure governance:

1. Creation of a land fund to gather/recover the necessary land in order to provide land to those who do not have it, or those who have an insufficient amount.
2. Mass formalization of small and medium rural properties.
3. Creation of an agrarian jurisdiction (court) with sufficient jurisdictional coverage to provide efficient and effective justice in rural areas.
4. Creation and update of a multipurpose cadaster in order to collect, maintain and make available accurate and up-to date information on lands.

These are basic rules common to almost every modern and lawful state where legal certainty and protection of property rights play a fundamental role. So it is of interest to understand why some of the most incidental political groups in Colombia would argue that the prescriptions of the Peace Agreement on land tenure undermine property rights in Colombia. This is by itself an interesting question but given that this was one of the main concerns and arguments to vote against the implementation of the Peace Agreements with FARC, it also urgent under the current situation where after Congressional approval, the Government tries to effectively comply with the commitments during the first months of implementation, crucial for trust building among state, community and the guerilla, with less than a year of government period to go.

This document approaches the discussion around the concept of legal certainty, the institutions created to protect property rights and public policy on land tenure - mainly state land - and the problems and difficulties that emerged upon the enforcement of the restitution policy in Colombia. The document attempts to differentiate land grabbing, and good from bad faith to acquire land. On the other hand acknowledges that evidence and practical situations ask for a new legal framework that is consistent with the particular characteristics of every territory in Colombia, even if this means to acknowledge and accept that there is no enforcement of the current legislation to a certain degree, and give space to what would be called a Pardon Regime for Land Tenure in Colombia, along with the other transitional institutions that are usually put in place to end an armed conflict.

¹ For a general and overall description on the land tenure issues in the peace agreement and public policy on land tenure in Colombia go to: https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_World_Bank_2016_LRDP_Policy_Reforms.pdf

For complete texts go to: <http://www.altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFinal.pdf>

and

<https://colaboracion.dnp.gov.co/CDT/Agriculturapecuari forestal%20y%20pesca/TOMO%203.pdf>, p.59.

2. The “No” Arguments

In the aftermath of the plebiscite the government received proposals to modify the Peace Agreement. Regarding the rural reform, according to the Peace Commissioner Office, there were 17 proposals, amendments or requests for clarifications², we were able to find other 42. From those 59 suggestions, 23 reflected a concern about how the rural reform may affect private property. Most of these concerns have to do with the mechanisms and procedures through which the land fund is to be provided, especially with expiration of ownership, expropriation and state land recovery.

The civil organizations and the political parties that voted against the implementation of the Peace Agreements argued that the text concerning land tenure would lead Colombia to a massive expropriation of private property and scenery of legal uncertainty.

As stated in section 1 of this paper, Point No. 1.1 of the Final Agreement prescribes the creation of a land fund to gather/recover the necessary land in order to provide land to those who do not have it, or those who have an insufficient amount. This fund is to be fed by illegally acquired forfeited lands, illegally occupied lands that have been recovered by the State, lands that are no longer considered to be part of or classified as forest reserves, unexploited forfeited lands, lands donated to the fund, or lands seized by the State due to their social interest or public utility in exchange for a corresponding compensation.

The following chart shows a summary of the main proposals and comments, and their normative basis against the comprehensive rural reform. It also shows if they are well-founded or if they reflect a misconception for the legal basis of the Peace Agreement. The complete chart can be found as Annex 1.

CHART 1: SUMMARY³

Author	Document	Text of the proposal - observation	Legal basis of the proposal - observation	Proposal - observation is valid (V), partially valid (PV), invalid (I)	Legal basis for Peace Agreement and Comments

² The proposals were summarized and presented in a document available in <http://www.altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/21-11-2016-CUADRO-Propuestas-y-Ajustes-definitivo.pdf>

³ The chart was built by the authors using the information of the Peace Commissioner Office. The translation of the proposals was done by the authors. The legal analyses, the classification of the proposal and comments after comparing with the Peace Agreements were done by the authors.

Centro Democrático	Bases of a National Agreement for Peace	The Government will accurately characterize the concept of the "Baldío de la Nación" and the processes of its conversion to private property based on occupation in good faith. Ownership of uncultivated lands occupied in good faith within the times prescribed by law will be Respected and formalized, and these lands will not be part of the Land Fund	None.	V	Law 160/1994, Decree 2664/1994. The complexity of Colombian agrarian legislation makes it difficult to establish with certainty whether a parcel is or not State land. Therefore, there is an actual need of a clear definition of state land and.
Centro Democrático	Bases of a National Agreement for Peace	"The agreements should not affect honest owners or holders, whose good faith must give presumption of absence of guilt that can not be disprove"	None.	I	A legal presumption is always subject to contradiction. The good faith presumption in the case of property rights over land in Colombia works when it is exempt of guilt.

Centro Democrático	Bases of a National Agreement for Peace	The State shall specify the powers, scope and procedural instances for the application of the expiration of ownership for breach of the ecological function and of the administrative expropriation for reasons of social interest or public utility	Article 58 of the Constitution. ⁴	PV	Law 160/1994, Decree 2664/1994. Peace Agreement gives no space for interpretation about importance of property rights, formality and legal certainty concerning land tenure. However there is some vagueness in legislation concerning expropriation.
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As it can be seen, most arguments call for clarification on the scope and procedure of the administrative expiration of ownership for breach of the social and ecological function of property and expropriation. Other group of arguments demand the respect of private property without referring to any mechanism from the land fund. There is a group of proposals that ask for the protection of people who could be occupying state land with good faith and therefore demand that they shall not be affected by the application of the state land recovery procedure. For a detailed analysis of each proposal, critics of the “No arguments” consult Annex 1.

In almost every case there was misleading information that created the idea that the agreement included new mechanisms to conquer the lands that people legitimately acquired in order to give them to the poor, moving towards a socialist regime. This is false mainly considering that all this mechanisms have existed in Colombia for more than 4 or 5 decades, at least since 1961 with the issuing of Act 135 on Rural Agrarian Reform.

⁴ Article 58 of the Constitution:

Private property and other acquired rights are guaranteed under civil laws, which can not be unknown or violated by subsequent laws. When the application of a law issued for reasons of public utility or social interest results in a conflict of the rights of individuals with the need recognized by it, the private interest must yield to the public or social interest. The property is a social function that implies obligations. As such, is inherent an ecological function. The State will protect and promote associative and solidarity forms of ownership. For reasons of public utility or social interest defined by the legislator, there may be expropriation through a court judgment and prior compensation. This will be fixed in consultation with the interests of the community and the affected. In cases determined by the legislator, such expropriation may be brought forward by administrative procedure, subject to subsequent contentious-administrative action, including with regard to price.

However some groups did understand these mechanisms were not new to our legislation and instead were worried about their implementation with a renewed impulse, given the vagueness and complexity of the current legal framework which could lead to affect the legitimate property rights for unjustified reasons. Some of them will be stated below:

1. The current legislation is unclear on what the definition of “unexploited lands” is and who is in charge of defining this.
2. There is no evident definition for “baldío” or State Land.
3. There is vagueness and therefore major legal discussions regarding the application of prohibition of landholding over a UAF, established in article 72 subsection 9 of Law 160 of 1994.

While none of these problems have an actual relation to the Peace Agreement, the observations of some of the “No” groups pointed out what appear to be some of the central unsolved issues concerning land tenure in Colombia: people that do comply with the social function of rural property and have legitimately acquired land in good faith do not want to lose it over a new land tenure public policy.

This paper analyzes the differences between the positions that claimed a negative impact of the agrarian points of the peace agreement on their property rights, in order to identify whether the claims respond to actual threat against property rights or to misleading perceptions of the policy proposals. The analysis shows that, while most of the arguments against the land issues of the peace agreement do not threaten private property rights, the land tenure landscape in Colombia is plagued with problematic cases that require to i) enforce the existent legislation on land access and formalization; ii) enforce the existent policies about state lands use, appropriation, re-acquisition by the state and allocation to individual tenants.

Based on the analysis of the “no arguments”, we selected one paradigmatic case to demonstrate that land tenure patterns in Colombia go beyond the typical dichotomy between corrective and distributive measures for land ownership. The analysis identifies what areas of the current policy and the proposed reform do have the potential to affect property rights and security of tenure of legally or legitimately acquired land. Finally, the paper draws some policy recommendations for an effective rural reform in the Colombian context and the respect of property rights, using the concept “pardon” applied to land tenure in a post-conflict society.

3. Zoom to a practical problem / what is State Land for?

State land in Colombia has been occupied in an unorganized way. The Colombian countryside, especially the rural and disperse areas lack State presence to organize this occupation and enforce land tenureship law. These “unregulated” areas have given space to customary relationships and informal institutions that govern land tenure in practice. Some of these customary rules contravene legal dispositions.

According to the current law no one is allowed to sit on the State Land and argue it’s theirs just because the time has passed and they have been exploiting the land. This is the case of occupants of State land that have lived over 10 even 30 years or more in these areas and claim ownership over the lands they occupy and in some cases paid. Under agrarian law, some of them will have a legal right to claim the formalization of these lands and some of them won't because their annual income exceeds the limit established to formalize State Land in favor of peasants or because they already have another parcel.

These limits were established in the law with the objective to distribute wealth among peasants that do not have purchasing capacity to access land by their own means. Under the legal regime, the State has the responsibility to recover these lands and if needed, evict the people living there that do not comply legal requirements to ask for a free formalization and therefore are illegally occupying them. As was already stated in previous sections, the Land Fund created in the Peace Agreement to distribute land to peasants is supposed to be nurtured by different means, one of which is recovered land wrongly occupied.

Under these circumstances the State has to solve the following arising issue: in a context of transition to peace, ¿should the State recover the illegally occupied state land and nurture the land fund to distribute those parcels to peasants? This would normally sound reasonable. However, for decades State has abandoned the dispersed rural areas in Colombia, where illegal organizations used to apply justice and people had to organize their property rights using whatever informal institutions were made available to them. A vigorous and massive recuperation of unduly occupied state land could imply the eviction of people that in good faith paid for their “alleged land” and could create complex scenery of social conflict not well measured by the Government.

Recovery of these lands would:

- i) Send an important message of enforcement of the law that could help prevent new invasions of State Land

- ii) Materialize State presence in areas where its absence was already a normal situation, which is important to create trust between state and communities for peace building.
- iii) Provide land for the Land Fund created in the Peace Agreements, needed for distribution purposes.
- iv) Provide social justice by recovering land from the rural inhabitants that have the capacity to acquire land by their own means, which also contributes to reduce the structural conditions that facilitated the creation of armed conflict in the first place.

On the other hand, refraining from recovering these lands could have the opposite effects of the ones listed above.

Recovery of these lands would also:

- i) Create social conflicts between State and occupants of State Land, which is a problem in itself, but would also send a message of a punishing State to the community which could create distrust in a context of transition to peace
- ii) Create a sensation of injustice for the occupants who have harvested the land for years, created a life and a production system counting on a peaceful possession that has complied with the social function of rural property without public goods or State support.
- iii) Question the legitimacy of the legal framework which could undermine State's legitimacy in itself and create social unrest. Given that the land is at the center of the armed conflict in Colombia, is possible that these evictions could create conditions for social protest and disturbs; eventually for a new armed conflict.
- iv) Imply high costs for contentious legal processes that the State could loose given the ambiguity and complexity of the Colombian legal framework on land tenure.

4. A Pardon Regime for Land Tenure in Colombia

Most of the transitions from armed conflict to peace have privileged measures of corrective justice, which aim to rectify past wrongs through punishments to perpetrators, memory and truth-telling processes and reparations to victims. However, there is a growing consensus about the necessity to consider principles of distributive justice in processes of transition, that address the structural elements of the society that may have contributed to the violence (See Bergsmo et. Al. 2010). The call for a distributive approach is particularly important when we talk about land, which is at the center of several conflicts over the

world, and certainly, has been one of the main elements of dispute in the middle of the Colombian armed conflict (see Reyes 2009, Gutiérrez Sanín, Machado).

As many scholars and policies in Colombia have recognized, the inequitable distribution of land is one of the roots of the conflict and the actions of illegal groups that have expelled, displaced and dispossessed millions of rural dwellers of their lands, have reproduced such pattern of land tenure, resulting in an even higher index of land concentration.

Arguably, Colombia has already gone through a corrective path with the formulation and implementation of the Law of Victims and Land Restitution (Law 1448 of 2011), which has been the main tool to restore land for peasants and ethnic groups that lost the tenure of their lands due to the actions of illegal groups. The Law, however did not include provisions to correct the original distribution of land or any measure to prevent the accumulation of land in few hands.

The peace agreement between the Colombian government and the FARC, on the other hand, aimed to address such inequality in land tenure through a comprehensive land reform, which implies to go beyond restoration and to point some measures to achieve a more equitable distribution of the land. As we show in the first section of this paper, however, the measures that deal with land tenure and property rights are highly contentious in the transition with the FARC. Several groups of population see in the peace agreements a threat against what they consider a legal and legitimate right over their land.

The inequitable land tenure in Colombia cannot be addressed only with corrective justice measures that would imply to evict actual landowners, triggering new conflicts among the population. A transition cannot ignore the existent rights over land that also need to be protected to avoid new conflicts and to achieve peace between actors.

Traditionally, transitions that involve land rights have been approached as binaries between corrective justice and distributive justices. The Colombian case, as we showed in the third section of the paper, poses a more complex challenge to balance the distributive impulse -which Colombia's legislation had established before (Law 160 of 1994) and requires granting access to the land, the protection of legitimate property rights, and the corrective measures that are necessary to restate legitimate land rights. How can we achieve such balance?

We argue that a “land pardon” is possible and necessary when we face conflicts in which the distributive impulse needs to stop and the state has to protect property rights that are important for social and economic stability of the rural life.

5. The principles to design the pardon regime

The concept of land pardon requires that the state delivers corrective policies for those acts that, infringing the law, have contributed to the inequitable land tenure pattern while simultaneously prevent new social conflicts derived from traditional landholding practices in rural areas of the country.

According to some interest groups, the creation of the land fund implies their legitimate property rights would be ignored and emerging of new conflicts.

What are those possible situations in which we would have to recognize and legalize actual patterns of land tenure applying a balance between the need to distribute more fairly and still protect existent land tenureship and property rights? The case we described above is a paradigmatic situation in which, legitimate and historic land tenureship do not fit in a dichotomy between correction and distribution. The concept of land pardon that we propose implies to formulate some legal principles that provide the State tools to deal successfully with those situations and to organize land tenure in rural areas.

- Principle 1: State’s responsibility: when the result of a particular arrangement over land derives from the lack of information or action of the state, the citizen will not have to assume the costs of the law infringement and the land rights will be protected.
- Principle 2: The transactions over land will be judged and analyzed with attention to the due diligence of the person, to the extent of his/her capabilities in terms of economic resources, access to information.
- Principle 3: State’s interest in judicial proceedings: the interest of the state in preserving an equitable land tenure and avoid land concentration will be respected by legitimating the respective state agency to participate as an interested part in judicial cases regarding private transactions, in which there is reasonable suspicion that the land under transaction may be or may have been state land. This will always be the case when the land has been allocated to a person in a former administrative process by Incora or Incoder.

- Principle 4: The legality of the transactions over rural lands is not enough to authorize transactions that result in great accumulation of land but legitimacy is required -legitimacy should be understood and defined as the fulfillment of the constitutional principles and the goals of the agrarian law.
- Principle 5: The National Land Agency will be able to determine and select symbolic and paradigmatic cases that need corrective measures so that Colombian society learns about legitimacy in land tenure transactions, without having the responsibility to revise every illegal transaction.
- Principle 6: The corrective measures taken by the State need the practical implication of recovering lands in favor of the Land Fund for distribution purposes, even if the ambiguity and complexity of the legal framework was unclear about the consequences of an illegal transaction. To protect legitimate property rights, the corrective measures will have a due process before an Agrarian Court.

Annex 1

Author	Document	Text of the proposal - observation	Legal basis of the proposal - observation	Proposal - observation is valid (V), partially valid (PV), invalid (I)	Legal basis for Peace Agreement and Comments
Centro Democrático	Bases of a National Agreement for Peace	The State shall specify the powers, scope and procedural instances for the application of the expiration of ownership for breach of the ecological function and of the administrative expropriation for reasons of social interest or public utility	Article 58 of the Constitution. ⁵	PV	Law 160/1994, Decree 2664/1994. Peace Agreement gives no space for interpretation about importance of property rights, formality and legal certainty concerning land tenure. However there is some vagueness in legislation concerning expropriation.

5 Article 58 of the Constitution:

Private property and other acquired rights are guaranteed under civil laws, which can not be unknown or violated by subsequent laws. When the application of a law issued for reasons of public utility or social interest results in a conflict of the rights of individuals with the need recognized by it, the private interest must yield to the public or social interest. The property is a social function that implies obligations. As such, is inherent an ecological function. The State will protect and promote associative and solidarity forms of ownership. For reasons of public utility or social interest defined by the legislator, there may be expropriation through a court judgment and prior compensation. This will be fixed in consultation with the interests of the community and the affected. In cases determined by the legislator, such expropriation may be brought forward by administrative procedure, subject to subsequent contentious-administrative action, including with regard to price.

<p>Marta Lucía Ramirez</p>	<p>Proposals for the Renegotiation of the "Agreement for the Ending of Conflict and the Construction of a Stable and Durable Peace"</p>	<p>Land allocation should not be the only development model. Article 64 of the Political Constitution establishes that the State will promote progressive access to land ownership for agricultural workers. However, it must be taken into account that the land is a factor of production with scarce availability and does not reproduce, so one wonders what would then be the source of the land allocation to Colombians here at 50, 60 or More years. We must look at the international experience in which the ownership of some rural and urban lands remains at the head of the State and is allocated through lending contracts to farmers who, through cooperatives or other associative forms, are the owners of the production that will be develop with the finance, support for technical assistance and inputs from the Government.</p>	<p>None.</p>	<p>PV</p>	<p>Decree 2264/1994. These rules allow the land authority to held contracts for the use of state land, which can be done with cooperatives or other associativity figures. Therefore, the Agreement does not ignore different ways of land tenure different from private property.</p>
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Alejandro Ordoñez	Towards a Pact for Peace - Thematic Route for a National Agreement	Territorial peace and access to property for rural workers must start from the full guarantee of private property and regularization, not from promoting conflicts over land..	None.	I	Peace Agreement gives no space for interpretation about importance of property rights, formality and legal certainty concerning land tenure.
Centro Democrático	Bases of a National Agreement for Peace	The Government will accurately characterize the concept of the "Baldío de la Nación" and the processes of its conversion to private property based on occupation in good faith. Ownership of uncultivated lands occupied in good faith within the times prescribed by law will be Respected and formalized, and these lands will not be part of the Land Fund	None.	V	Law 160/1994, Decree 2664/1994. The complexity of Colombian agrarian legislation makes it difficult to establish with certainty whether a parcel is or not State land. Therefore, there is an actual need of a clear definition of state land and.
Centro Democrático	Bases of a National Agreement for Peace	"The agreements should not affect honest owners or holders, whose good faith must give presumption of absence of guilt that can not be disprove"	None.	I	A legal presumption is always subject to contradiction. The good faith presumption in the case of property rights over land in Colombia works when it is exempt of guilt.

Centro Democrático	Bases of a National Agreement for Peace	The agreement must respect private property	Article 58 of the Constitution	I	Colombian Peace Agreement explicitly calls for the importance of formality and compliance to the law concerning land rights. Constitution and law in Colombia protect property rights. The Peace Agreement makes no sacrifice on formal legal property rights. Legitimate land tenure ship has to comply with specific standards according to international law.
Pacto Cristiano por la Paz	What is the pact for peace	The Agreement must create conditions of legal certainty that contribute to investors confidence and guarantee private property, to prevent arbitrary expropriation by land restitution policy contemplated in clause 6.1.12 of the Agreement.	None.	I	Colombian Peace Agreement explicitly calls for the importance of formality and compliance to the law concerning land rights. Constitution and law in Colombia protect property rights. The Peace Agreement makes no sacrifice on formal legal property rights. Legitimate land tenure ship has to comply with specific standards according to international law.

Marta Lucía Ramirez	Proposals and Reservations to the process to end the conflict with FARC	The criteria for "improperly exploited land" should be defined exhaustively, so that any administrative expiration of land ownership for breach of social function of property, results in an exceptional way and in any case responds to procedures and criteria regulated in order to eliminate any risk of discretion in the qualification and consequent expiration of land ownership. Clarify in due form if this criterion corresponds to that established in Law 4 of 1973 and Law 160 of 1994.	None.	PV	
Centro Democrático	General Guidelines for a National Pact to Correct the Havana Agreements	It is fundamental that the Land Fund requires the protection of bona fide holders. The ambiguities contained in the document open the possibility to exegetical interpretations on "unexploited lands" that will generate serious legal uncertainties.	None.	I	<p>Law 160/1994, Decree 2664/1994.</p> <p>Peace Agreement gives no space for interpretation about importance of property rights, formality and legal certainty concerning land tenure.</p> <p>As stated before there is some vagueness in legislation concerning expropriation.</p>

Centro Democrático	Bases of a National Agreement for Peace	The cadastral updating processes will respect the legitimate ownership of the land and its current productive uses.	None.	I	Multipurpose cadastre is regulated under Law 1753 / 2015, article 104. Under no circumstance this instrument undermines property rights. Peace Agreements do not sacrifice property rights to implement multipurpose cadastre. As stated before Peace Agreement gives no space for interpretation about importance of property rights.
Marta Lucía Ramírez	Proposals and Reservations to the process to end the conflict with FARC	There is no definition within negotiated texts of what constitutes "legal concentration of land" as a cause of judicial expiration of ownership in favor of the Land Fund. This discussion goes through the interpretation of article 72 of Law 160 of 1994, regarding the illegal accumulation of the Family Agricultural Unit, which has already been discussed without reaching an agreement in the Colombian legal community. These Further questions the property rights, which in principle, have been	None.	PV	As regards the administrative expiration of the ownership for rural propertie, this figure is foreseen in the Colombian legal system since the law 200 of 1936, law 4 of 1973, finding its legal protection currently in law 160 of 1994 and its procedure in Single Regulatory Decree 1071 of 2015. The critic confuses two different sanctions, the administrative expiration of ownership that refers to the non-fulfillment of the social function of the property. The other one is the prohibition of landholding over a UAF, established in article 72

		consolidated according to law.			subsection 9 of Law 160 of 1994.
Andrés Pastrana	Initial proposals for the new agreement with the FARC	For the administrative expiration of ownership and expropriation for reasons of social interest and public utility, it should be expressly established that they will be adjusted "in accordance with the Constitution"	Article 58 of the Constitution.	I	In development of article 58 from the Constitution, Law 160 of 1994, establishes in chapter IV, the acquisition of land and within this contemplates the figure of the expropriation. Therefore its provision as a source for the Land Fund, has a constitutional as well as legal support and a procedure applicable when, for reasons of social interest and public utility, the land authority in the country requires certain estates. In addition to this, the State must compensate the person who owns the property as a result of the expropriation and its improvements, taking into account the criteria indicated in the current regulations and the indicated and ordered by the judge who decides the expropriation process. This is a figure used in Colombia since the previous constitution, has as its first antecedent Decree 1053 of 1956 where it could be

					expropriated to develop oil activities. Specifically on rural estates and for the purposes of agrarian reform has its antecedents in the Law 135 of 1961.
Marta Lucía Ramirez	Objections and Recommendations to the Peace Process in Havana	To achieve the true development of the rural regions, we consider that measures should be taken to allow its reasonable and productive exploitation, assuming more creative options, such as the possibility of delivering on the lands of the Nation and vacant lands in commodatum, so that in cooperatives of producers and in association with the private sector (when it is convenient) it is possible to develop agricultural and agroindustrial productive projects that at least duplicate the area sown in food and generate conditions for the investment in companies in charge of its processing in such a way as to provide food security to Colombia and new possibilities of employment	None.	I	Although the original text of the Peace Agreement does not include multiple forms of association to work the countryside, Law 160 Decreto 2264 de 1994, compilado en el DU 1277 DE 2015 y el Decreto 2663 de 2015. Ley 160 de 1994. Estas normas permiten que la autoridad de tierras celebre contratos para el uso y aprovechamiento de predios baldíos y fiscales patrimoniales, lo cual se puede realizar con cooperativas u otras figuras de asociatividad. Por lo cual, el Acuerdo no desconoce estas normas jurídicas.



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<p>Marta Lucía Ramirez</p>	<p>Proposals for the Renegotiation of the "Agreement for the Ending of Conflict and the Construction of a Stable and Durable Peace"</p>	<p>One of the main sources is the unexploited land, for non-fulfillment of the social or ecological function of the property, through the process of administrative expiration of ownership. This means proves to be highly damaging to constitutional property rights, so the definition and scope of what is to be understood by "unexploited land" and "non-fulfillment of the social and ecological function of property" must be precisely defined, as it can not subject to subjective interpretations on the cases in which the administrative measure proceeds. Incorrect application of the administrative expiration of ownership or a misunderstanding of the ecological function of the property could cause arbitrary decisions, generate conflicts later, legal insecurity and lack of knowledge of the rights of legitimate owners, with liability risks for the Nation.</p>	<p>Article 58 of the Constitution</p>	<p>PV</p>	<p>As regards the administrative expiration of the ownership for rural propertie, this figure is foreseen in the Colombian legal system since the law 200 of 1936, law 4 of 1973, finding its legal protection currently in law 160 of 1994 and its procedure in Single Regulatory Decree 1071 of 2015. The critic confuses two different sanctions, the administrative expiration of ownership that refers to the non-fulfillment of the social function of the property. The other one is the prohibition of landholding over a UAF, stablished in article 72 subsection 9 of Law 160 of 1994.</p>
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