



# Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 19-23, 2018



## THE POLITICAL ECONOMY OF THE RURAL AGREEMENT IN THE COLOMBIAN PEACE ACCORD

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Paper prepared for presentation at the  
“2018 WORLD BANK CONFERENCE ON LAND AND POVERTY”  
The World Bank - Washington DC, March 19-23, 2018

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## **Abstract**

Conflicts over the distribution of land have been a constant in the republican history of Colombia and consensus exists around the idea that inequality in access to the resource is at the core of the intense civil war the country has gone through.

As part of the peace agreement reached with the FARC, the Colombian Government has embarked on an Integral Rural Reform (IRR) strategy with the potential to address historical agrarian issues that have hindered the pace of development and generated protracted conflict.

However, its results are expected to alter the historical status quo and consequently affect the interests of some actors. The paper describes the political economy of the IRR agreement by identifying the actors and the issues from which either support for, or resistance to, the initiative is likely to materialize as well as the effects that this can have for a peaceful and stable transition process.

## **Key Words:**

Agrarian Reform; Colombia; Political Economy; Post Conflict.



## **The Political Economy of the Rural Agreement in the Colombian Peace Accord**

### *Introduction*

Conflicts over the distribution of land have been a constant in the republican history of Colombia and an apparent consensus exists around the idea that inequality in access to the resource is at the core of the long-lasting civil war the country has gone through the past five decades. The concentrated essence of the agricultural structure in the country can be traced back to colonial times, when Spain exported their feudal institutions in order to administer the new territory. The nature of such institutions, with which the Spanish crown primarily aimed at gathering resources by levying an incipient tax over property, accomplished a very concentrated agrarian structure in very little time. This is so the case that it has been maintained that “by the sixteenth century, a few people had hoarded most of the best land. A mere century was enough to distribute the resource to the privileged and to generate conflicts with the indigenous peoples, with those who came later from Spain, and even with poor Spaniards that had been there since the beginning.” (Machado, 2009). The bimodal structure created by these institutions in which on one side a small number of proprietors owns much of the arable land and, on the other, a large percentage of the rural population has had historically limited access to the resource is often pointed out as the central cause of the conflicts that escalated and resulted in the protracted civil war the country has endured during the past five decades.

In parallel, this concentrated structure has also given form to two contrasting sides in a continuous debate about rural development that became central to the life of the country when in the early twentieth century, agriculture in general, and coffee production in particular, entered into the world capitalist scene and conflicts over land exacerbated. This historical debate, which has not been settled, and resurfaces intermittently, has on one side a family agricultural model of rural development, ran by campesinos<sup>1</sup> and based on small land holdings –minifundio- and on the other, an extensive live stock and agriculture model supported on large plots of land called haciendas and administered by hacendados. In contrast with most Latin American countries, where the disputes over land faced large-land owners and indigenous communities, “in Colombia agrarian conflicts emerged between hacendados and campesinos, when the former sought to extend their domains simultaneously over land, labor and markets, whereas campesinos struggled to gain their position as independent producers”(Le Grand, 1989).

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<sup>1</sup> Campesino is the traditional term used in literature on Latin American social issues to describe a small, impoverished rural worker.



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In April 2012, forty-eight years after the birth of FARC, the Colombian government made public the ongoing peace negotiations the current administration had started with the aim of having the insurgent army trade bullets for ballots, demobilize and become a political party. That day on 2012, the contents of the negotiating agenda was disclosed; it included 5 issues that gave a first general idea of the core issues playing a role in the onset, duration and consequences of the war. These issues were: rural reform, political participation, drug trafficking, victims' rights and, DDR (disarmament, demobilization and reintegration). A first agreement on an integral rural reform was reached two years after the start of the negotiations and overcoming innumerable obstacles -as it is usual in these types of processes- the final peace deal was signed in late November of 2016.

A core element of this integral reform to the rural sector is the update of the national cadastre, an initiative that has the potential to address the historical land concentration that has allegedly hindered the pace of development in the country. Consequently, it can also be expected that an intervention of this scope will have a strong influence on the type of rural development strategy put in place in order to promote national growth.

As is the case with any intervention with such breadth, its results are expected to alter the historical status quo and consequently affect the interests of some actors more than others. This in turn could entail some important levels of resistance during implementation coming from those who see their interests at stake. This is especially true given the transitional context in which these efforts will be implemented and through which the Colombian society aims at leaving behind more the fifty years of civil war.

This document has been prepared to provide a broad picture of the socio-political context in which the contents of the Integral Rural Reform (IRR) agreement will be implemented with the aim at identifying the underlying historical conflicts -as well as suggesting the type of actors- that can emerge and could potentially hamper the final execution of this project. To do this, after providing a general historical context of land issues in the country as the background for the analysis, the paper moves on to describe the potential of a functioning land administration system based on up-to-date and complete cadastral information as the one proposed in the IRR agreement, in terms of land distribution, land value and, land taxation. The central section describes the political economy of the IRR agreement by identifying the actors and the issues from which either support for, or resistance to, the initiative is likely to materialize. This is, it answers the questions: Who will be affected and why by the implementation of the IRR agreement included in the final peace agreement? A final section presents some brief comments about the future of the initiative.



## *I. Historical Context of Land Issues in Colombia*

### a. Historic Land Concentration

Conflicts over the distribution of land have been a constant in the republican history of Colombia and can be traced back to colonial times, when Spain exported their feudal institutions in order to administer the new territory. With regard to land, two of these institutions can be pointed to as the seed of the concentration and informality that have historically defined the country's tenure system. '*Capitulaciones*' was the term used to define the right that was given by the Spanish crown –in conjunction with the Catholic church- to those willing to travel and conquer new lands in its name. This right over land was given in perpetuity and included those living on it; as it is logical, there was no possibility to define boundaries to the newly acquired lands and consequently, the dominions reached 'as far as eyes could see', which also made it easy to extend those boundaries according to the pace of colonization. Later on, through '*Reparticiones*', another Spanish land administration institution, conquerors were given the right to share the booty with family or colleagues under the condition of productive use, something that was rarely complied with. As a consequence of these forms of land allocation, "by the sixteenth century, a few people had hoarded most of the best land. A mere century was enough to distribute the resource to the privileged and to generate conflicts with the indigenous peoples, with those who came later from Spain, and even with poor Spaniards that had been there since the beginning." (Machado, 2009)

This bimodal structure has produced contrasting sides to a continuous development debate that became central to the life of the country when in the early twentieth century, agriculture in general, and coffee production in particular, entered into the world capitalist scene and conflicts over land exacerbated. This historical debate, which has not been settled, and resurfaces intermittently, has on one side a family agricultural model of rural development, ran by *campesinos*<sup>2</sup> and based on small land holdings – *minifundio*- and on the other, an extensive live stock and agriculture model supported on large plots of land called *haciendas* and administered by *hacendados*. In contrast with most Latin American countries, where the disputes over land faced large-land owners and indigenous communities, "in Colombia agrarian conflicts emerged between *hacendados* and *campesinos*, when the former sought to extend their domains

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<sup>2</sup> Campesino is the traditional term used in literature on Latin American social issues to describe a small, impoverished rural worker. For the purposes of this document, the terms *campesino* and *colono* –an individual who colonizes frontier lands to work on, thus becoming a *campesino*- will be used interchangeably.



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simultaneously over land, labor and markets, whereas campesinos struggled to gain their position as independent producers” (Le Grand, 1989).

Given the monopolistic nature of the distribution of land by the turn of the twentieth century most of the features of rural life were defined by the extensive agricultural model, which spun around the Hacienda. Haciendas did not just constitute the central unit of production, but given their exorbitant size and territorial scope, they also became a micro-form of social organization headed by large land owners.

During most of the nineteenth and the first half of the twentieth centuries, haciendas became the defining institutional matrix in the rural country. Just as in any other monopoly, the hacienda system controlled regional wages and labor conditions; but it also determined housing settings and provided credit to the workers to buy from its own production. In some cases it even decided on the type of cultural expressions allowed within (Ocampo, 1988). The extractive nature of this form of organization led to the inefficient use of land, mainly for extensive cattle ranching -especially in the northern regions of the country- which in turn diminished the possibilities for campesinos to access land and did away with the likelihood for them to live simultaneously as rural workers and land owners.

In the region comprising what are the current departments of Cundinamarca and Boyacá, well into the twentieth century, during the twenties and thirties, it was frequent to have hacienda managers sexually abuse the wives of colono renters, not just as a consequence of the vertical and authoritarian essence of social relations in the haciendas, but also with the aim of breaking the patriarchal structure within the renting families, which was seen as favorable for maintaining workers under control (Machado, Pg. 246)

Haciendas remained as the salient form of rural production until the mid twentieth century when it decayed due to the nascent needs of production generated by the entrance of Colombia into the world capitalist logic, what was possible mainly thanks to the expansion of the coffee sector in the country. The coffee boom generated an important flow of resources into the country, which allowed for an important public spending scheme and an industrial sector to flourish in the urban centers. This nascent urban industrial bourgeoisie demanded important quantities of labor as so did the Government which had made an important investment on public infrastructure to facilitate the coffee industry. Most of this scarce labor was captured by slavish working conditions in the haciendas so had no trouble in escaping to the cities and forming an -also new to the country- capitalist working class.

On the other hand, the campesino economy, which had developed in medium quality, very steep lands, generated a productive type of rural worker only in a few coffee growing regions -and others close to the



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capital, mainly due to the fact that in these regions –not without putting up a fight against hacendados– they were able to secure property rights over their land (Kalmanovitz, 1991). However, for the most part campesinos fell into pauperization due to the lack of own land, the difficulties of the geography, the isolated nature of their parcels and, the poor quality of the soil. Nonetheless, based mainly on coffee production described above, and given the inefficiencies with which production was carried out in the haciendas, it was the clusters of campesino economy that turned out to become the backbone of the national economy during the first decades of the century and served as the main facilitator for the country to enter into capitalist industrial production during the second half of the twentieth century (Kalmanovitz, 1991).

In general, land concentration increased slowly but steadily throughout the 1900's mainly due to the way legislation to distribute public land was enacted, which ended up favoring concentration, and to the illegal seizure of public land by hacendados and peaked during the first decade of the twenty-first century, presumably as a consequence of internal armed conflict. The 1970 census showed that 1,000 plots of over 2,000 hectares concentrated 25% of arable land and small states of less than 10 hectares comprised 7.5% of the same area. During the first years of the twenty-first century concentration showed a critical increase and the land ownership Gini coefficient went up by one point from 2000 to 2009 leaping from 0.862 to 0.875<sup>3</sup>.

Land concentration can well be one of the most important determinants of the severe differences in development outcomes between urban and rural settings. As the argument goes, being the most important productive asset in rural contexts, “concentrated land tenure structures eliminate the possibility for many to produce for their subsistence and that of their family members” (Forero & Ezpeleta, 2007) which will logically lead to the impoverishment of the agrarian population. Although successive legislative efforts were put in place since the colonial period and all throughout the republican era to try and distribute rights over land, the truth is that the bimodal, uneven and polarized agrarian structure that resulted from early concentration remains, practically untouched, until today.

## b. The Failed Efforts to Distribute Land

The history of the failed agrarian reform efforts in the country is tragic but simple; they were all defeated through various means by the weight of large landowners (Ibanez & Munoz, 2010). More so, the way that

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<sup>3</sup> “Gran Atlas de la Propiedad de la Tierra” Cited by Ana Maria Ibanez in:  
<http://www.cid.unal.edu.co/cidnews/archivos/03-AnaMarialbanez-LaConcentracionDeLaPropiedadRural.pdf>,  
accessed May 4th, 2017.



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agrarian reform attempts were overpowered throughout the twentieth century established a clear trend that fits right into the *de facto* versus *de jure* theory of political power, as various legislations -some of them very progressive- were enacted throughout the century with the aim of taking unused land from *hacendados* in order to distributed to landless peasants. However, whether it was by blocking its implementation through budgetary constraints, through legal chicanery, political lobbying or through violent means, land reform was always prevented and the actual reallocation of land among Colombians never happened. On the contrary, social demands of access to the resource were always addressed by extending the agrarian frontier and allocating isolated vacant lands to landless populations.

What follows is a brief recount of the three failed agrarian reforms that took place during the twentieth century and their interims, and how, far from achieving distribution, these efforts resulted in an even more concentrated tenure regime.

## *The First attempt - Law 200 of 1936*

The central issue that the several reforms tried to address was the stark concentrated nature of the agrarian structure caused initially by colonial institutions but accentuated by what in the Colombian specialized jargon is known as the *battle between the ax and the sealed paper* (Reyes, 2016). This expression is used to describe the legal struggle that campesinos continuously found themselves in -and most of the times lost- when colonizing (through ax and machetes) vacant land which was subsequently (sometimes 10 or 20 years later) claimed by someone holding some sort of title<sup>4</sup>. When the issue was taken to a judge, the sealed paper was always prioritized over the work that the colonizer had invested on the land, thereby perpetuating the concentrated nature of the Colombian agrarian structure. The evictions that followed, along with the slavish working conditions established by the hacienda system, and the consciousness gained by labor workers who had migrated to the cities to gain from the economic boom caused by international coffee prices, but had returned to the countryside after the crisis of 1929, made social tensions escalate to a level that caught the attention of the political elite, in particular of the Colombian Liberal Party that saw an electoral platform to regain power, as they effectively did by the mid 1930's.

It was within this context that President Alfonso Lopez Pumarejo introduced the first attempt at implementing efforts to widen access to land in the 20<sup>th</sup> century. Law 200 of 1936, introduced a novel

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<sup>4</sup> Any title was deemed legal and therefore enforceable, even private ones such as gifts, donations, wills or transfer of property. Along the lack of official authority that could corroborate the legality of the title, there was the issue of lack of precise measurement, which also played against the campesino, who had no means to contest the hacendados' claims.



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legal construction - the ‘social function of property’, which defined property not as an absolute right, but one with limits established by social needs, and thereby conceived the possibility of claiming ownership of unused land derived from its peaceful and permanent economic exploitation.

Along with this legal innovation, this statute established a series of legal conditions to incentivize the productive use of land and facilitate its access to landless peasants. To begin, in those cases of conflict between a working colono and an hacendado, in which the latter could not waive a title, the land would be awarded to the colono free of charge, which addressed previous legislation that permitted the land to be allocated to the colono, but that required the hiring of a land surveyor to measure and identify boundaries, what made it physically impossible for the peasant to access land given the price of such professional services. Additionally, in the cases in which the hacendado did waive a title, but the land had been in use by the *campesino*, the former would pay the latter what the law called ‘improvements’ to the land, what put simply meant paying for all the work that the colono had invested on the land. After paying for the ‘improvements’ and evicting the colono, the hacendado was obliged to continue with the economic exploitation of the land. If the hacendado did not or could not continue with the productive use of the land, it would have to sell it. Finally, Law 200 established that all unused lands that were not being claimed by colonos and thereby were not subject of conflict must be put to productive use within the next 10 years under penalty of being confiscated.

For obvious reasons, this was not well received by owners of large estates -much of which were either uncultivated or being used informally by *campesinos*- who organized very efficiently to respond to the new legislation. At the national level the very influential National Federation of Coffee Growers and the Colombia’s Farmer’s Society (Sociedad de Agricultores de Colombia), aligned forces with emergent regional expressions such as the Central Union of Farm Owners and Employers (Sindicato Central de propietarios y Empresarios Agrícolas) in the department of Antioquia and the National Patriotic Economic Association (APEN) in the Department of Cundinamarca, to fight back what they portrayed as a communist threat to property. This idea was supported from the pulpits by the representatives of the Catholic Church who were instructed by their superiors to invite their parishioners to become members of these organizations and contain ‘the subversive trends that currently threaten the natural right to property’ (Machado, 2009).

However, not all of the methods used by large land-owners to respond to the reform were so sophisticated as violent evictions also became commonplace all over the country. The idea of forcefully displacing entire populations was to prevent any conflict from being identified by the authorities and thereby



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eliminating any possibility of having to surrender the land or to pay for any improvements made by the colonos. This was possible given that local authorities were more responsive to the needs and wants of large-land owners who often had influence over local politics, than to those of campesinos, who had nothing to offer within the prevailing network of influences and clientelism that was law enforcement at the time.

The results of the reform were languid. In terms of land concentration it left the agrarian structure untouched as those colonos who were not forcibly expelled saw their ‘improvements’ bought, but either way land concentration remained. In productive terms, as the norm did not specify the ways nor the extent to which a land was deemed to be productive, Law 200 wound up incentivizing extensive cattle ranching, perhaps the least efficient forms of rural production. Finally, the new legislation was also used by *latifundistas* to expand and formalize their estates by sliding their fences into unclaimed public land under the compromise of making productive use of it within the ten years required by the reform.

In legal terms, the counter-reform efforts were materialized by Law 100 of 1944, which withdrew of all the progressiveness of Law 200 and introduced stringent safeguards to private property. Also, as proof of their influence in the law-enacting process, large-land owners achieved to include an expansion to the prevailing time limit for acquisitive prescription which went from 10 to 15 years, so in the remote case that a colono would use a land peacefully and productively and found the means to access a judge to demand the property of said land, after the enactment of the law, he would have to wait 5 more years. Law 100 also modified the time limit to exploit unused land under penalty of confiscation which went from 10 to 15 years. Finally, the *aparceria*, a special type of labor contract that reflected the asymmetries in power between the hacendado and the laborer, was declared as of public interest, thereby guaranteeing cheap labor for the haciendas. The reformist momentum was thereby defeated for the first time as social forces retreated to handle the seeds of what later became Colombia’s armed conflict.

## *First Intermission - La Violencia*

Sometime after that, in 1948, after the murder of leftist leader Jorge Eliecer Gaitan, the country entered into a period known as *La Violencia*, an undeclared civil war that faced liberals against conservatives, and in which, as it was expected, existing rural conflicts were amplified by introducing ideology to the -until then- mere social tensions. During this time, the ruling Conservative party used police and army forces to harass liberal peasants and advance the large-landowner agenda (Zamosc, 1986); through this period “the purposeful use of violence to seize lands and displace people became a common practice in certain



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regions.” (Ibanez & Munoz, 2010). Land concentration continued to increase as land (in both large estates and small parcels) was sold by those having to flee violence at derisory prices (Kalmanovitz, 1991).

*La Violencia* ended in 1953 when leaders of both parties agreed on a transitioning military government lead by General Gustavo Rojas Pinilla, who stepped down in 1957 after demobilizing the liberal peasant guerrilla movements that had emerged to respond to conservative abuses (upon the persistent inequality, some of these guerrilla fighters went on to found FARC some years later). After this period, a political agreement called the National Front (Frente Nacional) –which included agrarian reform- (Palacio & Safford, 2002), was signed by Liberal and Conservative leaders to alternate the Executive branch of power between the two parties for sixteen years (two terms each).

## *The Second Attempt – Law 135 of 1961*

Alberto Lleras Camargo, elected president for the Liberal party in 1958, started the implementation of the agreement and presented an ambitious land reform program that was approved by Law 135 in 1961. The legislation was approved amid continuing social unrest that was now fueled by the victory of the Cuban Revolution and had reached such levels that both liberals and moderate conservatives agreed there was an urgent need to provide a solution to the ‘agrarian issue’ as it had come to be known in the country. However, far-right conservative members of congress, who represented the large-landowning agenda, opposed the initiative all through the legislative process.

Essentially the reform proposed the same ways to promote access and productivity –confiscation of underutilized and colonization of vacant lands- as Law 200, but the great contribution was to create a strong institution, the Colombian Institute for the Agrarian Reform –INCORA-, exclusively in charge of implementing the new legislation and guaranteeing enforcement capacity, something that was completed absent during the implementation of Law 200.

As the regulatory decrees were presented to the public in early 1962, progressive sectors in the country rejoiced with what seemed a real possibility to achieve a solution to the ‘agrarian issue’. Albert Hirschman (1973) who had lived in the country during the years prior to the passing of the reform and had deeply analyzed these issues expresses quite vividly the excitement of the time:

*In the course of the first seven months of 1962, as the regulatory decrees were issued, a society dominated by traditional power groups noticed with a shocked surprise that it had introduced into its own midst a Trojan horse, an infernal machine called INCORA which seemed to take seriously its mission to reform the social agrarian structure by means of procedures designed to*



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*eliminate and prevent the inequitable concentration of landed property or its anti-economic dispersion.*

The fact that regulatory decrees were being used to advance the objectives of such a sensitive reform was exiting for Hirschman given that in the past, decrees had frequently frustrated legislations' reform intentions "as various groups brought to bear their influence on the officials drafting the decrees with greater efficiency than on an enthusiastic or demagogic Parliament."(Hirschman, 1973)

However, the excitement did not last long as in 1962 when the turn came for the Conservative party to take over the Executive, president Guillermo Leon Valencia decided to cut all implementation budget in order to appease the now more belligerent wing of his party. Very few was achieved during his term, which ended in 1966.

Peasant leagues and some leftist forces continued to make political pressure for land reform. After coming into power in 1966, liberal president Carlos Lleras Restrepo attempted to give a new air to the failing reform approved in 1961 and introduced to Legislative an amendment to Law 135 which included the compulsory redistribution in areas of traditional *haciendas*. Nevertheless, confirming the by now clear pattern, his proposal was defeated in Congress by the influences of the landowning class.

Realizing that change was not going to come from within the establishment the liberal government supported the creation of the National Association of Peasants Users of Agricultural Services –ANUC-, a grass roots organization which it hoped would pressure for reform from below. Along with massive public demonstrations the ANUC promoted a coordinated strategy of collective invasions of unused *haciendas* by landless peasants all over the country in order to attract the attention of INCORA and unlatch its presumed expropriatory powers. Although in some cases invasions were successful and land was titled to the campesinos, in general, this triggered the fury of *hacendados* who responded with massive violence, evictions and organized persecution against rural leaders. The ANUC soon lost strength to internal divisions and the violence against its leaders, many of whom were murdered.

Amid this turbulent context a Conservative government came into power in 1970 and declared the invasions a subversion of public order and responded with official force against the occupiers. In terms of rural development, following the advice of international development agencies, it also responded with a very regressive policy that saw small tenure and production as contrary to economic development. All this was agreed to with representatives of the Liberal Party and agribusiness organizations and signed in what history knows as The Pact of Chicoral in 1972.



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Although Law 135 was amended in 1973 to raise the bar for expropriation decisions requirements and increase the financial compensation entitled to those who gave up their land for distribution, the true block to the reform did not come through legal –formal- means; it came through unofficial channels as INCORA staff was all replaced with members of the Conservative party, and the new representatives, far from implementing the confiscating procedures, decided to revise and revert the very few that had taken place during the short years the law was in implementation and that had hacendados.( Pecaut, 1989)

The final blow to the reform came also not by legal amendments but through unofficial means as INCORA was left to experience a slow institutional death by the conservative administration. This was a true dismantlement as defined at that time:

*Technical assistance programs came to a halt, loans are usually diverted towards large and medium producers, the number of staff has been shortened progressively, and budgetary constraints are continuously increasing. In sum, everything seems to give testimony of the will to appease large-landowners. (Pecaut, 1989)*

Just as the reform of 1936, Law 135 provided two ways to promote access and productivity, confiscation of unused land or colonization of vacant land, and just as with the previous attempt, implementation focus was quickly set on the latter, rather than on the former. After ten years of implementation out of 116,000 titles that had been awarded, less than 8,500 originated from confiscated land.

The over-promising and under-achievement was so stark that it has been claimed that it was originally designed so as to not upset rural elites.<sup>5</sup> Also, given the global context in which it was approved and implemented (the Cuban revolution had ousted the Batista regime just two years earlier, the cold war was well into its second decade and the US government was implementing its Alliance for Progress), some maintain (Thomson, 2011) that the reform “was clearly aimed at containing what counterinsurgency doctrines refer to as ‘growing pains’, or conflicts arising as part of the development process itself, but evidently not at promoting genuine transformation of unequal rural structures.”

## *Second intermission - The cocaine boom*

During that time, the demand for illicit drugs came into scene and with it the cocaine production and commercialization industry established itself in the country, bringing with it important consequences for the historical struggle over land. First, drug traffickers needing a sector where to lauder the proceeds of their illicit activities found in the land market and the agriculture sector (especially cattle ranching) a

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<sup>5</sup> See *inter alia*, Le Grand (1989) & Thompson (2011)



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perfectly fitting option (Reyes, 2009). During the 1970's and the 1980's large extensions of land were acquired by drug dealers in order to legalize illicit capital and to build infrastructure in order to expand their illegal business. The degree of involvement of narco-fortunes along with the social status that land ownership has in the country, progressively allowed those involved in drug trafficking to become new members of the rural large land-owning elites.

The boom of the cocaine market also allowed FARC to expand their financial capacity<sup>6</sup>, their territorial presence and to systematically target rural elites, both historical and the newly emerged (cattle ranchers, as the main rural economic activity, were specially affected during this time). Given the national government's lack of capacity to fight back FARC, rural areas saw the emergence of paramilitary armies. These were initially founded by agricultural business owners to defend themselves, but soon became politically engaged as the armed wing of rural conservative views, now propelled by the financial power of their illicit new partners (Duncan, 2015).

The acquisition of large extensions of land by cocaine traffickers heavily influenced the terms of the agrarian issue in the country. For one, it contributed to an important increase in the concentration of land; it also artificially increased the value of land, especially of fertile flat land close to water sources, imposing a new barrier to access to the historically concentrated best lands in the country; thirdly, it contributed to the financing of private security strategies that ended up turning into a third warring party within the conflict and; lastly, it clinched the traditional and inefficient use of land by expanding the extensive cattle ranching activities in the most productive areas of the country (reyes, 1997).

### *Third Attempt – Market Led Reform*

Within this context a new attempt at an agrarian reform was approved in Congress in 1994. This time, under the close advice of international development banking organizations, the country embarked in what theory has come to know as market-led agrarian reforms, which in contrast with other versions did not prioritize governmental intervention to expropriate or buy land, but it left that function to the capacities of the market. The government's sole function under this model was to provide subsidies to peasants in order for them to buy land that they had previously negotiated with private owners.

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<sup>6</sup> FARC's involvement in the cocaine business is debated. Some maintain the FARC became a large cartel participating in all the stages in the process, from coca plantations to commercialization. Others maintain that they just taxed coca productions in areas of their influence. For an expansion of the debate see Otis, John (2014) "The FARC and Colombia's Cocaine Production", Latin American Program, Woodrow Wilson Center, DC. [https://www.wilsoncenter.org/sites/default/files/Otis\\_FARCDrugTrade2014.pdf](https://www.wilsoncenter.org/sites/default/files/Otis_FARCDrugTrade2014.pdf) last accessed June 6th, 2017.



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As of 1999, five years into the implementation of this new approach, the results were extremely poor. Along the very high transaction costs and the lack of organization of the peasantry, the obvious asymmetry of power between the peasants and large landowners -made worse by an intensifying internal conflict- made it very difficult for them to conduct a successful negotiation with their landowner counterparts, as the policy dictated. Only 287,000 hectares had been acquired in contrast with 576,000 in the period between 1988 and 1994. The number of families benefited by the policy had also dropped drastically from 33,700 between 1988 and 1994 to 19,400 between 1995 and 1999 (Balcazar, 2001).

Looking in retrospective, agrarian reform through expropriation has been prevented in Colombia not through obstructing the approval of legislation in Congress but through various other more informal means. The description put forward in the antecedent paragraphs as well as a quick revision of historical figures, solidly support this claim: “Between 1962 and 1999 INCORA intervened a total equivalent to 1.8 million hectares, out of which 1.4 million (78%) were bought from its owners, 350,000 (19%) were ceded to the Agrarian Reform Fund and only 70,000 (3%) correspond to expropriation efforts” (Balcazar, 2001).

Although very much wider in scope, the first chapter of the peace agreement on an Integral Rural Reform, can be seen -in part- as the most recent attempt to revert the concentrated essence of the country’s land tenure structure and to allow access to the resource to a wider audience. In fact the introductory paragraphs of such agreement state that the expected structural transformations to the rural country that should come from the implementation of the accord, is aimed at addressing the factors that ignited the conflict in the first place and to generate wellbeing for the rural population that has been most critically affected by the war. A central and essential tool to achieve such transformation is the update of the national cadastre data base, without which it is basically impossible to perform any land administration efforts. The next section provides a description of the potential of such tool in the current Colombian context, to then move on and describe how the balance of power will be affected and thus, which social actors would be favoring such intervention and those who may decide to hinder its implementation.

## *II. The political economy of Colombia’s Multipurpose Cadastre*

### *a. Cadastre update and its potential*

The proposed cadastre update initiative is structured upon three essential pillars. A physical dimension aimed at achieving full identification and location of public and private lands under updated international technical standards. A legal dimension intends to guarantee the interrelation between the physical



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cadastral information and the information about land rights contained in the Property Registry. And finally an economic dimension aims at establishing land values that reflect the reality of the physical and economic conditions of the properties. According to official sources, “given its scope in terms of land administration, the cadastre is intended as the most important policy tool to address the critical urban-rural divide, which is conceived by the current administration as the most salient development challenge in the country”<sup>7</sup>.

The existence of updated rural land information could have a truly transformative impact, especially at the municipal level. Through the formalization of rural property (physical and legal dimensions), authorities will have (most for the first time) a complete inventory of the type of lands (public, private, environmentally protected, etc.) under their administration as well as current information in regards to the type of rights over such lands and consequently of the right bearers. Along with this, the gathering of updated land value information will be possible and should be used to modernize the existing municipal property tax regime, which holds an enormous potential for the transformation of local treasuries (Iregui, 2003).

As it could be expected and was noted above, not all sectors in the country view the potential transformation with the same enthusiasm. Having an inventory of formal rights opens up the possibility to tax land appropriately and through this, address land concentration, so those holding on to unproductive land for speculative purposes (to give it an arbitrary label, the remains of the hacienda system) would be impacted. Also, an updated record of formal rights to land allows authorities to tackle other challenges for development, such as money laundering through the informal land market as well as the illegal seizure of private land (land-grabbing) or the irregular access to public lands; in this case, resistance is expected from those sectors that have benefited historically from weak property rights.

Having the transformative potential of the cadastre in mind, three issues are identified as potentially producing resistance to its execution: (i) possession of unproductive land, (ii) irregular tenure of public lands (baldios), and (iii) money laundering through the informal market of rural land.

In regards to the first element, the extent to which former haciendas did not live to their productive expectations has been well documented (Kalmanovitz, 1991). Along with this, when Colombian industry emerged in the second half of the twentieth century and the hacienda system collapsed, an

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<sup>7</sup> Personal notes taken during the presentation given by the Deputy Director of Public and Territorial Investment of the Colombian National Planning Department, during the Land and Poverty Conference in Washington DC in March 2017.



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important portion of those lands were left behind by coming generations who migrated to the urban centers and became part of the industrial boom. The fact that property tax was not levied allowed these second (or third) generations of large land owners to leave the land unutilized and focus on other economic activities in the cities. Concurrently, low enforcement of property tax legislation also allowed for the inefficient use of land and in particular for the spread of extensive cattle ranching in the northern region of the country. The inefficient use of land has reached such critical levels that according to estimations there are around 38 million hectares dedicated to this activity (half of which has agriculture potential) holding 24 million animals, a rate of approximately 1.5 animals per hectare, and only 4.9 million hectares dedicated to agriculture<sup>8</sup>.

The possibility to value land accurately and to tax it accordingly should yield either an increase of agricultural productivity or an increase in available land for purchase. However, it is expected that those accustomed to producing at low efficiency levels will resist the change.

This situation is not to be confused with peasants dedicated to subsistence agriculture, whose land is also underutilized, who would be taxed in accordance with the constitutional principal of progressivity and consequently should not pay more than they can, and in some cases would be exempt from property tax (Reyes, 2016).

Secondly, as a result of a rigid and poorly enforced public lands regime and the increase in the global demand for land, the country has experienced in recent decades a process of irregular access to public land, or baldios, by private individuals. According to current legislation, this is the land that is supposed to be used for distributive purposes through the implementation of agrarian reform. The illegal, though productive, occupation of these lands has raised strong demands from those favoring the family agricultural model to recover these lands.

The public lands regime sets stringent conditions to gain access to the programs of agrarian reform, and also in terms of land use and transfer. It establishes that only individuals complying with certain requirements in terms of limits to wealth and in particular not owning other land, can be beneficiaries of agrarian reform efforts and therefore have access to public lands. In terms of land use and transfer, the baldio regime declares that access to land through agrarian reform is given in exchange for permanent

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<sup>8</sup> Aimo baribi, (2011) “Campesino, Tierra y Desarrollo Rural” [http://eeas.europa.eu/archives/delegations/colombia/documents/projects/cartilla\\_tierra\\_y\\_desarrollo\\_lab\\_paz\\_iii\\_es.pdf](http://eeas.europa.eu/archives/delegations/colombia/documents/projects/cartilla_tierra_y_desarrollo_lab_paz_iii_es.pdf), accessed May 4th, 2017. On extensive cattle ranching, see also, Alejandro Reyes, “El problema de la tierra en Colombia”, <https://alejandroyesposada.wordpress.com/2012/10/31/el-problema-de-la-tierra-en-colombia/>, accessed May 4th, 2017



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exploitation during at least seven years, and that if selling the land is desired, authorization from the agrarian reform agency is required. Also in terms of transfer, in order to prevent land concentration, the party buying the baldio cannot be the owner of another baldio and in order to maintain efficient extensions, baldios cannot be subdivided. However, much of these regulations have been continuously ignored in vast regions of the country, especially in those areas where cadastral information is lacking.

A well-functioning cadastre system will allow national and regional authorities to finally enforce the public lands regime. However, this enforcement is expected to generate strong opposition from those parties that have invested in baldios, perhaps ignorant of the existing regulation, perhaps taking advantage of the lack of capacity to enforce it. This situation is especially present in the Eastern Plains, where baldios were bought, accumulated and used to form large plots of land for extensive monoculture agribusiness (Reyes, 2016: 108, 09).

Finally, those economic agents that have benefited from informal tenure to launder money through the rural land market will also see their interests affected. As a consequence of the global cocaine boom, starting in the late 1970's and the early 1980's, large extensions of land were acquired by drug dealers to legalize illicit capital, to build infrastructure in order to expand their business and, given the status that land ownership has in the country, to become new members of the large, rural, land-owning elites. Along with that, and given the wide-spread informal tenure tied to the low capacity of the land administration system, the rural land market has since then been an easy way to launder illegal capital. A well-functioning cadastre would mean the end to this informal market.

## *The future of the rural cadastre*

Notwithstanding the efforts executed by the government to start implementing the peace accords since the moment they were signed, the processes through which these should become laws has proven to be more complex than expected. A cadastral bill, along with all other issues that needed legislative stature, was introduced to Congress early in 2017 to go through a special *Fast-Track* procedure specially enacted to secure prompt approval of all issues pertaining to the peace agreements. However, only those elements needed to achieve the demobilization, disarmament and reintegration of FARC combatants have been approved by Congress. Other issues that were intended to correct the elements that had triggered violence in the first place, such as access to land or political participation, got lost in a thick jungle of complex red tape.

The number of issues needing legislative stature (of which the cadastre was only one more), the amount of discussion that issues of this sort demand in transitional contexts, legal requirements in terms of



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constitutional rights, along with a very tight schedule imposed by the current Administration's presidential term, made it very easy for opponents to prevent transformational reforms from being approved.

In the particular case of the cadastre bill, obstacles have come from various sources, but all fall into the logic of the stringent time restrictions imposed by the electoral calendar. Elements like the bureaucratic appetite exhibited by the different political actors when discussing institutional design, the need for the texts to go through a process of previous consultation with indigenous and Afro-Colombian communities, the agreement arrived at by the parties (Government and FARC) about taking the texts to a joint commission in order to ensure that what was agreed to in the negotiation table was in fact what was to be presented in Congress, along with the extensive discussions in Congress, which had to be held through the ordinary process and not through the *Fast-Track* (which would have reduced legislative times), due to Constitutional Court ruling, all played against the hopes of having a reform enacted. Traditional forces represented in Congress that for one reason or another were not in agreement with issues included in the legislative agenda related to the peace agreements, did not let the opportunity get away and through the strategic use of time achieved that all but the necessary issues to demobilize FARC and reintegrate their soldiers into civil life were approved. Put simply, so far, demobilization was achieved but no transformation efforts have been approved.

After losing a tight political struggle against the opposition (which held the Chair of the House of Representatives allowing it to play with administrative barriers and through those, with time) to enact a law that following the contents of the peace agreement would have created 16 new seats in Congress for those areas most affected by the war, the Government decided not to push forward with the cadastre bill, which by that time was occupying a secondary place in the list of legislative priorities. It decided to leave the issue to be taken care by the next administration. In a few words, the country witnessed what could be catalogued as the most recent failed attempt at dealing with land concentration and integral rural reform.

The story is not entirely over, and as it was expected, current electoral debate is being framed within the preexisting war-peace logic which faces those favoring the implementation of the agreement against those trying to modify it. The fate of all the initiatives that have the accord as their source, as is the case with the cadastre, will basically depend on the outcome of the presidential elections. In no more than a year from now, the country will know if it witnessed the latest chapter of failed attempts to address the agrarian question, or if on the contrary, it has started to write the story of a new rural country.



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