The Arduous Road to the Promised Land

Implementation Issues in the Land Restitution Policy in Colombia

Adriana Yee Meyberg

Cuando Tenga la Tierra (Fragmento)	When You Have the Land (Fragment)
Cuando tenga la tierra	When you have the land
la tendrán	it will be had
los que luchan	by those who struggle
los maestros, los hacheros,	the teachers, the woodcutters,
los obreros	the workers
Campesino, cuando tenga la tierra	Peasant, when you have the land
sucederá en el mundo	it will happen in the world
el corazón de mi mundo	the heart of my world
desde atrás, de todo el olvido	from behind, from all the oblivion
secaré con mis lágrimas	I will dry with my tears
todo el horror de la lástima	all the horror of pity
y por fin te veré, campesino	and I will finally see you, peasant
dueño de mirar la noche	keeper of watching the night
en que nos acostamos	in which we lay
para hacer los hijos	to make children

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Titelbild: Boyacan farmer working his land. (Alfredo Sánchez Aguilar – Cuarta Dimensión Fotografría)
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Introduction

Colombia is a land of contrasts. It has been marked by a history of violence since the early days of the colony. Social and cultural hierarchies led to a very unequal distribution of wealth, mainly of wealth in the form of land. The concentration of vast extensions of the territory in a few hands meant the large majority of local communities lived in poverty, conditions that have become extreme over time. Civil unrest did not take long to appear and a bitter armed conflict began to shape the current history of the country with blood. The forced displacement as a result of land grabbing for economic reasons, to control territory or build up private wealth has turned Colombia into one of the most unequal countries in the world and the one with the second highest number of internally displaced people.

With 7.4 million victims (UNHCR 2016), the phenomenon of internal displacement over the last few decades has had a huge impact, one which the state has tried to address with different political and legal instruments and frameworks. It has, however, made very slow progress because of the complex nature of the conflict and its accompanying social interactions. The problem of land ownership and distribution has historically been related to the armed conflict in different ways.

The current cycle of conflict that began in the 60s had its origin in agrarian disputes. In that sense, the topic has always been at the heart of the programs and discussions of the guerrilla groups. History suggests that the new cycle of conflict was sparked by the state's inability to adequately face the overlap of diverse social and institutional exclusions and the weighty heritage of political violence (Álvarez and Gutiérrez 2015).

Agrarian inequality provided the basis for the rebel uprising and for a weak system in which institutional regulation capacity over the land was very limited. Vast expanses of land became important military resources that allowed powerful and radical landowners to organize armed paramilitary bands that shot peasants who claimed land redistribution.

Finally yet importantly, the expansion of the armed conflict is related to multiple forms of territorial occupation: land grabbing, cheap acquisition, and forced land abandonment became routine in rural Colombia.

The Relevance of Studying Implementation Problems of the Land Restitution Policy

Colombia is undergoing a peace construction process. The negotiation between the FARC guerrilla and the Colombian state in Havana has a central point that focuses on land redistribution and a common denominator: **reparations for victims.** The 1448 Bill of 2011 on Victims and Land Restitution is a milestone which will influence the social, economic, political, and cultural structures of Colombian society, and redistribute land through restitution. Besides the technical, institutional, and behavioral aspects of the players in the multiple levels involved in implementation, the context of the policy produces one of the most determining and complex challenges the country has and continues to face. Repairing and restituting victims effectively is perhaps the main condition to achieve reconciliation and the grounds upon which peace can be built. It is crucial to continue to study the problems policy has in implementation as a step towards identifying ways to adjust and eventually improve results.

On the Methodology of the Study

The present study identifies the problems of implementation by using the analytical model proposed by Søren C. Winter (1990), called the Integrated Implementation Model. The model was chosen as an effective synthesis model that studies both the top-down and the bottom-up approaches when analyzing policy. It provides three different analytical spheres: One that deals with the details of policy formulation and its design, and another that focuses on the behavioral aspects and dynamics of the different institutional and individual actors of the top and of the bottom levels involved in the implementation process. It also regards the behavior of the policy target-group. Very importantly, the model acknowledges that the policy universe is immersed in a socio-economic context that directly and noticeably influences implementation and its outcomes. The study was conducted using a qualitative approach with documental analysis and semi-structured interviews, studying people's discourse through observation and inquiry.

In that way, the approach allowed the study of the chosen problem recognizing the influence of the dynamic structural and situational contexts it is embedded in. It is therefore an approach that studies in-context and that developed from the subjective, complex, heterogeneous, and historic reality.

The work used an inductive method, which allowed its adjustment along the process and that interpreted data as a result of exploration and comprehension. The nature of the data was verbal, relative and changing according to the categories under focus.

On the Instruments of the Study

a) Documental Analysis

Documents of different nature were consulted and used as a source of reference, documentation, and comparison. They allowed an approach to the knowledge of the situation in a valuable and valid manner, as they revealed interests and perspectives of the reality from the ones writing them. Legal and administrative documents, academic literature, press, and interest group documents were included. Some of the main consulted documents were the 1448 Bill of 2011 for Victim's Reparation and Land Restitution and its corresponding set of ruling decrees, resolutions, and rulings derived and related to the land restitution matter issued by the Constitutional Court of Colombia. Documents of institutions that are in charge of monitoring the 1448 Bill of 2011, as well as restitution sentences executed until today, were also consulted. They were used in order to check the internal consistency of the bill, as well as, the internal and external perspectives regarding its formulation, design, and implementation.

b) Semi-Structured Interviews

First hand sources were a central instrument used to gather up-to-date and high-quality information from key informants in the policy world. Following Winter's scheme, the interviews were designed with the intention of covering the main categories proposed by the model. The same set of questions was included in all the conducted interviews to be able to compare the different perspectives studied, on the lookout for coinciding and differing information. They were open, reflexive questions that allowed the clarification of influential factors in the implementation of the policy that are very rarely documented in academic, legal, or administrative documents. The result of the interviews was compared to the results of the document analysis to identify consistent facts and lines of argument. This study presents an analysis obtained from the fluid interaction between both types of sources.

Interviews Conducted with Key Informants

Level of Action	Interviewee	Institution	Date of Interview
Political Sphere	Senator – Iván Cepeda	Polo Democrático Alternativo Party	21.07.2017 (Telephone)
	Member of the House of Representatives – Alirio Uribe		13.07.2017 (Skype)
Central (Upper) Institutional Level	Legal Director of Restitution – Rubén Darío Jiménez[1]	Unity of Land Restitution – URT	03.08.2017 (Written e-mail)
Local Institutional Level	Former Communications Officer at the Direction of Ethnic Affairs (DAE) of the URT – Carlos Andrés Martínez	Unity of Land Restitution – URT	10. 07. 2017 (Skype)
	Delegate for Agrarian and Land Affairs – Andrea Lizcano	Ombudsman Office	27.07.2017 (Skype)

1 Rubén Darío Jiménez, Legal Director of Restitution at the URT, was not mentioned in the development of this study due to the fact that all his answers to the interview indicated a state of the implementation with no problems.

1 The Current State of the Implementation of the Landrestitution Policy

The Land Restitution Unit (URT in Spanish) is a temporary agency set up to restore land to victims with an implementation time frame which ends in 2021. Current demand, however, exceeds the institutions' ability to respond. According to Rettberg (2015), more than 90% of victims are still waiting for reparations.

The land restitution policy's objectives for 2021 are:

N° land claim requests to be received and responded by the URT	N° land claim requests to be resolved by judges
360,000	300,000

Source: Own; based on the Forjando Futuros Foundation report on the progress of Land Restitution 2017

As of October 1, 2017, according to the URT, the following progress has been made:

Year	N° land claim requests to be received and responded by the URT	N° properties	N° land claimers
2011	7,209	6,222	5,346
2012	23,303	19,777	16,502
2013	28,133	23,034	19,132
2014	20,476	16,957	12,845
2015	11,966	10,159	7,916
2016	10,786	9,305	7,209
2017	6,355	6,235	5,455

Source: October 1, 2017 report by the National Network of Information on Victims based on URT information

The national total:

Year	N° land claim requests to be received and responded by the URT	N° properties	N° land claimers
2017	108,228	91,689	74,405

Source: Own; using the October 1, 2017 report by the National Network of Information on Victims based on URT information

These numbers mean that:

N° land claim requests to be received and responded by the URT by 2021	N° land claim requests expected to be resolved by judges by 2021
360,000	300,000
N° land claim requests fulfilled by the URT by October 1, 2017	**N° land claim requests resolved by judges by October 1, 2017**
108,228	5,893
Progress	
30.06%	1.96%

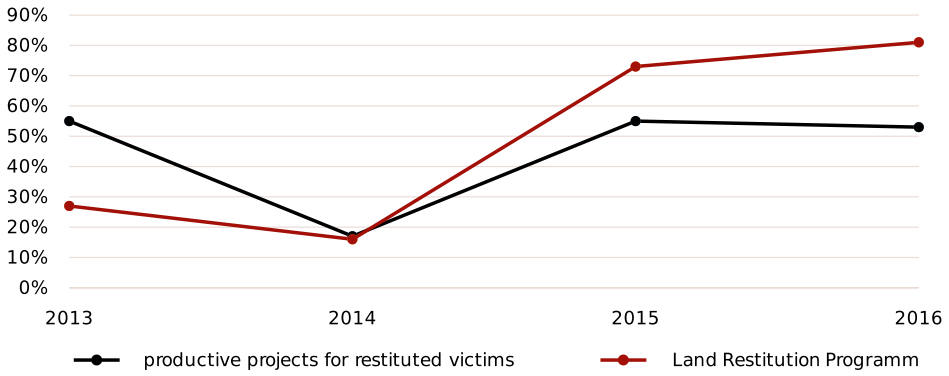
Source: Own; using the October 1, 2017 report by the National Network of Information on Victims based on URT information and statistics of sentences officially rendered by judges as reported by the URT

Only 5.44% of the land claims of those presented by the URT (108,228) for restitution have been resolved. Of the 5,893 land claims, 92% was resolved in favor of the victims. Of these, 27% were opposed and 73% were not. The sentences from the cases show that the land claimers were legitimate victims who had their land taken from them or were forced to abandon it in areas of generalized violence and the case defendants were either acting in bad faith or were held to be guilty.[2]

A telling 46% of the defendants was made up of only five people: Hever Walter Alfonso Vicuña, Gabriel Jaime Vásquez Quintero, Gabriela Inés Henao Montoya, Gerardo Escobar Correa, and Miguel Enrique Ríos. The rest of the defendants in the cases were national and

2 As reported by Forjando Futuros in their report of October 31, 2017.

Evolution of the Budget Execution of Restitution-related programs of the URT 2013–16



Source: Own; using the October 1, 2017 report by the National Network of Information on Victims based on URT information

transnational companies operating in the mining, palm tree oil, and other agribusiness related sectors: Argos S.A., Continental Gold Limited, Exploración Chocó Colombia S.A.S., AngloGold Ashanti Colombia S.A., Sociedad Agropecuaria Carmen de Bolívar S.A., Sociedad Las Palomas Limitada, Agropecuaria[3] Palmas de Bajirá S.A., Inversiones Futuro Verde S.A., Palmogan S.A.S., A. Palacios S.A.S., and Todo Tiempo S.A.

Also importantly, 21% of claimed lands were under a hectare large, 55% between 1 and 10 hectares, 20% from 11 to 50 hectares, 3% from 51 to 500 hectares, and only 1% over 500 hectares, and that in 55% of the cases the parties responsible for the land grabbing or forced land abandonment were paramilitary groups, in 19% of the cases as a result of combat and open fire between armed forces, in 13% the guerrillas, in 7% unidentified groups, in 5% criminal bands (BACRIM), and in 1% the national army.

Finally, to summarize the review of status of implementation, it is vital to take a look at the level of execution of the resources allocated to the URT. The budget for investment is divided into two projects subscribed to the project Bank of the National Planning Department and was distributed and executed as follows in 2014, 2015, 2016 and until the 2nd quarter of 2017.

Despite allocating significant resources to the projects, execution remains very low. It is also interesting to observe how the distribution of the resources in comparison to the total of the annual budget remains stable, showing that project necessities are kept on the same level year after year, or that institutional budgeting runs basically according to historical figures, ignoring execution capacity.

All in all, implementation of the land restitution policy in Colombia has been deficient. Goals are far from becoming realities and many factors have influenced this outcome. This study will deal with the problems that have caused such low numbers and that continue to prevent successful implementation.

Evolution of the Budget distribution of the URT:

	Weight in the Budget of the URT	Level of Execution at the end of the period
	2014	
Productive projects	7%	17%
Land Restitution Program	69%	14%
	2015	
Productive projects	13%	23%
Land Restitution Program	52%	76%
	2016	
Productive projects	11%	35%
Land Restitution Program	66%	74%
	2017 (until the 2nd quarter of the year)	
Productive projects	14%	4%
Land Restitution Program	65%	33%

Source: Official Budget Reports of the URT 2014, 2015, 2016 and 2017 (https://www.restituciondetierras.gov.co/presupuesto)

3 As reported by Forjando Futuros Foundation which analyzed more than 1,500 land restitution sentences and presented reports for 2015, 2016, and 2017.

2 The Problems Affecting the Implementation of the Land Restitution Policy in Colombia

The complex political, social, and economic context of the policy

a) The Traditional Configuration of Land Ownership

Social and economic inequality is one of the major obstacles that prevents Colombian society from achieving sustainable development. This inequality is closely related to land ownership, as non-financial assets represent 64% of total wealth in all of Latin America. The most extreme case though is Colombia in which more than 67% of productive land is concentrated in 0.4% of the extractive activities and 84% of the smallest worked-on spaces occupy less than 4% of the productive area (Oxfam 2016).

According to the latest report by the Agustín Codazzi Geography Institute of Colombia, the country has a Gini coefficient for land distribution of 89.7%. There are approximately 3.7 million properties, excluding those owned by the state, nature reserves, and indigenous jurisdictions. These properties total 61.3 million hectares of land. These rural properties are in the hands of 3,552,881 people and 25% of the owners hold 95% of the territory. It should be added that 64% of rural households do not have access to the land, that rural poverty is at 20%, and that 44 million landowners do not have enough land to work on.

The most extreme cases in the country are in the regions of Chocó, where less than 1% of the land owners hold 94.87% of the territory, in Valle del Cauca where 11.9% of the land owners hold 95.05%, and in Guainía where 0.01% owns 99% of the rural properties hitting a Gini coefficient of 98.7%[4] (Agustín Codazzi Institute 2016).

To understand this situation, the observer must realize that the dispute for land in Colombia has always being a struggle over economic and political power. The colonial elites who built up wealth through large-scale land ownership and exploiting labor laid down the basis for an accumulative logic that endures in rural society. This colonial power did not disappear when independence from Spain was achieved; it consolidated and was turned into the current landowner oligarchies. As senator Iván Cepeda described during an interview, "land concentration is the result of a violent process of accumulation."

Turning land restitution into a reality is one of the biggest challenges facing Colombian society as it involves transforming the structures of tenure and opposing the power and social order rooted in a culture closer to feudalism than to modern democracy. Even though the 1448 Bill has tried to offer the victims of forced displacement reparations, its mechanisms have been insufficient, even becoming a fundamental topic of the peace negotiations in Havana, Cuba in August of 2016. But even when a very robust legal framework is set up, the problems remain up to today: as the restitution process does not contemplate enough guarantees of protection for victims and the power structures responsible for dispossession remain intact, including businessmen, state authorities, and members of the public and private security forces (Oxfam 2016).

b) The Mining-Energy Locomotive, Monoculture, Cattle Farming, and Colombia's Strategy for Economic Growth

The strength of the previously presented land tenure culture becomes more evident when it is enforced by the Colombian strategy for economic growth. For centuries, the conceptual structure of exploiting natural resources has been imposed on the territory, an extraction model that seeks territorial control to access all possible sources of raw material and energy. That, combined with fiscal rule[5] and the need to increase revenues to pay off the country's public debt puts Colombia in a position where it has strongly emphasized five points that were called the "Growth Locomotives" in the 2014–2018 National Development Plan: agribusiness, housing, transportation, the mining-energy sector, and innovation. The policies and strategies stemming from the agribusiness and mining-energy locomotives have proven to be in constant contradiction with land restitution as they are in conflict with some of its basic values and put peasants, big businesses, and the state itself in competition for the land. The results of this equation reflect on the low level of implementation of the land restitution policy.

4 As presented in the news report "64% of rural households do not have access to land," 2016, Casa Editorial El Tiempo. Visited in March 2017.

5 Imposed by the IMF, Colombia has to comply with "the Fiscal Rule" since 2003, which obliges a programmed yearly payment of the interests of the debt until 2022.

For the agribusiness locomotive, the government deployed the strategy to facilitate access to land when it is used for production, to establish mechanisms to encourage private investment in agro-industrial projects through the creation of rural zones for their development (as presented previously, the ZIDRES bill is a result of this strategy), and by loosening the restrictions on the size of the Agricultural Family Unit (UAF)[6].

For the mining-energy locomotive, the government designed a strategy to speed up usage of mineral and energy resources and created an institutional framework around it which has helped the country advance in its implementation of an institutional scheme for the mining sector that has attracted foreign direct investment (FDI). The creation of the National Mining Agency, the strengthening of the Ministry for Mining, the implementation of a mining territorial structure, speeding up paperwork to get mining licenses, flexibilizing conditions for licenses to expire, as well as the many tax incentives, have increased big-scale mining projects around the country. The government has also focused on consolidating incentives to attract FDI by maintaining economic conditions, fiscal security, and labor and environmental laws (National Development Plan of Colombia 2014–2018).

The boom in the sector together with the structural reforms that attracted a huge wave of FDI but that left group-owned territories unprotected or threatened and loosened environmental controls made Colombia a country in which more than half of its exports are extracted from its subsoil. In Colombia–the top gold exporter in Latin America–the area with mining concessions expanded from 11 million hectares in 2002 to 57 million in 2015 (Oxfam 2016). Oddly enough, Juan Manuel Santos's current government has put this sector at the heart of the economic growth policy, as a source of resources to finance peace. At the same time this strategy flows in the opposite direction when it comes to land.

It is clear that the majority of Colombia's exports come from hydrocarbons but that this phenomenon has continuously increased and spiked over time.

Cattle farming and palm trees, soy, and sugarcane monoculture are the other main players in the agribusiness locomotive. In Colombia extensive cattle farming covers 80% of the productive surface area-34 million hectares- despite the fact that only 15 are suitable for it (Oxfam 2016). Soy and palm tree mono-cultures are quickly expanding and reaching the Amazon, turning Colombia into the number one palm oil producer in Latin America and the fourth in the world, with Europe as its main client (Telesur, 2016).

The connections between these sectors, supported by the government and international financial institutions, and the violence and opposition against the land claimers and their land restitution make the situation look shifty. The growth strategy has been backed by a regulatory framework and safely locked in with free trade agreements and the presence of security forces throughout rural Colombia to protect landowners and their agribusiness projects.

Two-hundred and fifty free trade agreements and more than 3,000 bilateral investment agreements have been signed that entitle companies and investors to sue a state before an international court, skipping over national jurisdictions, for adopting measures that could affect their investments or their future profits even if the measures are justified by the public interest.

These types of lawsuits have shot up in Colombia and the government faces actions from the Canadian Eco Oro, Minerals Corp., and Cosigo and the US companies Tobie Mining and Energy Inc. for having denied them the licenses to exploit the land due to the protests from indigenous communities and environmental organizations (Oxfam 2016).

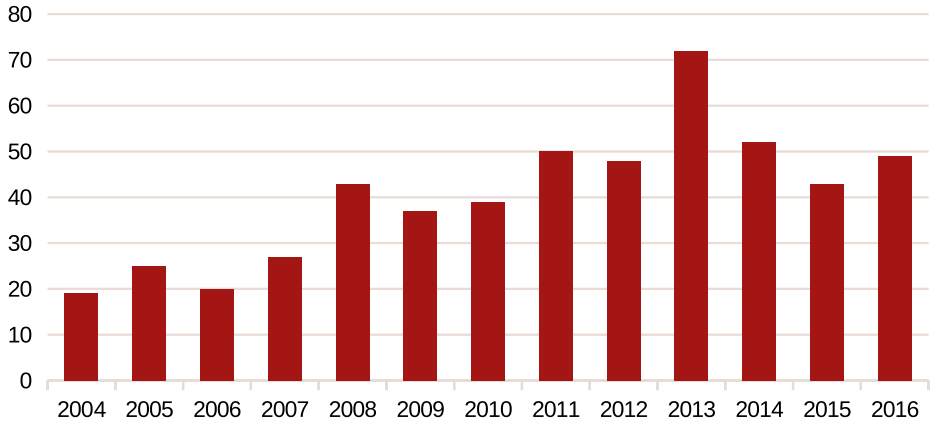
As controversial as it may be, paramilitary groups have also been linked to the process to expand palm oil production and other agricultural products, hand in hand with agribusiness.

Cargill, a multinational from the US that produces and trades in agricultural products, acquired 39 extensions of land in Cumaribó, Santa Rosalía, and La Primavera in the department of Vichada, accumulating 52,576 hectares that had been empty and owned by the state to be granted to landless peasants. Those pieces of land occupied by Cargill were 30 times the size of the Agricultural Family Unit (UAF) in the department, equivalent to 1,725 hectares, and through phantom companies was able to grab the land that was slotted to be awarded to peasants included in agrarian reform (Jiménez and Abril, 2017).

In palm trees, one of the businessmen in the sector, Antonio Zúñiga, was condemned to 10 years imprisonment for having colluded with paramilitary leader Vicente Castaño to plunder community lands in the Bajo Atrato Area in Chocó to expand palm tree crops. In 2010 several managers of the palm tree projects were also arrested along with the former counselor of the city of Montería, Remberto Manuel Álvarez, and members of palm tree companies like Urapalma, Palmas de Cur-

6 The Family Agriculture Units (UAF) appear in the 135 Bill of 1961 and later in the 160 bill of 1994, as a basic instrument of land distribution. Their aim is to overcome latifundium and to provide the farmer or contractor a property with an extension, according to the production conditions of the soil and the environment.

Number of murdered leaders, 2005 to 2016



Source: The Mechanics of Murder of Rural Leaders and Municipal Co-variables, Land and Restitution Observatory, 2017

varadó, Palmura, Palmas de Bajirá, Inversiones Agropalma & Cía. and Almadó Ltda (Espectador 2017).

The scandal with Chiquita Brands, a huge corporation in the banana trade, was also well publicized, when the 17 million dollars they gave to the paramilitary Alex Hurtado Front of the "Banana Block" in Urabá was discovered and condemned (Caracol Noticias/AFP 2017). The banana companies exercised an illicit social, territorial, and economic control in which unions were eradicated, people were displaced, and the right to social protest was practically stamped out.

The effects of this configuration of economic, territorial, military, and political power are clear when they clash with the efforts of land restitution for victims. Land is still tied to strong economic interests and the structures to grab on to it and keep it are still alive. The involvement of businessmen, multinationals, and institutions and officials from the Colombian government in this situation makes restitution even more complex. Conflicts of interest occur daily when the citizens come to realize that their governors double as landowners or benefit in myriad ways from the concentration of land in the hands that have traditionally held it.

c) The Anti-Restitution Strategy and Murder of Land Claimers

Perhaps the crudest and most extreme expression of the power struggle over land is embodied in the systematic murder of social leaders and land claimers that has characterized rural Colombia for decades, and that continues to do so, even more when it is augmented by an anti-restitution strategy endorsed by powerful economic and political sectors in the country.

The Land Observatory published a report on the workings and co-variables of the murder of rural leaders in Colombia during the first half of 2017, analyzing data from 2005 to 2015. The report covers 500 murders where the most frequent categories are: a) rural community leaders; 2) indigenous leaders; and 3) land claimers and restitution leaders.

The report also shows that in 58% of cases the perpetrator goes unidentified but when it is, most belong to the heirs of paramilitary groups or the paramilitary groups themselves. It is very relevant that the phenomenon is systematic and increases instead of decreases. This despite the fact that during the period two major armed group demobilizations occurred (in 2003–2007 most of the paramilitary groups and in 2016 the FARC-EP guerilla). It is a clear indication that the murder of leaders is a phenomenon with violent mechanics of its own that has a strong connection with the traditional configuration of power and the struggle for it.

The report sheds light on the variables that increase the possibility of these kinds of murders occurring. The most influential variables are the number of households with unsatisfied basic needs, the Gini coefficient for land distribution, the number of beneficiaries of land entitlements, and the presence in the area of heirs to paramilitary groups. If the state wanted to influence the situation, it would have to directly act on these variables. Of great significance for this study is the consideration of how the murder of leaders involved in restitution processes has a direct impact on their implementation. As described above, fear is a factor for victims which encourages them to abandon any efforts to access restitution, restitution institutions are faced with a bottleneck with the micro-focusing[7] of territories for security reasons, and being restituted sometimes turns into a death sentence.

To complete the overview, we should present the follow-up by other organizations on the phenomenon

7 The micro – and macro focusing process corresponds to the territorial demarcation of a region (macro) or a specific town (micro) in order to proceed with the restitution process.

this year. The Institute of Studies for Development and Peace (INDEPAZ) and the community organization Marcha Patriótica have compiled a very consistent list of sources reporting murders during 2017 starting in January and ending in August, with a total of 101 murdered rural leaders, 194 with death threats, and 484 human rights violations.

It could be underlined in this report that 92% of the aggressions are against the communities and that the departments where the majority of the violence occurs are Cauca with 61 death threats, 29 murders, and five attempted murders, Chocó with 49 death threats and 16 attempted murders, Valle del Cauca with 27 death threats and 20 murders, and Antioquia with 11 death threats and 17 murders (Institute of Studies for Development and Peace- INDEPAZ- and Social Movement Marcha Patriótica, 2017).

Problems of the Policy Formulation and Design

a) The Inconsistencies and Tensions of the Concept of Territory in the 1448 Bill and its Implementing Decrees

The 1448 Bill of 2011 for Victim Reparations and Land Restitution is complemented with a series of implementing decrees. Two-the 4633 and 4635 Decrees of 2011-establish the measures to repair, assist, and restitute the **Territorial Rights** of indigenous communities and black, raizal, and Palenquero communities. In contrast, the 1448 Bill for rural communities and traditional farmers and the 4634 Decree for the Roma or gypsy communities only speak about **land restitution.**

Both groups of regulations attempt to offer victims reparations with a difference in the conception, understanding, and usage of the concept of territory. While the decrees for the indigenous and black communities regard territory as a concept that transcends physical space and that has a direct connection to the symbolic spheres and cultural identities of the communities, the bill and the decree for rural and Roma communities regard territory solely as an extension of land. This conceptual differentiation within the legal framework of the land restitution policy makes it harder to implement. It starts off by assuming that only indigenous or black communities build relationships with territory that transcend the physical sphere. As many scholars have showed, territory plays a major role in the construction of everyone's identity and memory and is a fundamental agent in the transformation of the context and in the social and cultural reference point to interpret individual and collective realities. Similarly, it becomes a field of diverse symbolic associations accrued by the groups through their constant interaction with the ecosystem and its elements (Abramovay 1998, Flores 2007, Raffestin 1993, Tizón 1995).

As Carlos Andrés Martínez, Former Communications Officer of the Department of Ethnic Affairs (DAE) of the URT, said in the interview for this study:

> *Territory is not only a right but also a constitutive part of every community. It has not been understood that rural communities also create these identities and specific ways of being in a given territory. It is not the same to be a farmer in Sumapaz [territory in the bogs of Colombia with very low temperatures and characteristic geographical features that influence what agricultural activity can be done] and then being given a territory in Guaviare [territory in the Amazon region of Colombia, characterized by its heavy jungle landscape and its humid hot weather][8]. Farmers also create attachment to their territory, collective projects, and a unique way of building themselves as farmers based on their environments.*

As we will see in this section, when starting a land restitution process, conflicts may occur from opposition from second occupiers of the territory. Some of them might prove their good faith and lack of guilt. Other factors preventing the restitution of the claimed territory have ended up meaning victims are given "equivalent" lands or monetary compensation. Even if in some cases these are appropriate solutions, like when victims have been living in different territories for a very long time after dispossession happened or when they are too afraid to return because of violence or threats, in others, victims feel their rights have been violated.

As Carlos Martínez of the URT clarified in the interview:

> *The 1448 Bill of 2011 has an individual focus very much rooted in the principle of private property and of the ownership of farms. It does not acknowledge the existence of very strong rural communities that are not only an aggregate of farms but also groups that have a strong historical, political, and cultural background. They also have very strong deep-rooted traditions when it comes to the use they make of the land. [...] In Colombia, some Farmer Reserve Zones (ZRCs) have been created that the current legal framework neglected and that as a result of the policies of the previous government were brought to a halt, due to different economic and political*

8 Italics are clarifications by the author.

interests. Various rural communities keep on pushing for the creation of new ZRCs, which demonstrates that the lack of a territorial focus and of the uneven conception of territorial rights throughout the restitution policy for these communities has to be solved.

The lack of conceptual coherence within the policy has meant rights have been infringed upon and has sparked multiple disputes among the stakeholders that turn many restitution cases into conflicts of such size that implementation is ground to a halt. It has also caused a variety of interpretations in all the levels of the administration and the restitution judges and magistrates that affect decisions.

b) The Absence of a Differential Focus across the Institutional Design and Procedures

Despite the evident social nature of the restitution processes and the issue of the Decrees 4633 and 4635 for the restitution of territorial rights to indigenous and Afrodescendant communities that are a legal acknowledgment of the different ethnicities in the territory, the design of the institutional instruments of the policy does not effectively include elements that guarantee a differential focus with regards to the policy's target which is characterized differently depending on the ethnicities people belong to.

In the latest balance session of the implementation of the land restitution bill for ethnic communities in 2016, Patricia Tobón, spokesperson for the National Indigenous Organization of Colombia (ONIC) and AKUBADURA, the association of indigenous lawyers for land restitution, stated that this absence of a differential focus could not be replaced with the same bureaucrats who had until now been part of the institutional body for restitution and that including members of the ethnic communities on it is a priority. Patricia Tobón emphasized this gap starting with the very judges who do not order judicial inspections and ignore much of the contexts they are dealing with. She added that the processes require a degree of specialization that Colombian institutions lack. On a more basic level, she reported how some authorities for the restitution of territorial rights simply ignore decrees 4633 and 4635 or some of its measures and directions for restitution.

The policy minimizes the implications of a restitution process and reduces it to a judicial procedure. Conflicts over interpretation of the regulation or related to the judicial orders arise, complicating the policy's implementation. In the worst cases, important cultural and social rights of the communities are violated. Tobón also stressed how the absence of the differential focus made the political struggle and its process invisible, even more so if we are to take into account that there was almost no participation from ethnic communities.

On the other hand, Otoniel Queragama, leader of the indigenous Cabildos Association of Chocó-Orewa, reported how institutions do not even consult with the community and act unilaterally.

Derly Aldana, director of the Department of Ethnic Affairs (DAE) at the URT, presented in the session how this is a result of the historic discrimination and exclusion that permeates every level, including institutions.

Some public officials have been identified with the conceptions that the members of the indigenous or Afrodescendant communities do not have the right to such extensions of land or reparation measures. Even the language the communities speak has not been acknowledged, imposing Spanish throughout the whole process. What value are institutions giving to the communities? Institutions have not arranged ethnic links or specialized units. There is no defined vision or consideration of the "ethnic otherness."

c) The Policy Gap for Second Occupiers, the ZIDRES Bill, and the Legalization of Dispossession

The Land Restitution Policy is based on the premise that all of the current occupiers of the lands to be restituted grabbed them or acquired them acting in bad faith. To protect the victim's rights, the restitution procedure places the burden of proof on the occupiers who have to prove:

- Subjective good faith, which means proving that they acted with the conviction of due diligence and with care, loyalty, and honesty
- Objective good faith, which means proving that they made sure that the territory had not been grabbed or abandoned because of violence
- Action as a result of mistake which was unforeseeable and unavoidable

In this sense, the bill not only seeks the reversal of land dispossession but to sanction with the loss of the goods those who harmed the victims (Bolívar and Vásquez 2017).

Nevertheless, the URT found in several cases that the people who were residing on the claimed lands, these second occupiers, were as vulnerable as the victims who were claiming the land or even more so (Ordúz 2016 in Bolívar & Vásquez 2017). The restitution policy did not contemplate in its formulation or in the design of its instruments the possibility of victimizing second occupiers that were forced to leave the territory which their livelihoods depended on.

The legal gap on how to act with these cases is unequivocal. The fact that some second occupiers are vulnerable leaves them with no capacity to face the judicial process and everything it implies. They do not have the capacity to face their defense with all the legal implications that come with it. The legitimacy of the restitution process has ever since been questioned for

its potential to victimize due to the lack of a differential treatment for this type of second occupier (Land Restitution Observatory 2015, Bolívar & Vásquez 2017).

In response to this huge problem, the URT issued the 025 Agreement of 2015 which provides strategies to address the vulnerable second occupiers and established measures such as the delivery of productive projects, provision of equivalent lands, formalization of the possession of territories different from the ones subject to restitution, and the application for housing programs.

Despite the entry into force of the agreement, its implementation has been rift with problems of interpretation, a large amount of conflicts between opposers and victims, and with restitution judges who cannot find legal grounds on which to base their decisions or who adopt decisions on constitutional principles, helping to patch up the legal vacuum the policy has. It has produced further delays in the processes and has encountered additional tensions around the land that had not been considered at first. Some occupiers have unfortunately ended up as victims to whom no consideration or differential treatment was given.

Alirio Uribe, member of the House of Representatives, placed special emphasis on the conflict concerning the second occupiers, in the interview held for this work.

> *The Land Restitution Policy serves a limited body of people, the victims who had land and lost it as a result of violence. All the landless farmers as well as the historic rural poor continue to be unattended. The land restitution policy lacks coordination and company with the policy of access to land in general, land that is not necessarily for victims, which is theoretically covered by the restitution bill. But the rural poor are not covered by the state. There is a deep flaw in the agrarian policy and that generates a plethora of disparities and problems in the field.*

On the other hand, and touching much more sensitive ground, the issue of the second occupiers has also been leveraged, in the worst cases, to legalize dispossession. Most second occupiers have been proven to only be the front men or figureheads of wealthy landlords or big corporations that used them to acquire land that had been grabbed or forcefully abandoned.

As senator Iván Cepeda stated for this paper,

> *The law exempts those who acquired the land in good faith and who are not guilty. In areas where hundreds of massacres have taken place that have been publicly documented and have had a general and extensive impact on public opinion and it was known how the events caused massive displacement, second occupiers oppose restitution arguing good faith and ignorance of the events. In that context, buying land is highly problematic. Did Argos [cement multinational] by chance know that they were buying land that was stained with the blood of peasants?*

The issue of the second occupiers very soon led to the political control debates in the Congress initiated by the right-wing party Centro Democrático, the former public prosecutor of the nation, Alejandro Ordóñez, and the president of the Federation of Cattle Breeders (FEDEGÁN), José Félix Lafaurie (Bolívar and Vásquez 2017). Their main argument was that cattle breeders and other business people in the agricultural sector were the real victims of the restitution policy. The counted cases of vulnerable second occupiers was then generally manipulated and the Association of Land Restitution Victims was created and promoted. Second occupiers started to work with powerful law firms who would represent them and prove their good faith so they could obtain the same treatment as victims and receive monetary compensation or land for the ones subject to restitution.

Senator Iván Cepeda argued in the interview that:

> *Land plundering and its legalization has been demonstrated by the rural communities and by the action of political control of members of the congress with very well documented motions that have brought the evidence into the open. Lands that were allocated to the poorest farmers according to the 160 Bill of 1994 were passed over to large-scale landlords and businessmen in the agricultural sector. Given how problematic the land restitution policy is for these stakeholders, a whole legal scheme of impunity has been developed [by government].*

As the Land Restitution Observatory reported in 2015, one of the solutions proposed to protect vulnerable second occupiers has been for judges to stop applying such rigorous standards of what good faith means, which can render the second occupiers eligible for the land or monetary compensations. There is of course a legitimate concern that this measure could make dispossession legal. Numerous courts oppose this, arguing that many occupiers are just the front men of the same big owners that, against the regulations, have exceeded the limits of land accumulation, for example.

Besides this ethical and legal problem, the second occupier issue today is a huge challenge and obstacle to implementation of the land restitution policy, as it surpasses the institutional capacity of the state (financially and technically) when it has to deal with a whole new part of the population that suddenly become applicants

for reparations and restitution who had not been contemplated in the policy's formulation or design (Land Restitution Observatory 2015).

Mauricio Parra, as representative of the Ombudsman's Office, presented in a follow-up session a report on the restitution policy for the indigenous and black communities in 2016 in which he pointed out that:

> *Associations of opposers have been set up across the country where they present themselves as victims of the state and of persecution and with a clear manipulation of the second occupier issue. They stigmatize the land claimers, presenting them as false victims linked to the guerrillas. There have been reports of false information circulating in Urabá [a region in the department of Antioquia, on the frontier with Panama] presenting the EPL as actors linked to land restitution. A guerrilla that doesn't even exist anymore. High level public servants have also promoted this kind of stigmatization and their rhetoric in congress debates presents the land claimers as false victims.*[9]

To make things even more complex, a bill in competition with the land restitution bill was put to Congress in 2016. The ZIDRES (Interest Zone for Rural, Economic, and Social Development) bill has been called by congressmen like Iván Cepeda and Alirio Uribe as a bill to make dispossession clean and legal. The ZIDRES bill is the legal platform to create these Zones, territories with the potential for agriculture, forestry, or fishery as identified by the Rural and Agricultural Planning Unit (UPRA), an outgrowth of the Comprehensive Plans for Rural Development within a framework of formal economy and of territorial planning, guided by the principles of competitiveness for economic growth and sustainability. The ZIDRES bill establishes the following main points:

Once a ZIDRES is created, the government rolls out skill-building programs for the people involved in the project, endows the zone with equipment, sponsors the productive activities, and accompanies the process to increase competitiveness with the support of the local institutions in all the areas regarding product quality, soil aptitude, use planning, use of adequate resources and technologies, ways to access credit, marketing strategies, business intelligence, pricing, and the design of Corporate Social Responsibility strategies to support rural development. The projects which petition to acquire a ZIDRES can ask for state-owned land which are granted to the entrepreneur as long as peasants and small farmers are included in the plans. If when a terrain is requested to make up a ZIDRES there are people inhabiting it, they would have to be part of projects that include associations in their formulation or execute Real Property Rights contracts.

When the people requesting the creation of a ZIDRES are already in the territory but do not hold the title to the land where they carry out their activities, the government will start a process to formalize the real property rights inside the ZIDRES. For peasants participating in an association with the bigger producers, the head of the project will have to draw up a three-year program according to the entrepreneur's financial capacity to enable the peasants involved to acquire a percentage of the land.

If when a ZIDRES is identified and established the land is being used for a productive activity that is not one of UPRA's strategic activities, a transition plan will be implemented to convert it and adapt it to the Unit's standards.

In territories undergoing a restitution process, unless there is a firm decision from the judge or magistrate, a ZIDRES cannot be set up. If the restitution order has been effectively issued, the territory will not be expropriated during the first two years after restitution, but it may be linked to ZIDRES projects. If the territory has been declared an area where forced displacement occurred or an area with displacement risk, the ZIDRES cannot be set up without the approval of the Territorial Transitional Justice Committee who has to evaluate the conditions of violence and then authorize the creation when appropriate.

Territories with titles of collective property are also susceptible to being occupied by agribusiness projects and turned into a ZIDRES. As the bill states, the communal councils or the legally recognized authorities in the Farmer Reserve Zones or of group-owned territories could ask the Ministry of Agriculture and Rural Development to be included in the productive processes established in the ZIDRES bill.

It is very evident in the bill how it would negatively affect the land restitution processes and agriculture as a whole and would be deeply threatening to land redistribution and agricultural reform.

Many years with strong lobbies had to go by before the ZIDRES bill was passed. It is custom-made for large land hoarders: the creation of zones in remote areas where there is not enough infrastructure and where land needs an outpouring of investment to be productive and where the ones who want the ZIDRES need to demonstrate their economic power.

9 Taken from the video of Mauricio Parra's intervention on behalf of the Ombudsman office as part of the institutional balance for the follow-up session of the restitution policy in 2016 for indigenous and black communities organized by INDEPAZ in December of 2016 with its Communications Agency for Peace.

In those areas, for many years, national and multinational corporations accumulated enormous extensions of land, causing multiple reactions from the agricultural sector, politicians, and academics who exposed how they were breaching the 160 Bill of 1994 that put a limit on the extension of land that could be appropriated and that was being exceeded through the creation of fictitious companies that acquired land that in the end belonged to the same companies (Contagio Radio 2016). In practice, it was shocking to find out that through the ZIDRES bill companies like Cargill, Riopaila Castilla, and Poligrow could finally legalize their land acquisitions that had previously defied the law.

The implementation of the ZIDRES bill goes directly against the underlying political objectives of reparations in land restitution. Turning the returnee-peasants into associates or workers on these big strategic projects limits them in their right to decide their own life plans on their lands. The bill conditions peasant reparations on the strategic interests of the big corporations. For the planting projects, for instance, the owners of the land would not have any say on what was planted or produced (Semana Political Magazine 2016). It is a bill that competes with the land claimers and if it loses in that competition, it still uses the land for the strategic purposes mentioned above: Expropriation of restituted land can then take place after two years.

A lawsuit against the ZIDRES bill was brought to the Constitutional Court by a coalition of parties from Congress arguing that it infringes upon the peasant's right to work, their right of free association, and the free choice of profession or job since it forces them to act exclusively in favor of the interests of the companies.

Senator Iván Cepeda of the Polo Democrático party, as one of the leaders of the lawsuit, added in the interview for this paper that

> *After many trials, six or seven, the ZIDRES bill was passed, very much in line with the National Development Plan. They both include provisions to legalize the use of front men to launder assets and the land dispossession. The ZIDRES bill is a bill of impunity because it allows them to defy the controls in the 160 Bill of 1994: the possibility of creating very extensive zones in accordance with concept of economic interest, projects of incredible economic dimensions. All of this has weakened the legal infrastructure that had been built after years of social struggle. Some congressmen are even large landowners or come from families with very strong interests in the land.*

The legal vacuum regarding second occupiers in the restitution policy has further delayed its implementation, while giving opposers a new way to manipulate the situation and strengthen their opposition with bills and measures like the ZIDRES that, in accordance with the country's strategic pillars for economic development, directly compete with the restitution policy, nearly killing it.

The Colombian state finds itself constantly stuck in a dichotomy of restitution vs. development policy. Carlos Martínez added in his interview that

> *[b]ig business has been the opponent. Not only the landlords and big landowners. The mining and energy sector has been one of the strongest with state support. The state itself has felt bipolar or schizophrenic when there is a major conflict over restitution. The government feels that it shot itself in the foot with the land restitution bill.*

d) The AMEI Group and the Potential Transgression of Autonomy in the Restitution Process

In line with the national emphasis on the mining and energy sector, in 2015the URT created the AMEI Group (Group for Environmental, Infrastructural, and Mining and Energy-related Issues) to protect the restitution process against possible inaccuracies about those topics. Many stakeholders in the restitution process have reported the tensions that have developed because of the AMEI group's participation in the surveys of the territories being claimed for restitution. The URT, in the fulfillment of its duties, sets up multidisciplinary teams for the comprehensive survey of the territories including every possible aspect of environmental, social, political, or technical nature. The characterizations are by law confidential and under the full autonomy of the URT. Transgressions of these principles have, however, been reported as Carlos Martínez informed for this paper.

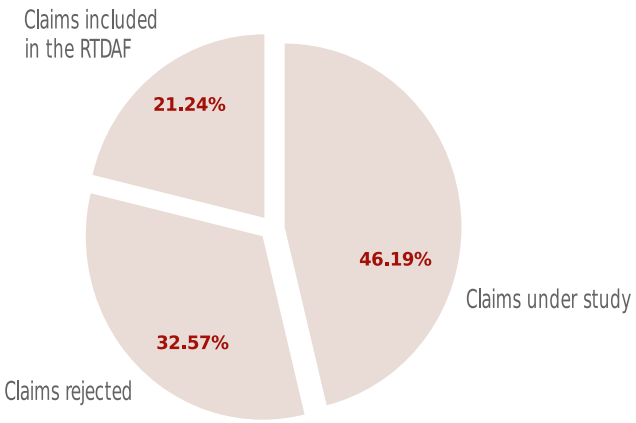
> *The AMEI Group has created a number of conflicts among the people involved in land restitution. People working on surveys have to maintain confidentiality. The AMEI Group checks on all the surveys of lands subject to restitution and can suggest to not carry on with the process. The URT falls under pressure from this group.*

The URT has a special unit in charge of the restitution of lands to black and indigenous communities: the Department of Ethnic Affairs. After restoring three territories to these groups-which brought with them the cancellation of big mining companies' licenses-the URT's General Sub-Direction issued its 2015 Bulletin N°8 announcing the creation of the AMEI to the DAE and informing that, due to the clear overlap between them and the mining, energy, and infrastructure sector that was present in the restitution processes they were leading, the URT would leverage on an expert group from then on that would analyze the complete restitution panorama, including existing regulations

affecting those sectors. According to the notification, the AMEI would issue guidelines and technical recommendations which would have to be followed by DAE team members. Not only that, the bulletin stated that every characterization report of a given territory elaborated by the DAE would have to be passed for the AMEI's revision before sharing with the first time with the community claiming land restitution. Only once the document includes the AMEI's instructions can it then proceed to be shared and validated by the community. The bulletin concludes by saying that after sharing with the community and the DAE including the group's aims for the restitution lawsuit, it has to go back to the AMEI to include any changes or recommendations on the content of the suit.

The controversy reached such a point that in 2016 the Constitutional Court issued follow-up Verdicts 310 and 460 requesting information from the URT on what the AMEI's scope was. Despite the Unit's the response, claiming that the AMEI was there to support the restitution process and did not go against its purpose or the rights of the groups, it is only fair to state that according to the document review and the interviews the AMEI group stands in the middle of the road to the full and effective access to the rights of the communities. When comparing the judicial restitution orders for the communities of the Andágueda, the Renacer Black Council, and the indigenous community of Yákera, which were handed down before the AMEI group was active, to the judicial orders for the Wayuú community in Nuevo Espinal, Guajira, and the Yukpas in Perijá, under the influence of the AMEI, it is evident that the latter's sentences are weaker in regard to the orders to give reparations to the community.

Land-claims in the Restitution Administrative Process October 2017



Source: Own based on report by the National Network of Victims until October of 2017.

e) The Problems of the Macro- and Micro-focus Procedure of Territories for Restitution

The 4829 Decree of 2011, one of the implementing decrees of the Bill for Victim Reparations and Land Restitution, formulated and established the macro- and micro-focus of territories as the prerequisite to go ahead with any land restitution. This process corresponds to the selection and definition of territories ("macro" for regions, "micro" for municipalities, towns, and hamlets) where restitution can take place depending on the security, historic density of land grabbing or forced abandonment, and the existence of stable and proper conditions for the victims' return. In doing so, restitution is guided by the principles of progressive and gradual implementation. Once a territory is macro- or micro-focused, land restitution claims can begin the administrative and judicial process.

Despite the apparent merit of the process, the Constitutional Court (2015), the Land Restitution Observatory (2015), and other scholars (Gutiérrez Baquero 2014) have seen how in many cases the procedure's design has characteristics that have made it an obstacle to the implementation of the land restitution policy.

The figures are revealing. In October of 2017, the URT had 93,940 claims for land restitution under review and in the administration stage. Of those, only 19,953 were included in the RTDAF (Register of Grabbed or Forcefully Abandoned Lands) and had been approved to continue to the administration phase for restitution. Some 30,600 were not included because they did not belong to the micro-focused territories and 43,387 are still waiting for a decision on their inclusion (National Network of Information on Victims 2017). Only 21% of the claims have been entered into the Register and 33% have been rejected.

How the macro- and micro-focus process handicaps restitution is evident. The problems of the instrument's design are:

- The definition of the parties responsible for deciding which territories to macro- and micro-focus on: The ruling decree appoints the Ministry of Defense as the only one with the authority to issue a favorable decision for macro-focus and to give the go-ahead for the restitution processes. As for the micro-focus process, the only decision-makers defined are the URT and the public prosecutor. Not including the Ministry of Defense means not micro-focusing, as it has to have a macro-focused area (Land Restitution Observatory 2015). The procedure's design ignores the biased or limited vision these actors might have or that their capacity might be tapped out, turning the procedure into a bottleneck or, in the worst case scenario, subjecting restitution to the concepts of only one institutional instance that might have incomplete information, competing interests, or lack of interest or of commitment (Forjando Futuros Foun-

dation 2015). The focalization process does not acknowledge the role of the land claimers, victims, and occupiers of the territories at all when it determines whether an area should be focused or not. Their participation in the process is not taken into consideration, hindering implementation.

- The legal vacuum in the policy regarding time limits for the macro- and micro-focus processes: There is no regulation that determines how long the study run by the URT should be for deciding if an area should be focused or not. There is no regulation to define the time frame for other responsible institutional authorities to hand down rulings either (Colombian Society of Jurists 2015, Gutiérrez Sanín and Álvarez Morales 2015). This alters the expectations of the policy target group because their claim does not begin to be studied when it is presented to the URT but up to 20 days after micro-focusing has been carried out, for which there is no defined time frame. The Land Restitution Observatory even came to the conclusion that at the current rate, the last restitutions would take place thousands of years from now (Land Restitution Observatory, 2015).
- Certain victims' differentiated conditions are hidden: In 2105 a victim filed a lawsuit alleging that the URT was violating her rights to land restitution. She argued that they opposed her claim since the territory was in an area that had not been micro-focused. After losing the lawsuit and appealing it again, the Constitutional Court developed a thorough criteria on the matter and determined the legal vacuum could imply a violation of the right to justice. It recognized that it is hard to determine when all the conditions are met to proceed with micro-focusing but that it should not mean territories and claims are left indefinitely without solutions. The Court determined that prioritization criteria should be established that could include reasonable time frames to activate the focusing process across the country (T-679-15 Sentence of the Constitutional Court 2015). The Colombian Society of Jurists requested the Court make a pronouncement on how it is vital to assume a differentiated position when victims are especially vulnerable due to their age, gender, or ethnicity. Differentiated positions could guarantee equal treatment without hindering access to restitution, as it is currently hindered by the general macro and micro-focus procedure. The victim who filed the lawsuit was 70 years old, part of an indigenous community, and argued that she could not wait, in the best case scenario, until 2021 (the time limit for the restitution policy) for the territory to be micro-focused and restored. Prioritization criteria according to the conditions of the policy target group was an element clearly ignored in the policy's design.
- Reparations and restitution dependent on possibility of macro and micro-focusing: The state currently requires restitution wait until the area has been "focused." As the Court established, the state cannot justify due to its own incapacity the indefinite delay for reparations as it is one of the main parties responsible for victimization, as much for its actions as for its lack thereof. The rhetoric of the public institutions cannot be to offer compensation as long as they can reach or enter a territory (Gutiérrez Sanín and Álvarez Morales 2015)

f) Other problems of the policy formulation and design: the timeframe, the non-hierarchical structure of the regulations, and the issue of fiscal sustainability

Other problems that have been identified during this study will be briefly outlined for the reader in this section for further consideration. They are not developed in as much detail as the issues presented before because of their simplicity, as in the problem of the time frame or the non-hierarchical structure of the regulations, or their lengthy, multi-level, complex nature, as in the case of the policy's fiscal sustainability that would require another study to cover completely.

As mentioned in a previous section of this work, the restitution policy, implemented through the 1448 Bill for Victim Reparations and Land Restitution, has **ten years to be executed**, ten years which end in 2021. There are two factors that turn the bill's time frame into a problem for its implementation:

1. There is no definitive quantification of lands and victims affected by land grabbing or forced land abandonment. The estimate studies all vary widely (see Ibáñez, Moya, and Vásquez 2006, MOVICE 2007, Garay Salamanca 2011, Comisión de seguimiento y monitoreo de la Ley de Víctimas y Restitución de Tierras 2015). Establishing policy objectives on the basis of inaccurate data will lead to an inaccurate estimate of the time needed for them to be completed. This is a post-conflict policy that was developed during the conflict which means that the precise number of future victims it would have to serve could not be ascertained. It is clear after reviewing the policy's implementation status that by 2021 the restitution of the claimed lands and the ongoing processes will not be finished. Many institutional and civil society stakeholders as well as the victims of displacement wonder whether the bill's timeframe will be extended or if further legislation will be developed.
2. Many victims of displacement are left uncovered by the restitution bill because of the time frame. Not only must the bill be completely executed before 2021, it also established a starting and an end date for victim registration that closed in June 2017.

Many did not receive information about the deadlines, others were made victims afterwards.

As Carlos Martínez of the URT expressed in the interview:

> *People are working with a kind of anguish. If a political current against restitution comes into power in the next elections, everything could be ended or changed. There is only the deadline of 2021 which is supposed to be covering victims from 1985 to 2015. The restitution processes are long and complex and the policy does not have a reasonable time frame.*

As for the **non-hierarchical relationship of the norms** making up the policy's legal framework, Patricia Tobón, lawyer from the National Indigenous Organization of Colombia ONIC and AKUBADURA, the association of indigenous lawyers for land restitution, reported in 2016 how despite the different regulatory principles and constitutional and case law sources of implementing decrees 4633, 4635 to restore the territorial rights of indigenous and black communities and the 1448 restitution bill, they all have the same legal rank with no hierarchical differences. This has led to the indistinct and erroneous adoption of the regulations, ignoring the fact that, for instance, the decrees are the ones created for restitution processes for ethnic communities. This has had major implications when instead of the decrees the 1448 bill is used as the benchmark regulation, violating territorial rights that are not considered in it

To conclude the survey of the problems of policy formulation and design, a quick look must be taken at the financial aspect of its formulation:

The Council for Economic and Social Policy (CONPES) released the 3712 CONPES document in December 2011. It contained a financial plan of approximately 17 million euros[10]that was allocated to the ten-year-long land restitution implementation plan. According to several experts, many of the assumptions the calculation were based on have already been exceeded (Rettberg 2015, Toro 2015, Villar y Forero 2014, Bornacelly 2011, DNP 2011, Zuluaga 2009). Not only that, they were very dependent on the country's economy and it is clear that Colombia's economy has slowed down caused by the drop in commodity prices and with that the availability of the resources to undertake the tasks related to building peace (Fedesarrollo 2015).

If we connect the previous sentence with the vagueness of the calculations of the victims that it hopes to attend and the impossibility of knowing with any accuracy the future victims the law had to cover, it is clear that the policy financing is rapidly approaching deficit.

It is true, however, that the trust exclusively earmarked for the URT has so far covered all the budget needs for restitution, seen from the Unit's perspective. Unfortunately, the government never specified or clarified the costs of the restitution processes and how they would be financed. Moreover, the United Nations and the restitution bill itself demands the restitution not only of land but of all the means that will allow the victim regain her/his dignity and the basis for earning their livelihood back (Bornacelly 2011).

In this particular aspect, there are two conflicting visions. One sees that the institutions that are required by the restitution orders to provide goods and services to the restituted victims such as schools or access to education, establishing economic projects, or supporting the victims in their social integration do not have the financial resources in their respective budgets to comply with the judicial restitution orders.

Andrea Lizcano, of the Ombudsman's Office of Colombia, Delegate for Land and Agrarian Affairs, expressed in an interview for this work that

> *At the national level, the URT has enough financial muscle to act and execute its part of the process, which is the administrative and judicial part. But the ones who are carrying a heavy economic burden are the other institutions who have to execute the restitution judges' orders, who in their good will and by fulfilling their duty to provide a transformative reparation, are covering many fronts, and who forget the insufficient financial strength of the municipalities.*

The other view is that it is not a matter of financial resources but of political will. Carlos Martínez, former communications officer of the URT, expressed an opposite point of view related to this matter in the interview as follows:

> *More than resources, is a lack of political intention. For example, there has never been a scarcity of financial resources for security matters in the country. The resources are there. There are no priorities when it comes to the restitution topic. What the institutions are being asked for by the judicial orders is nothing outside their competence, mission, or scope. Those are not favors, but a job not being done. They are asked to guarantee the rights that have been constitutionally delegated to their respective sectors and that are part of their mission.*

10 1 Euro = $3.300 COP. The financial plan originally considered 54.9 billion Colombian pesos.

Another aspect mentioned by Alirio Uribe in his interview was the fact that it is not only about financing the restitution processes but about financing the human and technological resources that are not covered enough, not even in the URT. It is clear how the scarcity of financial resources combined with a weak political commitment make for an environment where implementation is harder and more complex.

Problems of the Intra- and Inter-institutional Relationships: The upper and local level perspective

a) Problems of implementation at the upper levels of the administration

Most interviewees agreed when stating that one of the most recurring problems at this level was the lack of coordination. First, there is the insufficient and ineffective coordination by the Unit for Victims (UARIV), the institution in charge of comprehensive coordination of the SNARIV (National System for the Comprehensive Reparations and Attention of Victims).

> *"There are weaknesses in the way the URT works with the Unit for Victims. It is clear that victim reparations is one process and these two institutions work very separately." Alirio Uribe.*

> *"If we look at the 1448 Bill, the coordination of the system to attend to victims is in charge of the Unit for Victims. That institutional capacity has not been sufficient and its work has not had any tangible results. The system's coordination has been unsuccessful and every institution from there on acts on its own, even more at the local level." Andrea Lizcano.*

The situation is also clear to many of the victims. As expressed for instance by Melvis Ariza Mercado, representative of the communal black council of the region of Montes de María and of the Organization of the Displaced Population of Montes de María, who criticized during the follow-up session of the restitution policy in 2016 organized by INDEPAZ that despite the fact that both the URT and the Unit for Victims derive from the same bill and should be working hand-in-hand, they do not.

This weakness has been a major source of further lack of coordination between the institutions directly involved in restitution down the administrative institutional chain. As Andrea Lizcano reports,

> *[t]here are many obstacles in the post-sentence phase. One of the most recurring is the delayed or lack of response from the National Land Agency, the institution in charge of Land Administration, which was INCODER three years ago. The transition from one to the other has been extremely problematic. There are restitution sentences in Montes de María in favor of the victims who two years later are still waiting for the Land Agency to respond and actually transfer the land to the victim.*

A clear factor hindering implementation is that the constitution and consolidation of the Land Agency has taken longer than it normally would. Unsuccessful or incomplete transfer of information, archives, and the difficulty in building the teams were three aspects also reported by Carlos Martínez and Andrea Lizcano in their interviews as causing major delays in the process and separating institutions from each other, with extremely different process lengths that in the end only managed to leave the victim with a failed implementation of their restitution orders.

Lastly, and as reported in the interviews, it is not only the lack of coordination between the institutions of the National System for Victim's Reparations (SNARIV), but also between them and the other public institutions that as a result of the restitution sentences are required to provide the victims with services or goods. They do not work together and the results of the process are very varied, take an extremely long time, and are very complex since there are no accountable points of contact or a central coordination that the victims can query.

b) Problems of the Implementation at the Local-level of Administration

The local-level of service provision brings with it huge challenges when bureaucrat discretion is the filter that the policy has to go through before it can reach the target group. Local bureaucrats as the first contact citizens have and are, in the end, the ones that determine the way policy is delivered. Behavior, skills, personal perceptions, and interest are some of the factors that determine implementation.

One of the problems mentioned in one of the interviews is the risk of corruption. Some of the local public servants have had the power to end and to alter restitution processes.

> *"There was a case in the Unit in the Department of Santander in which one of the public servants was selling information to opposers of one of the restitution processes." Carlos Martínez, former DAE Communications Officer, URT*

During the follow-up session of the implementation of the policy with the black and indigenous communities, Mauricio Parra from the Ombudsman Office reported on the cooptation of public officers for them to

block the restitution processes and adopt biased postures towards them.

Lack of interest and of information were also factors which came up in the interviews. Andrea Lizcano stated how it is at the local level where interest is most absent, mainly connected to municipalities not having teams especially set up for the matter and the policy competing with many other local issues that are generally first on local administrations' list of priorities.

The International Center for Transitional Justice (CIJT) reported in a 2015 study on individual reparations how the officials did not respect the principle of good faith which is one of the basic principles of the restitution bill to execute the judicial process, and that they would ask victims for documents and proof of landownership or even for them to prove their condition as victims.

On the other hand, judges play also a major role in how the policy is implemented. Derly Aldana, Director of the URT's Department of Ethnic Affairs (DAE), reported in the policy follow-up session of 2016 how some of the civil servants do not fully understand the specific legal framework and at times opt for the wrong regulatory sources when making their decisions or do not review others that are crucial for the restitution processes.

One major factor pointed out by Carlos Martínez during the interview was that the institutions' human resources involved in the restitution process, especially at the local levels, are not trained for the job and do not receive on-the-job training either which means teams are very weak. It is a highly specialized job and getting the right people is not a simple task. The resource limitation capping salaries also makes some of the institutions places unattractive for professionals.

Both the problems at the managerial and the local level seem to stem, as Sonia Cifuentes found in her 2016study, from the fact that decentralization of the Colombian state is highly incomplete and inconsistent. The transfer of power from the central government to the local levels, of knowledge, resources, and capacities, is frequently lacking, and this has a direct impact on the policy's implementation. Local officials are uninformed, uneducated, and uninterested and unfortunately prone to corruption.

Problems of the Policy Target Group Mechanics

a) The Victim's Lack of Capacity to demand their Rights

Despite the judicial relief provided by the 1448 Bill of 2011 for land restitution, in which the burden of proof of land ownership is put on the occupiers and not the victims, it is still a process mostly defined by its judicial nature and procedures. Because of procedure complexity, language, costs, and lack of guidance from the institutions, victims frequently fall into a legal twister that is hard to escape from when economic resources are not provided to them for legal consultancy and advice.

> *"The peasants of Colombia do not have the legal power to have a sufficient and effective defense to face a lawyer's firm, which very often are defending the interests of the large landowners and the corporations, or to face everything that comes with a legal process of this kind alone." Senator Iván Cepeda, for this study*

Lawyers' organizations versed in the restitution process and that have committed themselves to accompanying the victims on their paths to restitution have emerged to remedy this problem. Such is the case of AKUBADAURA.

b) Organizational Weakness of the Victims

In the same session, the speaker of the Ombudsman's Office reported how the organizational weakness of the communities was making it hard to carry out the process and enforce the sentences. Despite that, the state has the duty to strengthen community capacities but it is not doing so.

Andrea Lizcano, from the same office, stated during the interview that there are important organizational efforts of the victims and the communities, but not everywhere.

> *The victims have not organized themselves everywhere. It depends to a large extent on the mechanics at work in the territories. The situation of persecution and death threats in Antioquia, Magdalena Medio, and Córdoba makes demanding rights more challenging.*

There is also a problem with the mechanics of representation within the victims' organizations. Carlos Martínez spoke of the discord among these organizations and their members when some of them get to go to national instances of representation and others do not. The matter of who gets representation at each stage of the participation process and how to make the organizations seen and heard is one of the most frequent causes of internal frictions in the policy target groups that end up becoming obstacles to effective implementation.

c) The Intermediaries of the Victims

The 1448 bill explicitly states that the procedure to claim assistance or compensation is completely free of charge. Nevertheless, and due to the long wait to re-

ceive the services or goods as well as the uncertainty of the state's response, in many cases victims reach out to so-called intermediaries who supposedly guarantee a more effective response. In some regions of the country, these intermediaries charge for forms or registrations and for their support in the lawsuits. In the worst cases, the intermediaries asked the victim for a blank promissory note which is then charged after the victim is paid their compensation. In other cases, some victims have reported that they charge a commission of 10% of the compensation the victim receives (International Center for Transitional Justice –CIJT-, 2015).

For the CIJT's study, some victims in the cities of Medellín and Bucaramanga said that they knew cases in which the money was stolen from the victims as soon as they walked out the door of the Agrarian Bank. The reports help elucidate how the particular vulnerability of the policy's target group gives rise to other phenomena that ultimately create new policy realities when implemented and new policy target groups that had not been intended in the first place.

d) Distrust, lack of information and fear as highly influential factors

When an intermediary is not a viable option for the victim, very often they just give up on the process and opt out. In other cases, it is the lack of information which keeps the victims from claiming and accessing their right to land restitution. Interviewees concur that distrust and fear are another two factors that would push victims to not pursue their right to land restitution.

It was reported during the interviews that distrust and hopelessness is not directed towards the institution but towards the whole state that had always been absent. Distrust was also said to be caused by a state of things in which victims have waited for years for a decision on their case or even to start the process when their territories have not been micro-focused.

Despite the dissemination efforts around the bill, many do not know what it is about or how to take advantage of it, and even when they have had some amount of contact with it, it is a complex procedure with manifold steps and resources of all kinds. Even worse is the situation in regions where there are no URT offices and victims do not have any contact point to claim their rights, like in the Amazon, Arauca, Guainía, and Vaupés.

Fear was identified as a factor connected to the presence of local economic powers that have also consolidated as real military or paramilitary powers within the territories (Carlos Martínez, Alirio Uribe, and Andrea Lizcano, 2017).

e) The Cases of False Victims

On a less representative scale, there are cases in which the land claimers have been found to be false victims. A study by the Forjando Futuros Foundation analyzed 1,000 restitution sentences and found that 98% demonstrated that the land claimers had been recognized as true victims by the judges. The remaining2% did not demonstrate their relationship to the land or could not show that its sale had been a consequence of the armed conflict. In June of this year, the URT found, for example, 40 land claimers who had not been affected by a paramilitary occupation in Bellacruz in the Department of Cesar in 1996. The case was transferred to the General Prosecution for further investigation (Caracol Radio 2017).

This situation reinforces the victims' stigmatization and affects implementation by creating unnecessary procedures that only delay attention being paid to real victims. It also strengthens the anti-restitution rhetoric in favor of the political forces that want to eliminate the policy.

Conclusion

After reviewing the problems in the different categories, we can now summarize the findings in the following blocks:

- **Problems of Policy Formulation and Design:** The inconsistencies and tensions in the concept of territory throughout the 1448 Bill and its implementing decrees, the absence of a differential focus in the institutional design and procedures, the victimization of second occupiers, the legalization of dispossession, the potential transgression of autonomy in the restitution process with the creation of the AMEI group, the bottlenecks created by the macro- and micro-focusing processes, the limited time frame, the non-hierarchical structure of the regulations, and the issue of fiscal un-sustainability;
- **Problems of Implementation at Upper Levels of the Administration:** Lack of articulation between the central and local levels regarding planning and budgeting as well as between institutions of the SNARIV and the institutions that are also involved in providing goods and services granted in the sentences of restitution;
- **Problems of Implementation at the Local Levels of Administration:** Tendency towards corruption, lack of interest, of information, and training in policy principles, mechanisms, and procedures, low salaries, connected to the lack of local teams specialized in reparations and restitution matters, a deficiency of financial resources at the local level, insufficiency in policy comprehension and socialization reflected in contradicting priorities at the center and periphery, lack of accountable contact points that can be approached by the victims in several regions;
- **Problems of Implementation related to the Policy Target Group:** The victims' lack of capacity to demand their rights, organizational weakness, distrust, lack of information and fear as reasons why they do not claim their lands or abandon a restitution process, and the appearance of false victims claiming lands; and
- **Influential Factors in a Complex Problematic Context of the Policy:** The impact of the traditional configuration of landownership, the mining-energy driver, mono-culture, cattle farming, and Colombia's economic growth strategy that rows against the current of the restitution policy, the violent context imposed by the anti-restitution strategy and the murder of land claimers.

Despite the multiple analytical categories to study the problems of the implementation of the land restitution policy, perhaps the most important conclusion is the fact that its failure is a result of the lack of political will to achieve its goals. The 1448 bill of 2011 for Victims Reparations and Land Restitution may be a set of good intentions with ground-breaking mechanisms and measures and it has also been acknowledged as the result of years of the victims', myriad rural organizations' and leaders' struggle but if it is not adopted consistently as a state policy and taken as such in the multiple agencies of the public administration, implementation will be disrupted by problems like those presented in this study that range from fiscal deficit to priority conflicts between and within institutions and finally blocked by other competing policies that reflect state goals that ultimately run counter to restitution.

The failure to implement the land restitution policy is, in the end, the result of the conflict between the abstract value of justice and the concrete value of land. Once the bill was passed, there was a national consensus from all along the political spectrum (Uprimny and Sánchez 2010). The simple idea of offering the victims reparations and returning the land taken from them seemed fair and acceptable to a large portion of the nation. The problems started when the abstract value of justice encountered land, a concrete, objective value, that when restituted, compromised the interests of multiple players in the political and economic spheres. In short, the rhetorical consensus that had been established started to collapse when put into practice.

It is manifest that the policy's institutional, behavioral, and technical problems have affected its implementation but it all comes down to assessing whether they act in isolation and to what extent they are a product of that lack of political will and of the fact that restitution has never been a decisive state policy. This study is a sample of the closely related details of both spheres of problems.

Nevertheless, and despite the brutal violence surrounding the restitution policy, it has survived. The bill was a conquest of the victims and the peasants, and as such, has been protected.

"The Colombian peasantry has had a historical capacity to resist and has learned to adapt to the different cycles and forms of violence. Peasants, indigenous, and Afro Colombian communities have created organized resistance that are expressed in conceptions of the territory, in plans for life, in ways

to subsist, all in the midst of policies that have not just tried to weaken those organized initiatives but also to annihilate them. Those organized initiatives have gained experience and effectivity over time. Statistics show that there are 185 social protests annually. Every two days there is a protest and most happen in rural areas. They have gone from being occasional protests to huge national mobilizations. The last strike with the biggest impact in the modern times was the peasant strike in 2013 that paralyzed the country for 45 days. The most important Departments and cities felt the size of the protest. The effectiveness grows all the time." Senator Iván Cepeda.

It goes without saying that social movements, resistance, and the organization of civil society around the topic will continue to protect the land restitution policy especially now that it is a fundamental component of the Havana peace accord. Despite bias and the efforts of the opposing sectors, Colombia today has international observers, mediators, and an agreement with full force signed by the state. The struggle continues and peace is still in the middle of the battlefield. Reparations for victims with objective restitution measures and true land reform for landless peasants and the historic rural poor are key steps to building peace. Acknowledging the problems in this study may be a first step to correcting mistakes and paving that path.

Policy Recommendations

- Include the notion of territory as a symbolic construction with social and practical consequences regardless of the victim's community or origin and including members from different ethnicities in the institutions and agencies making decisions as a measure to balance out the normative framework and fill in the conceptual gaps some of the regulations have;
- The 025 agreement of 2015 to attend vulnerable second occupiers should be broadly distributed and made known to all the levels of administration and restitution judges and magistrates. It should be accompanied by procedure maps and mechanisms to implement it and avoid violation of rights when executing restitution processes;
- The role of the AMEI group has triggered multiple conflicts. It was not part of the policy's legal framework and was not a result of dialogue with the victims' organizations. As seen in the study, it has created a situation that goes against the principles of consultation with the victim and has raised concerns about the potential transgression of independence in the institutions when carrying out territory surveys. The AMEI group, its role, mission, and procedures should be specifically defined and included in the legal framework or reevaluated to decide whether it is pertinent. All of this should be in line with the values that guide the land restitution policy;
- The bottlenecks produced by the macro- and micro-focusing process should be tackled by making the system that decides which territories should be focused on more democratic. Expanding the network of stakeholders and institutions that can grant permission, reevaluating the procedure, and establishing clear timelines for each step should provide new control points and make execution more certain. The participation of the territory's communities should be taken into account when assessing if focusing is feasible as well as the point of view of the victims claiming the land;
- There are still several regions where micro-focusing is on hold for security reasons. A collectively-defined plan involving communities, local administrations, security forces and the SNARIV should be rolled out in which a strategy to reduce violence, to promote dialogue, and to prevent re-victimization and forced displacement is designed. The strategy should work as the basis to speed up focusing processes in those regions;
- The lack of coordination horizontally and vertically within the SNARIV and between it and the institutions from the other sectors should be addressed through the collective design of short, medium, and long term plans and strategies in which budgets and actions are aligned and connected in a way which prevents redundancies or covers gaps. A coordination committee led by the Unit for Victims should have members from the other institutions who have a say in the yearly resource planning. There should also be members of the local levels of these institutions or there must be guarantees in place to ensure that information and plans are executed along the chain of command consistently;
- The legal framework, its mechanisms, instruments, plans, and procedures should be made known to all the civil servants involved in the process nationwide. Training strategies should be developed to prepare the teams. Online courses, seminars, on-the-job training as well as traditional classroom training should be designed and implemented;
- The restitution judges and magistrates are key to the process to guarantee the rights of the victims. Their capacities in terms of knowledge of the restitution regulatory framework, the values and principles that guide it, and the particularities of the population they have to work with should be strengthened up. Adding indigenous and Afro Colombian judges to the picture would help generate an exchange of knowledge and of points of view between the hegemonic currents of thought and ancestral traditional ones. It would also be a way to include original languages of the nation in the process and move towards a more democratic system;
- The inequity between regions concerning restitution rights is notable. The regions without any URT presence or points of contact for people to claim their rights or to go to for counseling should be provided with local units and civil servants to offer citizens the information and assistance they require;
- Despite the leading role victims play in protecting the policy and demanding their rights, it is also true that they lack organizational capacities for participation and representation. The government should provide the mechanisms and assistance to train them and strengthen their skill sets. The programs should be oriented to strategies for participation, negotiation, representation, conflict-solving, project formulation, and political control; and
- The new national development plan of 2018 should consider the restitution policy and the Havana peace accords in the point related to land redistribution when formulating the policy for economic growth. Reevaluating various points of the ZIDRES bill and the extractive model for growth, as well as

regulating the agricultural sector, pursuing a normative framework to protect human, group, social, cultural, and environmental rights should be a priority on the peace agenda. It should also protect and enhance the platforms for civil society's participation and prioritize the right of consultation of the local communities before implementing large-scale projects with considerable impact.

Fighting the anti-restitution armies and the violence against land claimers is perhaps one of the most urgent tasks the government has if a safe environment is to be created. Some of the recommendations provided by the Land Restitution Observatory in their latest report on the "Mechanics of Murder of Rural Leaders" recommends that the government:

- Should first accept that rural leaders are being murdered systematically and then order an official study of the phenomenon which counts and categorizes them with civil society organizations and the communities;
- Make the phenomenon visible throughout the territory working with the media as a way to create social control and awareness of the situation as well as to fight stigmatization of rural and communal leadership;
- Guarantee operation and financing of the recently created Special Investigation Unit of the Public Prosecution (Decree 898 of 2017) for the "dismantling of the organizations responsible for murders, massacres, and attacks against social leaders who defend human rights or land restitution, including the so-called heirs of paramilitary groups and their support networks"; and
- Increase institutional presence in the territories where violence is concentrated and implementing projects and pedagogical strategies for peace building there.

Lastly, it is crucial to make a stop in the process and recognize that the time for the implementation to happen is running out. The government and civil society have to make a decision on further legislation, extending the period or connecting the land restitution policy with the Havana accords and the legal framework that grows out of it. What is certain is that goals are far from being achieved and adjustments need to be made. This study might be a good way to start a valuable readjustment of the policy and the universe surrounding it.

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Appendix A: Model and Theory Selection

The model proposed by **Søren C. Winter (1990)** to study policy implementation**,** denominated **The Integrated Implementation Model** excels at both: keeping a wide spectrum of analytical possibilities and yet providing specific categories to tackle the challenge. The model contemplates three main set of elements of study, which are influenced and shaped by two contextual and dynamic factors.

The first set of elements is Policy Formulation and Policy Design, which focuses on how the policy is formed, the instruments that are determined for its implementation and the elements that interact technically and internally to sustain its existence. **The second set of elements is the one regarding the implementation process,** which is strictly attached to the **organization and inter-organizational configuration and behavior**, both at the upper and bottom levels, as well as the behavior of the policy target group; and **the third set of elements** is the one corresponding to **Implementation results (Outcomes and outputs).**

All of them influenced by **the Socio-Economic Context and the Feedback-backward- dynamic between the Implementation Results and the Policy Formulation Universe.**

Appendix B: Methodological Roadmap

Interview Guiding Questions

The interviews were guided by the methodological roadmap based on winter's model built for the study. The questions were designed according to the categories established by the model in order to cover all the analytical categories suggested by Winter and in this manner guide the interviewee through the topics relevant for the research.

Analytical Category	**Guiding Questions**	**Instruments/Resources**
Influence of the social, political and economic Context:	· Which factors of the Colombian context have influenced the implementation of the bill? · Which competing and contradictory social, political and economic conditions have an influence in the implementation of the land restitution policy?	· Semi structured Interviews · NGO Reports and academic studies · Journalistic Pieces, News and Columns
Policy Formulation and Policy Design	· Are the policy and its objectives clear, consistent and complete in its formulation and equally understood when transferred to implementation levels of the bottom? · Are the policy objectives properly tackled with the actions proposed by the bill and the legal documents derived from the bill? · Which policy conflicts arise with the bill for Land-Restitution? (competing Policies, policy vacuums, formulation and design inconsistencies) · Which problems exist in the way in which the procedures have been established for their later restitution? · Does the design of the instruments and the resources for land-restitution correspond adequately and sufficiently to the task established by the restitution bill?	· Semi structured Interviews · Documental Resources: 1448 Bill of 2011 and its posterior decrees, dictums and judicial statements (Internal consistency of the Policy)
Intra- and Inter-institutional dynamics (The Upper-Central Perspective: Management)	· Which intra and inter institutional conflicts have come to place and influenced the execution of the land restitution processes? (Institutional presence and configuration in the local level, coordination between involved institutions, Dynamic between the different institutional levels: central vs local; institution vs. institution)	· Semi structured Interviews · Previous Studies
Intra- and Inter-institutional dynamics (The Bottom-level Perspective: Street level bureaucrats)	· Which problems are identified in the implementation of the restitution bill in the institutional local levels? · How coordinated and aligned are the central and peripheral levels regarding the land restitution processes, goals and activities? · Which behavioral factors of the functionaries in charge of the land restitution procedures in the local levels play a determining role in the success or failure of goals?	· Semi structured Interviews · Previous Studies
Policy Target-Group Dynamics/ Behavioral Factors of the Target Group:	· Which role do the land claimers, communities, occupiers of the claimed lands and victims with restitution aspirations, play in the implementation of the process? · Which dynamics have been configured between the different target groups of the restitution policy? · What are some factors from the victim's perspective to not enter the restitution process?	· Semi structured Interviews · Reports/ Previous Studies

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