

LAND ON TRIAL: LAW, FORCED DISPLACEMENT AND LAND RESTITUTION IN
COLOMBIA

by

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Land on Trial: Law, Forced Displacement and Land Restitution in Colombia

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This dissertation addresses Colombia's 2011 "Victims' and Land Restitution Law" and the state's adoption of international legal parameters to address forced displacement. I examine how the Colombian state has codified land restitution as a human right and how persons displaced by conflict use law to reclaim land rights amidst opposition from current landowners and their political patrons. I conducted thirteen months of ethnographic fieldwork in Colombia in which I performed participant observation of land restitution proceedings and interviewed eighty people directly involved in the land restitution process (displaced land claimants, land owners, government officials, etc.). I also analyzed 117 land restitution court cases in judicial archives and used Geographic Information Systems (GIS) software to construct cartographic representations of the land restitution process. This dissertation centrally analyzes law and legal practice as conduits of creating historic memory of mass atrocity. I argue that land restitution pivots on the contested construction of an official, legally codified history of armed conflict. Empirically, this research addresses fraught contexts in which the current owners of land claimed by displaced conflict victims for restitution organize against the Victims' Law on both legal and historical grounds. Current landowners' opposition to land restitution mobilizes a counter-historical narrative that rejects the validity of land restitution as a political project. I therefore conclude that to restitute land lost due to conflict is to do more than return property—it is to contentiously arbitrate the very history of conflict. Using critical geographic methods, I show how land restitution indelibly channels competing historical conceptions of land and armed conflict, and how judicial settings fail to resolve these tensions.

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INTRODUCTION: RESTITUTION AND EVICTION

Amidst significant international fanfare, then-president Juan Manuel Santos signed Colombia's "Victims' and Land Restitution Law" (the Victims' Law) in June 2011. The law's official goals are clear: to provide both symbolic and material reparations to Colombians who have suffered human rights violations over the course of armed conflict. In that vein, the law's central feature is an ambitious land restitution policy designed to return primarily rural property to those who lost or abandoned it due to armed conflict. Official estimates suggest that approximately 6 *million* hectares of land have been abandoned or sold under duress due to armed conflict in Colombia since 1991. In its ideal instantiation, the Victims' Law land restitution policy allows those displaced due to armed conflict to petition for the restoration of these 6 million hectares and to be able to return in peaceful and dignified conditions (Bernal and Restrepo 2014).

This dissertation centrally focuses on Colombia's land restitution program, but from two relatively unorthodox angles. First, this dissertation is not a pragmatic analysis of the land restitution program's capacity to meet its stated goals. While I do analyze how much land the program has been able to reconstitute, and under what conditions, I do not do so to evaluate the "success" of the program or if it is indeed the most appropriate policy response for forced displacement. In this sense, I depart from international legal scholarship's focus on the tenuous capacity of land restitution to promote "rule of law" in post-conflict societies (Ballard 2010). Rather, I aim to show that land restitution in Colombia hinges on the contested production of "land" as structural facet of Colombia's armed conflict. This maneuver, in turn, implicates the Victims Law's land restitution program within tense disputes over competing conceptions of the

history of Colombia's armed conflict writ large. Land restitution, then, is not simply a response to armed conflict. It is also a means of producing politically-situated knowledge about that very conflict in the first place.

Secondly, this dissertation does not unfold primarily from the vantage point of the Victims Law's would-be beneficiaries. Certainly, I do include perspectives from displaced land claimants who sought to recuperate their property through the Victims Law's land restitution program, but their experiences (for reasons detailed below) do not provide this dissertation's central narrative axis. Rather, I focus more directly on those who currently own land claimed for restitution. These current landowners—who may or may not have been directly involved in the violent usurpation of land—provide a vantage point on land restitution that complicates any reading of the Victims' Law as a narrow policy of simply returning stolen land back to its rightful owners or occupants. In some instances, the current owners of such land may prove they obtained the property in an entirely legal and transparent way. When they are unable to prove so, they may be subject to eviction without compensation, depending on particular circumstances.

These considerations aside, the current (or recently evicted) landowners with whom I conducted the bulk of my field research engage in political opposition against the Victims' Law in order to profoundly question the law's very framing of the historical legacies of Colombia's armed conflict. That is, the antagonisms between displaced land claimants and current land owners that the land restitution program channels concern both competing rights to property and competing claims to history. In short, the Bureau of Land Restitution and Land Restitution Tribunals construct "official", legally binding historical accounts of forced displacement for each municipality subject to restitution proceedings. Current landowners of parcels claimed for restitution, whose land buying practices the land restitution process places under heavy scrutiny,

were fond of telling me that “history told half way isn’t history” (*historia contada a medias no es historia*). The Bureau of Land Restitution and Land Restitution Tribunals, they assured me, were steeped in this “halfway history” and were thus causing irreparable harm to decent people (*gente de bien*) who now currently owned land claimed for restitution. In light of these commentaries, and by way of introduction, I offer the following note from field work to illuminate this dissertation’s empirical and theoretical stakes.

Section I: *Eviction and Restitution*

On a blazing hot afternoon in October 2017, a cadre of Colombian military and police escorted a delegation of Bureau of Land Restitution officials, Land Restitution Tribunal magistrates, and local municipal officials to a sixteen-hectare plot of land located on the former *La Carolina* estate northwest of the small town of San Alberto, Cesar. Accompanying this delegation in an armored pick-up truck was the man who had relinquished his title to the property in 1992. That year—to escape San Alberto—he handed over his plot, title and usufruct rights to the Colombian Institute of Agrarian Reform (INCORA), the governmental agency that managed land parcels provisioned through agrarian reform legislation. This man had every conceivable reason to flee San Alberto. Both his father and brother-in-law were “disappeared” some months prior as they returned from work in the nearby oil palm plantation. After months of searching for the missing bodies of his father and brother-in-law, he was informed by the FARC guerrilla group’s 20th Front that he would be the next to disappear if he kept looking. Thus, he gave up his usufruct rights to the land parcel he had received only a few years prior through an agrarian redistribution program and fled San Alberto. ¹

¹ See Case: San Alberto, May 21, 2015 (Annex A: Restitution Court Case Log)

In 2015, that same man launched a petition for the restitution of his property under the auspices of Colombia's 2011 "Victims and Land Restitution Law" (the Victims' Law). The Bureau of Land Restitution accepted his petition and represented his case in front of magistrates in the specially formed Land Restitution Tribunal. The magistrates' favorable ruling—which recognized that the man sold or abandoned his property as a direct result of armed conflict—meant that he was entitled to recuperate his property rights and return to the land parcel outside San Alberto.

As I gathered with the crowd of Bureau of Land Restitution officials on that scorching afternoon in 2017, a Land Restitution Tribunal magistrate stood in front of the small concrete house on the land parcel and officiously read the tribunal's judicial order nullifying the previous transfer of the property and formally re-instating the displaced man's ownership. Now, over twenty-five years after fleeing San Alberto and leaving his plot behind, the land was his once again. From the vantage point of the Victims' Law, this was justice done: an innocent conflict victim who lost his land under duress due to armed conflict now had his property rights officially restored.

For many local landowners, including the current owner of the property in question, this was anything but just. That morning, as on many other occasions in San Alberto since the land restitution process began in 2013, dozens of people formed a barrier with their bodies and motorcycles on the nearby road to block the land restitution delegation from entering the property. As the first truck in the delegation turned off the highway onto the dirt road leading to the parcel, a group of women kneeling on the road and reciting the rosary attempted to block the procession. They were supplicating divine protection from what they saw as the godless forces aligned against them. Behind the women, dozens more shouted and held up signs decrying land

restitution as state robbery. Nonetheless, the military and police detachments escorting the land restitution delegation had little trouble clearing the road so that the convoy could pass.

Some hours later, after the land restitution magistrate concluded the title ceremony, the same police and military detachments presided over the eviction of the current landowner. They kept a close eye on the house as the current owner's remaining items—a washing machine, chairs and a table, a bedframe—were loaded onto a moving truck to be taken away.

As the eviction process unfolded, I stood next to the now-former landowner as she watched her household possessions loaded up on to the moving truck that had accompanied the Bureau of Land Restitution motorcade. For over twenty years she had lived on the property with her sons since buying it from the Colombian Institute for Agrarian Reform. They had planted nearly every hectare with industrial grade African oil palm, from which the family derived a modest monthly income. “It really hurts to see all of this go,” she solemnly said to me as she watched the last of her furniture placed into the moving truck. She was one of only a handful of landowners in San Alberto who were promised compensation for their property after the restitution process, but even then her wounds were on full display.

I wrestled with an attenuated sense of sympathy for her. Her family, like most in the area, were modest property owners and had invested heavily in a piece of land they presumed they were buying legally. And even with some degree of compensation, the land restitution process presented a significant financial shock. Throughout San Alberto and the neighboring municipalities, several other land owners had already been evicted *without* compensation in order to restitute the land parcels to previously displaced conflict victims.

My commiseration, however, was consistently held in check by the dominant discourse that she and other local landowners used to characterize displaced land claimants. That day, as in

countless other instances during my fieldwork, I heard landowners and land restitution opponents condemn land claimants as *terroristas* who were using the land restitution process to steal property as a guise to reestablish guerrilla territorial control. They echoed a well-worn yet dominant narrative: those displaced in the early 1990s were direct associates of either the FARC (Revolutionary Armed Forces) or ELN (National Liberation Army) guerilla groups. If the military or their paramilitary allies forced them from their land, it was “for something” (*fue por algo*). To abandon land did not testify to their status as innocent conflict victims, but rather to the guilt through which they brought violence upon themselves. Land restitution, from this perspective, is nothing more than a nefarious ploy to allow guerrilla forces to reclaim the land they were forced to relinquish.

Despite the pain she was feeling due to the unfolding eviction, the landowner’s denunciation of the restituted land claimant as a *guerrilla* terrorist could not be taken lightly. In San Alberto, like many parts of Colombia, accusations of being a *guerrilla* carried (and carry) significant threats of violence. The man who relinquished this property in 1992 after several of his family members were murdered had already suffered the worst vestiges of Colombia’s armed conflict. As he attempted to return to the land in 2017 through the Victims Law’s land restitution program, he faced withering accusations of guerrilla collaboration from the gathered protestors and was therefore made the subject of potential future violence.

However, the pervasive recrimination of displaced land claimants as *terroristas* represents far more than landowners’ exasperated senses of frustration at the potential loss of their property through the land restitution process. As this dissertation will show, the political framework through which many current landowners resoundingly designate displaced land claimants as guerrilla sympathizers and associates is validated through a historical understanding

of conflict and agrarian relations that is strikingly at odds with the Bureau of Land Restitution's historical narrative of violence and forced displacement.

Enframing

Far from a mere juridical matter of adjudicating property rights affected due to armed conflict, the land restitution process is a material and symbolic means of designating and cementing a particular framing of the historical causes and consequences of war in Colombia. Opposition to the land restitution process therefore takes place beyond the field of contemporary rural property relations. It also unfolds on the terrain of historical narratives of conflict used to justify and mobilize the land restitution process in the first place. Tropes of land restitution as simply "giving land back" or "restoring what was" are therefore unsurprisingly inadequate in order to approach the stakes of Colombia's currently unfolding land restitution process. Far beyond giving back or restoring property rights, land restitution is a contested process of producing novel socio-spatial relations predicated on an array of state land management schema, legal codifications of rights to land, and new state-backed economic interventions into agrarian relations of production. The new landscapes produced through the restitution process are inflected with varying perceptions of the past, how armed conflict historically unfolded, and what its enduring legacies are.

In this dissertation, I trace the complex unfolding of the Victims Law's land restitution program in the small towns of Sabana de Torres and Rionegro, Santander, and San Alberto, Cesar in Colombia's Magdalena Medio region. Throughout the Magdalena Medio, and in these towns especially, the land restitution process confronts arduous questions concerning the property rights of those who currently own land previously abandoned or sold due to armed conflict. I conducted my fieldwork largely with such current landowners who have encountered

restitution claims against their property. The Victims' Law interpellates the current owners of once presumably abandoned or stolen land through a range of legal subject positions ranging from "good faith second occupiers" to potential criminal usurpers of land. While attentive to these legal designations, I highlight the manner in which current landowners often reject their formal interpellations under the Victims' Law in order to put forth alternative identities as legitimate landowners who face unjust claims against their property.

In so doing, these landowners typically align with a conservative, agrarian elite politics of landed relations that is both highly critical of land restitution and agrarian reform writ large, and also deeply implicated in fomenting and obscuring extremely violent practices of forced displacement and land theft. At least ideologically, this places many of the landowners with whom I conducted my fieldwork on the side of Colombian politics that both stigmatizes land restitution claimants and at times directly or tacitly supports paramilitary-backed, agro-industrial usurpation of land. Their ire toward the 2011 Victims' Law was only augmented with the subsequent passage of the 2016 Peace Accords between the Colombian government and the FARC guerilla group, which they saw as further state capitulation to guerrilla demands. Yet rather than reducing these current landowners to their legal subject positions per the Victims' Law, or to mere political pawns in conservative agrarian elite opposition to land restitution, I interrogate how these would-be "bad guy" land owners (Bobrow-Strain 2007) make political and historical sense of their precarious positioning with respect to the Victims Law's land restitution program and its very real effects on their property rights.

Against this background, I approach land restitution theoretically as a contested process of "enframing" (Mitchell 1991) the historical and spatial dimensions of forced displacement in Colombia. For Mitchell, the notion of "enframing" captures modern practices of representation

predicated on the bifurcation between an ideal, representational plane and a “real” material world. It is through this bifurcation, Mitchell argues, that colonial and modern social science could project a representational “world as exhibit” as distinct from the material world to which it referred.² My focus on enframing, as I explain throughout Part I (Chapters I, II and III), elucidates how the Victims’ Law conjures armed conflict, forced displacement and land restitution as seemingly ideal representations through abstractions of state space; delineations of the constitutive “inside” and “outside” of Colombia’s armed conflict; and the positioning of certain subjects as the arbiters of the historical truth of that conflict. The Victim Law’s enframing processes, I argue, order historical legacies of forced displacement as a tightly-bounded *judicial exhibit* that is amenable to specific modes of state investigation, arbitration and intervention. In Part II (Chapters IV, V and VI) I take seriously the limits of that judicial exhibit and the oppositional politics of those whose understandings and experiences of armed conflict contradict that exhibit’s precepts.

Section II: *Memory, history and Law*

The dimensions of forced displacement the land restitution program aims to address are certainly massive. Varying estimates suggest that between two and ten million hectares of land have been violently abandoned or usurped as a direct consequence of conflict in Colombia (Peña-Huertes et al 2017:759). Forced displacement has produced staggering losses of primarily rural property, with estimates suggesting that over 40% of internally displaced people have lost ownership of occupancy rights of their land and homes (Garay, Barberi, Perry, Ramírez, and

² Mitchell is nonetheless highly critical of this bifurcation enacted through “enframing” processes in later work (2002, 2007) notes that such an “absolute gap” between the material and representational, while seemingly apparent, is nonetheless predicated on self-deception (Mitchell 2002: 300; see also Mitchell 2007)

Vargas, 2011 quoted in Gutiérrez-Sanin & Vargas 2017:744). These are the quantitative parameters of land loss that the 2011 Victims Law’s land restitution program confronts.

The Victims Law’s land restitution program is a therefore legal endeavor to amend legacies of mass atrocity. Similar to truth commissions and human rights trials, the Victims Law’s land restitution process is a “transitional justice” program designed to help facilitate the passage from enduring armed conflict to peace (Sánchez 2016). Yet the land restitution program is not a truth a commission. In the strictest sense, land restitution does not aim to create an expansive “official truth” of the history of Colombia’s armed conflict, nor establish a “collective memory” of past violence. Neither does the land restitution program constitute a human rights tribunal. Although the land restitution process unfolds through Land Restitution Courts and Tribunals, its central intention is to adjudicate civil property rights—not determine criminal responsibility for past human rights violations.³

However, by their very nature, land restitution programs (like truth commissions and human rights trials) cannot avoid delving into tense and disputed understandings of the historical causes and consequences of mass atrocity. The land restitution program is made operable with respect to an official, juridically admissible history of violence and indelibly informs the collective memory of such violence. To restitute land is to grapple with historic legacies of

³ However, truth commissions and human rights tribunals have an important presence in Colombia. Law 975 of 2005, through which many of Colombia’s paramilitary soldiers gave up their weapons in exchange for demobilization benefits, created a “Historical Memory Group” to investigate the history of armed conflict. With the passage of the Victims’ Law in 2011 (Law 1448 of 2011), this Group of scholars was recast as a fully-fledged National Center for Historic Memory, which continues to issue periodic historical investigations on specific facets of Colombia’s armed conflict. As part of the 2016 Havana Peace Accords, the Colombian government and the FARC agreed to the creation of “Truth Commission” (*Comisión de la Verdad*). This truth commission, headed by renowned Jesuit Francisco de Roux, began preliminary investigations in 2018. Law 975 of 2005’s centerpiece was the creation of a penal tribunal through which paramilitary crimes could be investigated and through which paramilitary leaders could receive reduced prison terms for their cooperation. These “Justice and Peace” (*Justicia y Paz*) Tribunals continue today. As part of the 2016 Havana Peace Accords, the Colombian government created another tribunal called the Special Peace Jurisdiction (*Jurisdicción Especial para la Paz*, or *JEP*) to try state officials, FARC guerrilla, and certain members of civil society for war crimes and crimes against humanity. The JEP began conducting trials in 2018.

violence and to broach contested questions concerning the place of “memory in the present” (Fay and James 2009: 19). In this sense, land restitution ushers in a temporal collapse. “Land” becomes the material and discursive site through which past violence is mediated in the present. By “enabling former landholders to reclaim spaces and territories which formed the basis of earlier identities and livelihoods” restitution scholars Deborah Fay and Derrick James continue, land restitution “brings the past into the present” (2009:1). As I will show throughout this dissertation, the “past” that Colombia’s land restitution program brings into the present is in fact quite murky, disputed and unresolved.

The juridical nature of Colombia’s land restitution program, furthermore, means that judges, courtrooms, and legal precepts are structurally implicated in defining the terms upon which the memories and consequences of past violence are brought into the present. As sociologist and legal theorist Barbara Misztal notes, “to a considerable extent, courts, through their inputs into deciding historical questions, form collective memory” (2001: 62). The Victims’ Law, rather than simply ameliorating legacies of violence, is directly implicated in defining the historical scope and significance of Colombia’s armed conflict and how it is collectively (and contentiously) remembered. Land Restitution Courts and Tribunals—as the judicial mediators of reparations for forced displacement—play a central role in this process. Through addressing historic legacies of human rights abuses, “the question as to whether judges make good historians” (Misztal 2001:72) is therefore one that Colombia’s land restitution program cannot avoid.

The Victims’ Law positions Land Restitution Courts and Tribunals as the arbiters of what is in fact “true” (i.e. judicially admissible) about the history of forced displacement in Colombia. This arbitration of historical truth through land restitution unfolds in a very specific manner:

namely, through the designation of the particular areas where forced displacement took place; when it unfolded; who was responsible; and, most importantly, if individual petitions for land restitution fall within the Victims Law's official construal of the history of armed conflict. Judges and magistrates in Land Restitution Court and Tribunals therefore assess individual petitions for land restitution with respect to a particular historical construction of armed conflict and forced displacement.

Of course, whether judges make good historians is certainly a matter of debate. In recognizing that question, I further recognize that I am neither jurist nor historian. In this dissertation I do not attempt to analyze the historical acumen that the Bureau of Land Restitution and the Land Restitution Courts and Tribunals muster as they attempt to parse litigious processes of "bringing the past into the present". Nor do I mean to offer any philosophical resolve concerning the relationship between judicial process and the academic discipline of history.

Rather, I follow legal theorist Mark Osiel (2008) in noting that, in practice, the problematic relation between judicial judgement and historical interpretation—especially concerning mass atrocities—is at times inextricable. Regarding prominent twentieth century criminal trials for human rights violations, he notes that "criminal law has increasingly been used in several societies with a view to teaching a particular interpretation of the country's history, one expected to have a salubrious impact on its solidarity" (2008:75). Land Restitution Courts and Tribunals are not criminal chambers (they address civil rights to property and do not directly investigate criminal culpability). They were not created, I argue, "with a view to teaching a particular interpretation of the country's history", nor have they necessarily had a "salubrious impact" on solidarity. But I take Osiel's cue in maintaining that Land Restitution Courts and Tribunals force those involved to wrestle with various and competing interpretations of

Colombia's history, especially as it relates to armed conflict. The contemporary redress of forced displacement through the restitution of property rights grapples, by necessity, with disputed historical interpretations of how and why such violence took place. Therefore, I directly contend with disputed understandings of the history of armed conflict in Colombia and how competing notions of the "past" are addressed in the present through the land restitution program. That is, the land restitution program cannot be understood apart from its capacity to channel debates concerning localized histories of armed conflict.

The relationship between violence and history in Colombia has been defined by who has the authority to interpret the root causes and consequences of armed conflict. In the years following Colombia's tectonic mid-century partisan conflict (a historical epoch spanning the late 1940s to late 1950s and now ubiquitously referred to as '*La Violencia*'), politicians and scholars intensely debated the causes and consequences of the atrocious violence that left over 200,000 people dead. Unfolding in the 1950s, these highly politicized debates, writes historian Robert Karl, fundamentally concerned who could lay authoritative claim to "History" as a scientific, objective and rigorous accounting of the past, as opposed to those who could only make recourse to the subjective, partial and illegitimate whims of "memory". That is, making sense of the horrific mid-twentieth century bloodshed between Liberal and Conservative forces hinged on whose rendering of the past gained currency as History and whose could be dismissed as mere memory (Karl 2017: 157-159).

In a certain sense, Colombia's land restitution program repeats these debates between (authoritative) "History" and (subjective) "memory". For each municipality slated for restitution, the Bureau of Land Restitution constructs a "Context Analysis Document" which details the historical progression of armed conflict in that area (see Chapter III). This document

stands as “History” in the sense that it is the only judicially admissible version of events that Land Restitution Court and Tribunal judges and magistrates may consider as they arbitrate restitution claims. Thus, the land restitution process produces a juridically sanctioned history of armed conflict that defines contemporary restitution claims’ positioning with respect to past violence. Any version of events that contradicts or deviates from this schema finds no judicial traction with Land Restitution Courts and Tribunals and may be summarily dismissed (see Chapter IV).

As such, my central concern is with whose version of “the past” the land restitution attempts to bring into the present and whose competing versions are therefore pushed aside. These concerns are particularly acute for the current owners of land in the Magdalena Medio who run the very real risk of losing their property rights so that the land in question may be restituted to its previously displaced owner or occupant. Their opposition to the land restitution program, as I will highlight most specifically in Chapters IV, V and VI, is deeply motivated by historical counter-narratives of armed conflict that challenge and reject the historical suppositions underpinning the Victim Law’s land restitution program. As a political and legal project, therefore, restituting land is not simply about bringing the “past into the present”, but about contentiously deciding which conceptions of the past enjoy juridical legitimacy and which do not.

Throughout this dissertation, therefore, I deploy the term “history” cognizant of how anthropologist Michel-Rolph Trouillot describes its “vernacular use”. For Trouillot, “history” in the vernacular sense:

[M]eans both the facts of the matter and a narrative of those facts, both “what happened” and “that which is said to have happened.” The first meaning places the emphasis on

sociohistorical process, the second on our knowledge of that process or on a story about that process.”⁴

I take Trouillot’s notion of “what happened” to refer to a certain large-scale process, such as violent forced displacement due to armed conflict; “what is said to have happened” signals the manner in which people come to understand and interpret that process from their own experiences (see Ralph 2014: 16). In the case of my field sites, “what happened” is beyond dispute: FARC and ELN guerrilla groups were present in this region since at least the 1960s and, beginning in the late 1980s and early 1990s, a concerted military-paramilitary effort formed against them. There was horrific violence. Many people died. Many people fled.

These terse sentences form perhaps the only readily agreed upon coordinates of the otherwise intensely disputed history of armed conflict in Sabana de Torres, Rionegro, and San Alberto. “What is said to have happened” is therefore comprised of dissonant voices whose narratives of violence—especially as it relates to forced displacement—are highly divergent. While forced displacement in these municipalities is undoubtedly “what happened”, the “retrospective significance” (to borrow again from Trouillot) that the Bureau of Land Restitution/Land Restitution Tribunals and current landowners ascribe to forced displacement is often defined by diametric opposition.

Trouillot is certain to mention that there is an ambiguous relationship between history’s two valences of “what happened” and “what is said to have happened” and that the boundary between them is indeed fluid. I suggest that the land restitution process aims to collapse them entirely. That is, what Land Restitution Court and Tribunals are obligated to understand as “what happened” is effectively coterminous with “that which is said to have happened” by the Bureau

⁴ Trouillot 1995: 2

of Land Restitution. When arbitrating restitution claims, Land Restitution Tribunal magistrates are only able to consider as evidence the historical narrative of violence contained in the Bureau of Land Restitution's "Context Analysis Document". Per the Victims' Law, this closed universe of historical narratives is the only one afforded traction *within* administrative and judicial land restitution proceedings.

Outside these proceedings, however, counter-historical narratives abound that seek to dissolve the Bureau of Land Restitution's monopoly on "what happened". In fact, as I will show, outside of the courtroom the Bureau of Land Restitution enjoys no such monopoly whatsoever. Differing versions of "what happened" and "that which is said to have happened" motivate deep political opposition to the land restitution program. Regardless of the Victims Law's capacity to materially reconstitute land, it is far from able to fully control the competing cacophony of historical interpretations concerning how such land was abandoned or sold in the first place.

Throughout this dissertation, therefore, I aim to elucidate the processes through which the land restitution program creates and sanctions certain historical renderings of Colombia's armed conflict, the controversies those renderings elicit, and the means by which those controversies (fail to) resolve. "Can a single, coherent narrative be written of a nation's experience of large-scale massacre (by either judges or historians)," asks Mark Osiel, "when its members must be divided into perpetrators, victims, and bystanders, each with its own perspective on what happened?" (2008:712). This dissertation answers that question in the negative. The Victims Law marshals a historical narrative of conflict that (as I explain in Chapter I) meets with stiff, conservative political opposition at the national level. At the local level (as I demonstrate in Chapters IV, V and VI) that same political opposition asserts that the Bureau of Land Restitution and the Land Restitution Tribunals "do not know the real history" of violence and forced

displacement. My aim in this dissertation is not to conclude what is in fact “the real history” of armed conflict, but rather to bring precise attention to how the land restitution program channels that very debate, and what consequences that debate portends for resolving protracted questions concerning the relationship between land and violence in Colombia.

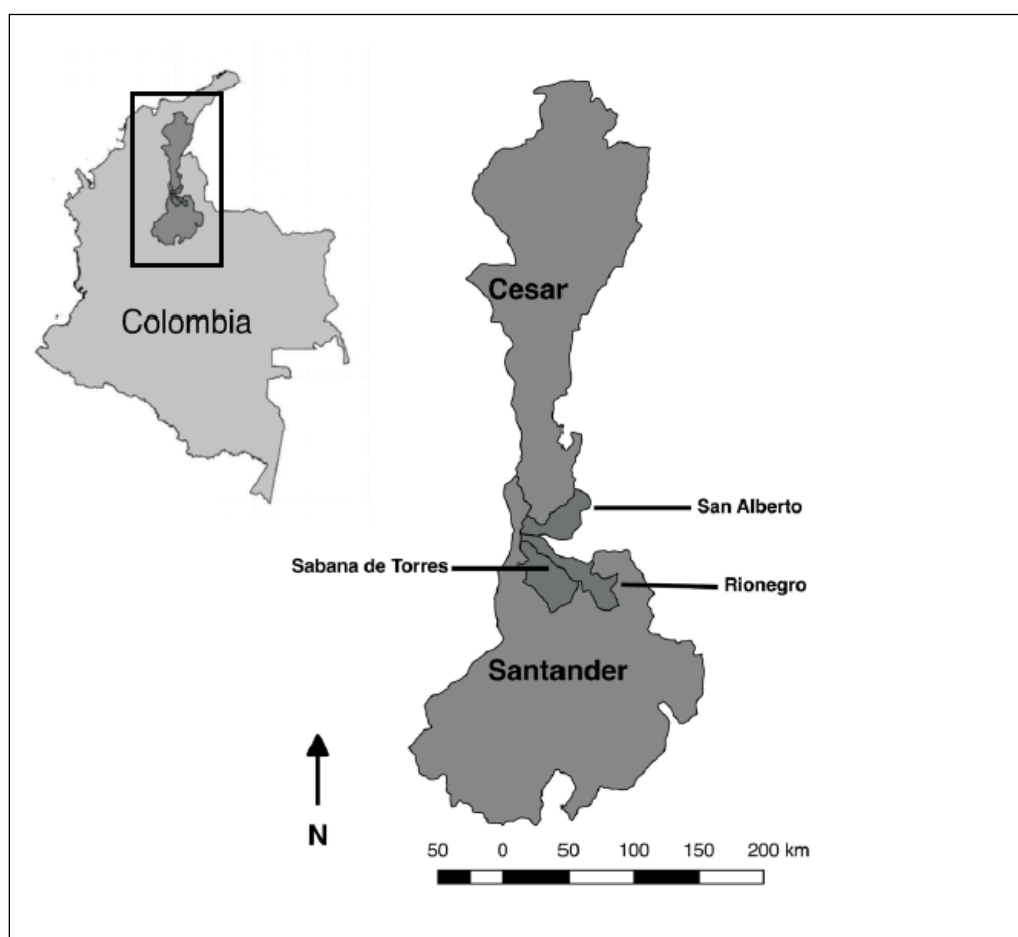
Section III: *A Note on Method and Field Sites*

To carry out this research I conducted a total of thirteen months of fieldwork in Colombia’s Magdalena Medio region over three periods: July 2015; July to August 2016; and February to November 2017. This research relies on a mixed-methods approach that integrates qualitative fieldwork with analysis of relevant Victims Law legal statutes and Land Restitution Court and Tribunal court case documents. This methodological approach is sensitive to the formal, textual renderings of law as well as the undetermined, material and embodied effects that legal processes produce in situated geographies (Unruh 2012). Analysis of the Victims Law’s particular statutes concerning land restitution, coupled with close readings of Land Restitution Court and Tribunal sentences, illuminates the particular manner through which the Victims’ Law “enframes” Colombia’s armed conflict. Fieldwork (consisting primarily of interviews and participant observation) with displaced land claimants, Bureau of Land Restitution employees, municipal officials, and land restitution opponents shows how the land restitution program’s material and symbolic dimensions flood over and complicate the Victims Law’s neatly construed judicial exhibits of forced displacement.

Court Case Analysis

Both during and after fieldwork, analysis of individual land restitution cases was central to my research. Every restitution claim brought before Land Restitution Courts and Tribunals

results in a publicly available court case document.⁵ These documents record the particular details of how displaced land claimants purport to have lost their land, how the current owner came to occupy the land, and what restitution rights the magistrates decide to warrant (if any). I analyzed the 117 cases the Land Restitution Tribunal has arbitrated in the Magdalena Medio region between 2013 and February 2019, in the contiguous municipalities of Sabana de Torres, Santander (44 cases); Rionegro, Santander (37 cases); and San Alberto, Cesar (36 cases) (See Annex A).



Map Introduction 1: Sabana de Torres, Santander; Rionegro, Santander; San Alberto, Cesar.
Map: Author

⁵ All cases are available at <https://www.restituciondetierras.gov.co/sentencias-por-departamento>. For court cases analyzed for this research, see Annex A: Restitution Court Case Log

I used these court documents to examine a number of interrelated factors pertaining to the history of armed conflict in the Magdalena Medio. From this analysis, I present the Victim Law's "official" history of armed conflict (Chapter III). In each restitution case I further analyzed the specific facets dictating the success or failure of individual restitution claims. I specifically examined when land claimants purported to have lost their land, whom they identified as the responsible party, as well as the specific modality through which the land was usurped or abandoned. Additionally, I analyzed what reasoning restitution magistrates used to decide whether a current landowner bought the land in "good faith with due diligence" (per the legal definition, explained in Chapter IV) and is therefore entitled to keep the land or receive full compensation pending a successful restitution claim against it. Relatedly, I also tracked whether or not land restitution magistrates ordered follow up criminal investigation of any of the potential illicit activity uncovered during the investigation of individual restitution petitions. Finally, I culled each court case document for the *código catastral*, or "cadastral code" of each parcel claimed for restitution. Based on this data, I was able to obtain freely available geo-spatial data from Colombia's *Augustín Codazzi* Geographic Institute, from which I constructed the maps in Chapters VI and V using QGIS software.

Fieldwork and Field sites

Beyond court case analysis, the table below details my fieldwork activities most relevant to the land restitution program (see Table I.I)

Interviews (number)	Participant Observation (number)
Bureau of Land Restitution Employees (8) (3 formal interviews, 5 informal)	Bureau of Land Restitution “Second Occupier Workshops” (2)
Displaced land claimants (6); [plus one displaced land claimants focus group with 8 participants]	Bureau of Land Restitution “Handing over” ceremonies (2)
Municipal Officials (3)	Municipal officials’ visits to restituted land claimants’ parcels (5)
Restitution opponents/defendants (21)	Site visits to properties with pending or concluded restitution claims (17)
Human Rights Activists (3)	“anti-land restitution” political meetings (2)
Third-party lawyers (4)	

Table I.I: Principle fieldwork activities, Sabana de Torres, Rionegro, San Alberto (2015-2017)

Over the course of fieldwork, I conducted three official interviews with Bureau of Land Restitution directors in the Magdalena Medio. I conducted informal interviews with an additional five Bureau of Land Restitution employees. The latter were not authorized to speak on the record about their work with the land restitution process given that all have confidentiality clauses built into their employment contracts with the Bureau of Land Restitution. Accordingly, I make no identifying references to these interview participants. Yet I specifically mention their confidentiality clauses to highlight the difficult nature of researching the land restitution process. As a legal endeavor, the land restitution program is blanketed in layers of confidentiality, meaning that many documents and procedures which would have been of great relevance to my research were officially off limits to me (see Chapter III).

I conducted a total of six individual interviews with displaced land claimants, as well as one focus group with eight displaced land claimants. While I include and examine their experiences (see Chapter IV), this dissertation is not centrally focused on displaced land claimants themselves. In one respect, this is due to the practicalities of fieldwork: locating displaced conflict victims from Sabana de Torres, Rionegro and San Alberto proved to be

exceptionally difficult—many had been displaced over twenty years ago and were presumably scattered throughout the country. The Bureau of Land Restitution, furthermore, was unable to facilitate my contact with displaced land claimants due to the sensitive nature of their legal cases.

The focus group I conducted with displaced land claimants (eight participants) was facilitated through a mutual contact working for Colombia's National Center for Historic Memory. All participants had had their restitution claims denied and had therefore been unable to return to the municipality from which they were displaced. My only interviews with restituted land claimants with "successful" petitions (five interviews, Sabana de Torres, September 2017) were facilitated through the Sabana de Torres rural development director's office. I was only able to conduct this small handful of interviews because the local director of rural development was willing to take me on site visits to the exceptionally remote parcels on which these land claimants lived outside of Sabana de Torres. I augment my ethnographic data on displaced land claimants through their publicly available testimony in Land Restitution Court and Tribunal case documents, as well as Bureau of Land Restitution media materials. Overall, however, because of the vicissitudes of forced displacement and the contentious nature of the land restitution program, displaced land claimants were exceptionally difficult to contact for research purposes.

On the other hand, land restitution opponents (especially those with restitution claims against their property) were very well-organized and present throughout Sabana de Torres, Rionegro and San Alberto. They actively welcomed my presence and research, and on multiple occasions invited me to political organizing meetings as well as site visits to their rural properties. As many told me, they were elated an international researcher had come to "tell the truth" about the horrors of the land restitution program. In all instances, I communicated that I

was neither an opponent or proponent of the restitution program, but that I was conducting research on the challenges and difficulties associated with its implementation.

I took this position fully aware that such neutrality may appear feigned or untenable. In dozens of instances, my supposed neutrality was put to the test. Landowners defending themselves against restitution claims consistently asked me to pronounce whether or not what was happening to them was indeed “just”. Answering that question, of course, would have required me to consent to their consistent stigmatization of displaced land claimants. To the best of my abilities, I communicated that I was only there to observe how the process was unfolding and that “justice” was for the Land Restitution Tribunals to decide. Most landowners profoundly distrusted the Land Restitution Tribunals so this position typically offered little reprieve. In most cases, I could simply tell landowners that I acknowledged the pain and stress they were experiencing and that I was exceptionally grateful they were willing to share their time and space with me.

The *Estudios Históricos en Redes Sociales* group of the Industrial University of Santander (or *La UIS*) located in Bucaramanga, Colombia sponsored my student visa for research during 2017. One member of that group, Elisa Martín Perez, was also conducting a socio-juridical analysis of the land restitution program for her doctoral degree and throughout fieldwork she and I consistently shared notes and conversations about our research. I was open with current landowners about my dual academic credentials: I was both a doctoral student of geography at the University of Colorado, as well as a one-year affiliate with the Industrial University of Santander. Being associated with *La UIS* provided a certain sense of local validation given that it was the most prominent regional university and one to which several current land owners had sent their children to study. It was well known, of course, that students

from *La UIS* were co-founders of the ELN guerrilla group in the 1960s and that the university had an (in)famous history of leftist political organizing. Upon telling one displaced land claimant that I was associated with *La UIS*, she (only somewhat jokingly) referred to me as an *izquierdista de mierda* (a “shitty leftist”, I suppose) before laughing and agreeing to continue with our interview. Apparently, my credentials as a tall white *gringo* (fully fluent in Spanish) were enough to trump my supposed leftist inclinations.

This woman’s sense of trepidation of “*izquierdistas*” was common amongst most of the landowners with whom I conducted field research. The majority of these landowners belonged to the Colombian Association of Victims of Land Restitution (ASOCOLVIRT), a legally constituted civil society organization formed in 2014 in order to advocate for landowners’ rights against land restitution claims. Most members of this group expressed their avid support of former rightwing president Álvaro Uribe Vélez and looked to now-Senator Maria Fernanda Cabal (a political protégé of Uribe) as their political patron. As I will explain in subsequent chapters, Senator Cabal is the land restitution program’s main political opponent and consistently reiterates tropes of land restitution as a guerrilla guise to recuperate lost territorial control. It was these current landowners, as opposed to displaced land claimants, whose presence was much more pronounced throughout my field sites. And as I show in the following chapters, it is their competing land claims that form the greatest legal and political challenges to the land restitution program in the Magdalena Medio.

I conducted the bulk of my fieldwork, therefore, with the current (or recently evicted) owners of land parcels claimed for restitution. Beyond “defendants” in the legal sense of the term (that is, landowners summoned to defend their property against a restitution claim in the Land Restitution Tribunal), these research participants almost entirely identified as restitution

“opponents” (*opositores*). That is, they opposed and critiqued the restitution program on political grounds stretching far beyond the judicial opposition they presented in front of Land Restitution Tribunals. Sabana de Torres, Rionegro and San Alberto gained national prominence in 2014 concerning the controversy arising due to these landowners’ opposition to the restitution program.

I offer detailed histories of these municipalities in Chapters II and III, but for now mention that their overall relevance as field sites is the privileged lens they offer on how the Victims’ Law has wrestled to implement the land restitution program against current landowners’ competing property rights. As of May 2019, 31% of arbitrated restitution cases nationally have concerned a property with “opposition” (that is, a property with a current owner who opposes the land claimants’ restitution petition). (Forjando Futuros 2019). This 31% figure, of course, is subject to change and only represents the cases that have appeared in front of Land Restitution Tribunals to date. It cannot be taken to represent that only 31% of land stolen or abandoned due to conflict in Colombia is currently occupied. To wit, nearly 90% of the restitution claims across Sabana de Torres, Rionegro and San Alberto concern an owned or occupied (as opposed to abandoned property), which means these municipalities offer exceptionally vivid sites from which to understand how the Victims’ Law has addressed the challenges and controversies associated with restituting land that is currently owned and occupied by others.

Section IV: *Plan of the present work*

This dissertation is divided into two main parts. Part I and Part II each have their own introductory section which situates the following chapters with respect to relevant literature and theoretical framings. Part I (Chapters I, II and III) illuminates how the Victims’ Law works to

“enframe” (Mitchell 1991) forced displacement in Colombia as a judicial exhibit. Part I broadly concerns how the Victims’ Law defines the historical scope and consequences of armed conflict, and how it positions certain subjects as the arbiters of the historical truth of forced displacement. Throughout Part I, therefore, I detail how this historical narrative is sanctioned and produced (Chapters I and III), as well as the telling silences contained within this historical account (Chapter II).

Part II (Chapters IV, V, and VI) elucidates the contentious manner through which that historical narrative is sutured into the material practice of land restitution. In Part II, I focus on the continued unfolding of the Victims’ Law land restitution program in Sabana de Torres, Rionegro and San Alberto. I illustrate how the Victims Law’s legal precepts were designed to confront entrenched patterns of industrial-scale, paramilitary-backed “land grabbing”. I then highlight the ensuing controversies that arise when these powerful legal mechanisms are trained upon much smaller land owners with much more ambiguous connections to armed groups (Chapter IV). Next, I demonstrate how the Victims Law’s carefully crafted “enframing” of armed conflict is unable to settle disputes concerning the historical causes and consequences of armed conflict (Chapter V), nor cement a readily agreed upon understanding of the current “restituted landscape” (Chapter VI).

Across this dissertation, therefore, I show how forced displacement is both rendered a judicial exhibit, and how the grounded complexities of land restitution spill over, confound, challenge and rework that judicial rendering. In so doing, I underline the indeterminacy that I see as fundamentally constitutive of the Victims Law’s land restitution program. That is, through the land restitution program an array of state apparatus and organizations work to investigate land parcels sold or abandoned due to armed conflict and to materially reconstitute the conflict victims

who were forced to abandon and relinquish their property. Yet even when the full bore of governmental institutions is mobilized to carry out this process (including court officials, administrative employees, local municipal representatives, and the police and military) the overall significance of these actions remains subject to intense and on-going debate. Under the purview of the Victims' Law, the Bureau of Land Restitution and the Land Restitution Courts and Tribunals may be able to decide whose property claims are legitimate (and therefore who stays on the land and who is potentially evicted). But how those interventions are given historical and political bearing—how they are made sense of within the crushing tumult of Colombia's armed conflict—extends far beyond what the Victims' Law and its institutional representatives can control.

PART I: ENFRAMING FORCED DISPLACEMENT

Introduction

Colombia's land restitution program is not simply mobilized against an objective, readily agreed upon armed conflict that exists "out there" in the rural corners far flung from Bogotá's legislative halls. Rather, the land restitution program constructs a particular version of the armed conflict that it purports to address. This is especially evident concerning the Victims' Law definition of the temporal dimensions of Colombia's armed conflict, that conflict's relationship to land, and who counts as a proper arbiter of conflict's particular historical details. The causes, consequences and significance of Colombia's continuing armed conflict are the subject of intense debate. These debates, as I will show in Chapter I, defined the tumultuous years between 2008 and 2011 during which the Victims' Law coalesced in Colombia's congress. Despite these unresolved tensions and debates, however, in 2011 the Victims' Law cemented a particular framework to define armed conflict's temporal scope, root causes, and victims. This was no neutral endeavor. Yet stemming from this legislative process, the Victim Law's land restitution program came to frame and characterize the very armed conflict it set out to confront.

The manner in which the Victims' Law circumscribed Colombia's armed conflict was, and continues to be, controversial. At root, however, this circumscription process orders armed conflict and forced displacement within a spatial and temporal framework that makes them subject to specific governmental intervention. In this sense, The Victims' Law renders forced displacement as a *judicial exhibit* that may be transparently investigated, arbitrated and ameliorated through the land restitution process. To circumscribe forced displacement as a

judicial exhibit requires the precise (re)definition of forced displacement as a particular human rights violation, as well as the spatio-temporal bounding of when those violations occurred and where. Along with these processes of judicial demarcation are specific provisions that delineate who may investigate and produce valid (i.e. judicially admissible) knowledge concerning forced displacement, and under what circumstances.

Following Timothy Mitchell (1991), I therefore approach land restitution as a contested process of “enframing” the spatio-temporal dimensions of Colombia’s armed conflict. This enframing work is central to the land restitution program on several interrelated fronts. Specifically, it defines: The Victims Law’s temporal scope (1991-2021); who is a legitimate subject of land restitution rights (and who is not); the geography of where restitution proceedings may take place (and where they may not); and, perhaps most importantly, whose portrayal of the armed conflict’s history is afforded judicial recognition and whose is not. Cumulatively, these particular aspects construe the unruly chaos of Colombia’s armed conflict in a manner meant to both justify and facilitate the implementation of the land restitution process.

Analyzing the Victims’ Law through an “enframing” focus draws attention to the political work the land restitution program does in producing abstractions of state space; the constitutive “inside and outside” of Colombia’s armed conflict; as well as the endeavors through which the historical “truth” of armed conflict is made known. Rather than focusing on what the land restitution program aims to “restore” or “give back”, an enframing focus draws precise attention to the novel socio-spatial relations produced through land restitution. These new relations unfold through Victims Law’s enframing of the spaces of Colombia’s armed conflict and the subsequent modes of governmental intervention into property relations that land restitution makes possible.

Timothy Mitchell employs the notion of enframing to elucidate the particular epistemic lens through which colonial Europe came to materially order and representationally depict Egypt in the 19th century. “The colonial process would try and re-order Egypt as a world enframed,” he writes. “Egypt was to be ordered up as something object-like. In other words, it was to be made picture-like and legible, rendered available to political and economic calculation” (Mitchell 1991: 33). The capacity to enframe obeyed a particular colonial disposition through which an ostensibly objective, observing subject could come to truly and clearly know an “outside” world based on the representations (literature, paintings, exhibits, museums, etc.) of that world. The “concrete and bricks” of colonial urban planning, domestic architecture design, and observation schema of built environments were taken to reflect a metaphysical order Europeans sought to uncover through colonial endeavors throughout Africa (Myers 1998). That colonial Europeans came to enframe Egypt in particular ways stems from what Mitchell details as a much larger “world-as-exhibition” disposition through which purportedly objective modern subjects could come to see, know and demystify ‘external reality’ as if it were itself a carefully curated museum or exhibit (Mitchell 1991: 94).

To be sure, Mitchell develops his theory of “enframing” to illuminate specific modes of power-knowledge that defined European colonial encounters of the 19th century. Admittedly, I am not working in that context. My aim is not, like Mitchell’s, to uncover the epistemic lens a historically situated group of people used to make sense their colonial encounters. Rather, I refer to Mitchell’s notion of enframing because it provides a set of useful parameters for thinking through how Colombia’s land restitution program representationally orders space, jurisdictionally defines its scope of intervention, and produces the historical truth of the very armed conflict it aims to confront.

Toward this end, in this Introduction to Part I, I consider how a number of scholars have sought to illuminate the spatial implications of Mitchell's enframing theory. A small body of geographic scholarship has drawn on Mitchell's notion of enframing in order to detail what Matthew Sparke calls the "the nation-enframing effects of spatial abstraction" (1998:488). Informed by Henri Lefebvre's (1991) writings on *abstract space*, this line of scholarship considers how interrelated facets of law and cartography are mobilized to "enframe" abstract space (Gregory 1994:383-387; Sparke 1998, 2005; Blomley 2003; Painter 2008). More specifically, this scholarship concerns how the abstract space of the state is created and ordered through what Mitchell identifies as "enframing" practices.

I draw on this scholarship to detail how the Victims' Law legal and spatial parameters work to enframe the abstract space of the Colombian state vis-à-vis forced displacement and land restitution. These enframing processes unfold through the Victims' Law land restitution process in highly specific ways. The first concerns how the Victims' Law circumscribes armed conflict and forced displacement with jurisdictional bounds. The second relates to the demarcation of the land parcels eligible for restitution through a particular grammar of state-sanctioned property relations. Accompanying these facets of spatial enframing are interrelated temporal enframing processes through which the Victims' Law delimits Colombia's armed conflict within a particular timeframe (spanning from 1991 to 2021). Additionally, the Victims' Law also positions certain state subjects (Bureau of Land Restitution Employees and Land Restitution Tribunal magistrates) as the arbiters of the historical truth of armed conflict in Colombia. They become, in Mitchell's terms, the centrally positioned "observers" of forced displacement rendered as judicial exhibition.

In the following sections, I unpack the three interrelated, constitutive elements of enframing that Mitchell identifies (abstract spatial production, boundary delineation, and subject placement), along with some of the ways “enframing” has been taken up within geographic scholarship. Throughout, I offer preliminary observations on the enframing work that land restitution does in Colombia.

Section I: *Enframing and the Production of Abstract (State) Space*

Mitchell explains that “Enframing is a method of dividing up and containing... which operates by conjuring up a neutral surface or volume called ‘space’.” These methods subsequently “introduce space as something apparently abstract and neutral, a series of inert frames or containers” (Mitchell 1991:45). The production of a bounded and apparently neutral space is a decisive step in constructing a certain “order” through which an ostensibly neutral zone or spatial unit of intervention is contained from an outside. Mitchell describes this enframing of space through the 19th century colonial use of military barracks along the Nile river in order—in Foucault’s terms—to construct abstract, disciplinary spaces through which the Egyptian population could be surveilled and ordered.⁶ As Matthew Sparke comments, “enframing” in this colonial context “operated through discourses and disciplinary practices (such as town planning and military-barrack building) that systematically consolidated the idea of an abstract space underpinning the organization of social life” (2003: 379).

The Victims’ Law also mobilizes varying enframing practices of producing and ordering bounded, abstract spatial units. Through the land restitution program, the Victims’ Law founds a certain abstract space through which social relations become organized in highly particular ways. This spatial enframing sets the land restitution program’s geographic parameters; establishes the

⁶ From a post-foundationalist perspective, it is precisely around these practices of ordering that the discursive “effect” of the state as a transcendent entity is produced (Mitchell 1991b; Sparke 2005; Brenner and Elden 2009).

jurisdictional grid through which the Bureau of Land Restitution and Land Restitution Tribunals order and investigate forced displacement; and delineates the types of land ownership and occupancy patterns eligible for restitution.

First, the Victims' Law renders forced displacement a matter of jurisdictional concern. That is, it circumscribes the abstract jurisdictional spaces through which forced displacement becomes a matter of bureaucratic and judicial intervention. These legal jurisdictions, which signal the "crystallization of socio-spatial practices...[that] serve to classify what class of laws apply to what class of legal subjects" (D'Arcus 2014: 83) in turn crystallize the spatial extent of forced displacement within state-sanctioned parameters. To date, the Bureau of Land Restitution has created seventeen "Macro-Zones" through which the political territory of Colombia is divided in order to determine the jurisdictional scope of regional Bureau of Land Restitution offices. Through this administrative carving up of Colombia's national territory into "macro zones" the Bureau of Land Restitution conjures the abstract spaces through which the land restitution program is instituted.

These "macro-zones", in turn, contain the bureaucratic infrastructure through which the land restitution program is implemented. That is, each "macro zone" is assigned a number of regional Bureau of Land Restitution offices that receive and analyze displaced persons' restitution petitions. Restitution petitions in the "Magdalena Medio" macro-zone, for example, are handled by three Bureau of Land Restitution offices located in Bucaramanga, Santander, Barrancabermeja, Santander, and Aguachica, Cesar. The Magdalena Medio macro-zone encompasses the entirety of the department (state) of Santander, as well as portions of Bolívar, Norte de Santander, Antioquia, Boyacá and Cesar departments as well (see Map Part I.I).



Map Part I. I Bureau of Land Restitution “Macro Zones” (Magdalena Medio “Macro Zone” highlighted). **Source:** Bureau of Land Restitution Map Portal (<https://www.restituciondetierras.gov.co/portal-de-mapas>)

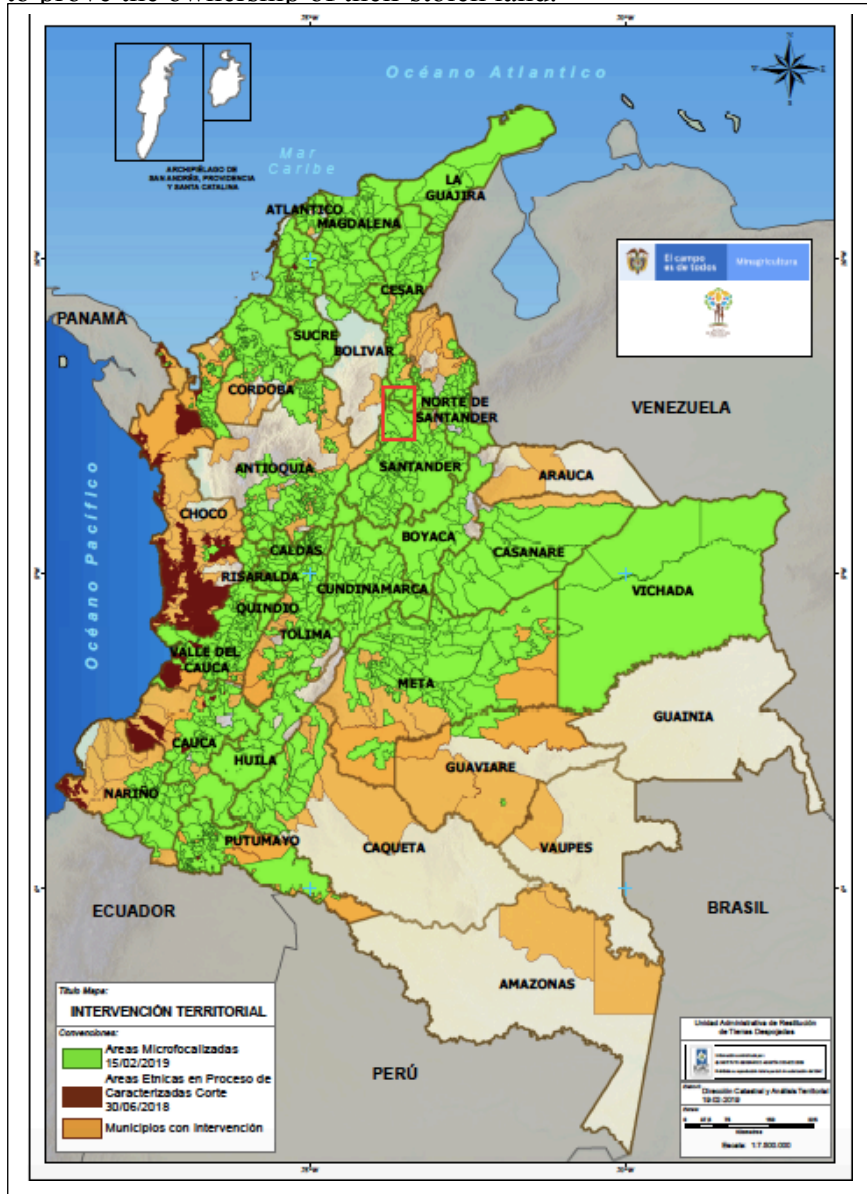
Most of these “macro zones” cut at critical angles against departmental boundaries, conglomerating chunks and pieces of Colombian state territory into new jurisdictional units.

Each one of these seventeen “macro zone” jurisdictions constituted through the Victims’ Law represents the bureaucratic delineation of forced displacement as an object of state concern.

Within these “macro zones”, the Bureau of Land Restitution designates even smaller “micro zones” that specify the particular municipalities where land restitution proceedings may begin. These “micro-zones” tend to encompass specific municipalities, rural hamlets, or other spatial units that the Bureau of Land Restitution deems eligible for restitution proceedings. This dissertation, for example, focuses on the Magdalena Medio “macro zone”, with specific attention paid to the Sabana de Torres, Rionegro and San Alberto “micro-zones” contained therein. These three “micro zones” were the first areas of intervention in the Magdalena Medio macro zone, which partially influenced my decision to choose them as field work sites to investigate the land restitution process. Only land lying within designated “micro zones” is eligible for restitution claims.

As Map Part I.II (next page) shows there are currently significant patches which the Land Restitution Bureau has not been “micro-focalized”, nor placed under initial investigative interventions to determine if it will be “micro-focalized” in the future. Large chunks of Bolívar department, for example, have not been “micro-focalized” and therefore lie outside of the Bureau of Land Restitution’s jurisdictional sphere. This is not to say that forced displacement did not occur in this area, however. The Serranía de San Lucas mountain range in Bolívar was long an ELN and FARC stronghold, and was then subject to an intense paramilitary onslaught under the Central Bolívar Block of the AUC beginning in the late 1990s. Forced displacement was rampant. Over the course of fieldwork, I met a former priest from the region who was bringing dozens of restitution claims to Bureau offices in Bucaramanga. Each folder tucked under his arms contained the story of one of his former parishioners, the horrific violence they faced at the

hands of the guerrillas, paramilitaries, state forces (or all three), as well as their title documents to prove the ownership of their stolen land.



Map Part I. II Bureau of Land Restitution “Micro Zones” **Source:** Bureau of Land Restitution Map Portal (<https://www.restituciondetierras.gov.co/portal-de-mapas>) This map shows individual municipalities’ political boundary lines. Municipalities in green are “micro-zones”, within whose boundaries property is eligible for restitution proceedings. Brown and orange regions are currently being studied for future inclusion as “micro-zones”. As of January 15, 2019, properties lying in non-shaded areas are ineligible for restitution proceedings. The Bureau does not readily provide information why these areas are currently excluded, nor when/if they will be eventually designated as “micro-zones”.

Regardless of the heart-wrenching stories contained within each folder, the Bureau's answer was always the same: nothing could be done because the area was not "micro focalized". Answers concerning when or if that might occur were equally blunt: we don't know. "People were terrified and sold their lands" he told me. "In 1998, the paramilitaries came to force *la guerrilla* out, which created an awful problem because the *paras* could say that anyone was a guerrilla collaborator." Thus, the impetus to flee was widespread. "Now I try to help all of these people get their land back, but the [Bureau] tells me that Sur de Bolívar is not '*micro-focalizado*' and we don't have any idea how long until it will be."⁷

What determines whether a specific area will be "micro-focalized" is opaque. Interviews with Bureau of Land Restitution employees noted that these combinations obey a number of interrelated factors including the potential density of restitution claims, the area's current security conditions, as well as the administrative capacity of the Bureau of Land Restitution to dedicate time, office space, and employees to the region.⁸ More importantly, the Bureau of Land Restitution's capacity to demarcate these "macro zone" and "micro zone" jurisdictional units inscribes state power to meld the effects of forced displacement into highly specified bureaucratic containers. It is through these bureaucratic delineations of jurisdictional units that the abstract space of the state is enframed through the land restitution process.

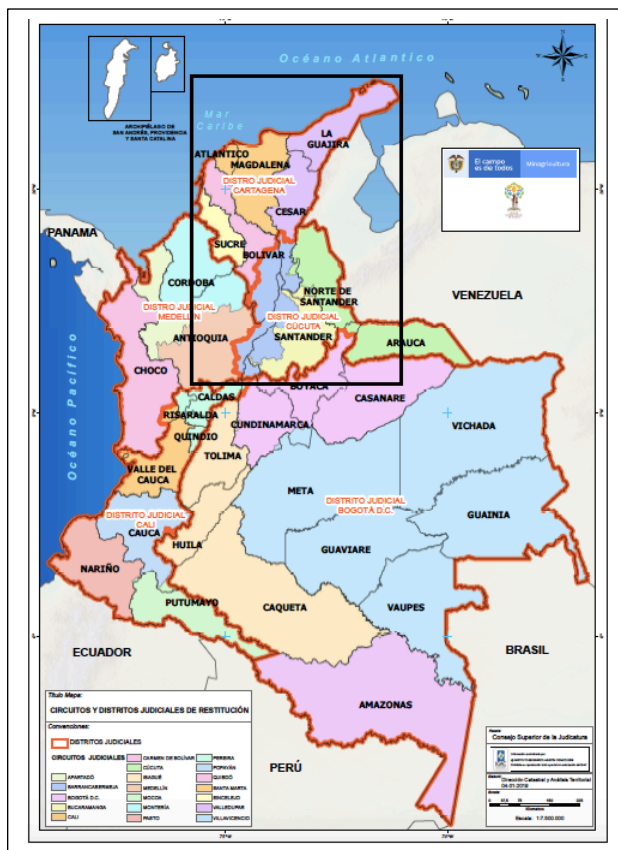
This spatial enframing work continues through an additional layer of state intervention, namely through the Land Restitution Tribunals. As I explain in Chapter III, Bureau of Land Restitution offices initially receive and vet potential land restitution claims, before forwarding them to Land Restitution Courts and Tribunals that ultimately decide restitution rights. Each Bureau of Land Restitution "macro zone" is therefore also placed under the purview of a group

⁷ Interview, Bucaramanga, March 26, 2017

⁸ Interview, Bogotá, 2017 (former Bureau of Land Restitution employee)

of Land Restitution Courts and Tribunals located throughout the country. Once the Bureau of Land Restitution determines that a displaced person’s restitution claim has merit under the Victims Law’s purviews, it passes the petition on to the Restitution Court or Tribunal assigned to that particular “macro-zone”.⁹ Judges and magistrates in Land Restitution Courts and Tribunals ultimately decide whether or not to award restitution rights.

The Land Restitution Tribunals that arbitrate restitution claims for the Magdalena Medio “macro zone” are located in the cities of Cartagena, Bolívar (Distrito Judicial Cartagena) and Cúcuta, Norte de Santander (Distrito Judicial Cúcuta) (see Map Part I.III).



Map Part I. III Land Restitution Tribunal Judicial Circuits (Cartagena and Cúcuta Judicial Circuits highlighted) Land Restitution Tribunals in located in either Cartagena, Bolívar (Distrito Judicial

⁹ This difference between “courts” and “tribunals” is important to mention. Land Restitution Courts concern restitution claims over abandoned property. In these courts, a single judge presides over the case. Because the property is abandoned, there are no parties with opposing ownership rights. Land Restitution Tribunals, on the other hand, arbitrate cases concerning owned/occupied parcels over which there are competing property claims. In these tribunals, a panel of three magistrates (as opposed to one judge) decides the case.

Cartagena) or Cúcuta, Norte de Santander (Distrito Judicial Cúcuta) arbitrate restitution claims in the Magdalena Medio when the current owner of the property disputes the claimants' restitution petition. Land Restitution Courts in either Bucaramanga, Santander or Barrancabermeja, Santander arbitrate restitution claims over non-disputed, abandoned property which does not have a current owner (**Source:** Bureau of Land Restitution Map Portal (<https://www.restituciondetierras.gov.co/portal-de-mapas>))

These tribunal sites, however, are not located within the jurisdictional bounds of the “Magdalena Medio” macro-zone itself. It is unclear why these cities were designated to arbitrate restitution cases in the Magdalena Medio. Fieldwork interviews with Bureau of Land Restitution officials unfortunately offered little insight on this point.

The Land Restitution Tribunals' locations do have important impacts, however. Across interviews with landowners in Santander and Cesar summoned to defend their property against a restitution claim, they recounted to me the significant financial costs they assumed in simply getting to the Land Restitution Tribunals. Cartagena, Bolívar (the location of one the Land Restitution Tribunals that arbitrates a significant portion of the restitution claims in the Magdalena Medio) was at least a 10-hour bus ride away. When land restitution defendants (i.e. those defending their current property against a restitution claim) assembled witnesses to testify on their behalf, they bore all the monetary costs of providing transport to the Land Restitution Tribunal locations. This typically included covering expenses for food and hotels as well. In the eyes of many land restitution defendants, the staggering distance between their land parcels and the Land Restitution Tribunals belied the Victims Law's nefarious purposes. As one land restitution defendant from San Alberto, Cesar explained to me:

Look at how the Bureau of Land Restitution drains us. First, in the administrative phase, I had to bring all of my witnesses to Barrancabermeja [2 hours southwest of San Alberto by bus]. From Barrancabermeja, the Bureau then sent us to Valledupar [6 hours north of San Alberto by bus]. And now I have to go to the Land Restitution Tribunal in Cartagena! [10 hours north of San Alberto by bus]. Why do I have to travel so much? Because the Bureau wants us to go broke! You know what it costs to pay for four, five, six, even seven people to travel to Barrancabermeja? To pay two or three nights in a hotel for each? Paying them for the time they take off of work? And then to have to do the same thing for Valledupar and Cartagena? Places where hotels don't come cheap, at least 50,000 pesos [approximately \$16 USD] a night? This is not any accident. The Bureau wants to drain all

of our money because they know a *campesino* like me with only 20 or 25 hectares of land cannot afford to defend himself.¹⁰

On top of these economic hardships, land restitution defendants often saw the Tribunal's distance as a reflection of the land restitution program's historical ineptitude. That is, (as I explain in greater detail in Chapter III), land restitution defendants cast Bureau officials and Tribunal magistrates' physical distance from the parcels in question as undeniable proof that they cannot possibly know the *real* history of armed conflict and forced displacement in the region. For them, the Bureau and Tribunals' investigations are armchair history at best, and a malfeasant process of historical manipulation at worst.

These landowners' critiques of the Land Restitution Tribunals' geographic distance, however, offer them little reprieve. The Tribunals demand their presence, and they are left with little option but to participate at great financial expense. In so doing, the Land Restitution Tribunals' placement does important work to further enframe the abstract space of the Colombian state. That a Land Restitution Tribunal can arbitrate restitution claims from any point—regardless of the location of the land parcel in question—belies with Matthew Sparke calls the courtroom's "normalized abstract space". This abstract space underpins "a modern Western concept of justice applying equally everywhere within the abstract space of the state" (Sparke 2005: 15). In theory, legal arbitration is seamless throughout the abstract space of the state. Land restitution defendants who have to travel great distances to far flung Land Restitution Tribunals at significant financial cost experience this "state-space-abstracting violence" (Sparke 2005: 16) first hand. Thus, the Victims Law's spatial enframing is two-fold: the particular, highly delineated jurisdictions of "macro zones" and "micro zones" are melded into an abstract,

¹⁰ Interview, Bucaramanga, July 18, 2017

universal legal geography whereby Land Restitution Tribunals may arbitrate restitution claims regardless of the land's specific location.

The violent turmoil of Colombia's armed conflict, however, hardly unfolded along the neat jurisdictional boundaries created through the Victims' Law. Nonetheless, through the Victims Law's spatial enframing practices forced displacement is grafted onto a jurisdictional grid that situates it within the abstract, bounded units of state-sanctioned "macro" and "micro" zones, as well as the "normalized abstract space" of the Land Restitution Courts and Tribunals. This spatial enframing, in turn, renders forced displacement a discrete object of bureaucratic and juridical concern that can be addressed within the abstract administrative-jurisdictional confines of the Colombian state. In this way, the Victims' Law enframes forced displacement as a spatial problem amenable to bureaucratic and judicial forms of state intervention through the land restitution process.

The Victims' Law spatial enframing further unfolds at the level of individual land parcels as well. Specifically, the Victims' Law validates certain land ownership and occupancy patterns as eligible for restitution rights, while excluding others. *Propietarios*, the owners of private property who abandoned or sold their land/houses due to armed conflict are the first defined subjects of restitution rights. The Victims' Law also guarantees *poseedores* and *explotadoras de baldios*' restitution rights (Article 75). These latter two categories refer to people with usufruct land rights derived from Colombian agrarian reform programs. Specifically, *poseedores* have usufruct rights to previously private or state-owned lands that were titled to them through state-backed agrarian redistribution programs, typically under the auspices of Law 135 of 1961. Relatedly, *explotadoras de baldios* are people in the process of occupying public land in order to receive usufruct title per agrarian reform legislation, but who have yet to complete the process

(and who were accordingly unable to complete the formal process before being displaced from the land due to armed conflict). Additionally, through the Victim Law's Decrees 4633 and 4635, indigenous and Afro-descendant communities are respectively eligible to petition for restitution rights over collective territories they abandoned due to armed conflict.

Within this overall framework, *tenedores*, or those who rented land, are excluded from seeking restitution rights.¹¹ What is most important to highlight in this context, however, is that the forms of land eligible for restitution (private parcels, agrarian reform plots, and ethnic collective territories) are all spatial units with prior state recognition. These are, in Mitchell's terms, the abstract spatial containers (re)enframed through the restitution process. Unlike Colombia's landmark Law 70 of 1993 which recognized collective Afro-descendent territories as a *newly* state-validated form of land occupancy, the Victims' Law only recognizes land plots *already* legible to the registers of state-spatial grammar. Through land restitution, no novel forms of land ownership, occupancy, or distribution are created. As such, the Victims' Law grafts both forced displacement as well as land restitution proceedings onto already existing state-validated spatial abstractions of discrete private property units, agrarian reform parcels, or ethnic collective territories.

This enframing work has direct implications for the restitution program's spatial interventions. As agrarian scholar Jacobo Grajales writes, Colombia's land restitution program "primarily benefits people who already had access to modalities of rights protection and who were already, in some sense, 'clients' of the state." He continues, therefore, that "institutions and

¹¹ An exceptionally controversial cases of "tenedores" concerns Las Pavas estate in Southern, Bolívar province. Paramilitaries displaced hundreds of families living on the abandoned estate in 2003. In 2018, the Land Restitution Tribunal denied the families' restitution petition, deeming them mere "tenedores" (essentially renters) who made no actual property claims to the land while they were occupying it (Verdad Abierta 2018a).

bureaucracies are more likely to ‘see’ those who correspond to the image of individual peasant entrepreneurs enjoying legal property over a determined plot” (Grajales 2016: 1307).

Unfortunately, it is difficult to determine with precision if restitution claims over private plots are disproportionately successful compared to claims over usufruct agrarian reform parcels which may lack formal title. This is because the Bureau of Land Restitution does not publicly disclose which restitution claims it rejects and those which it chooses to forward to Land Restitution Courts and Tribunals. Nonetheless, the restitution process serves to reinforce the spatial abstractions of state property delineation schema by only making previously recognized forms of ownership and occupancy eligible for restitution. In this way, the Victims Law’s land restitution program re-inscribes the abstract space of the nation-state and attempts to bend, meld and suture the unruly pangs of forced displacement into clearly delineated frames of state legibility.

This spatial enframing through land restitution also seeks to address rampant informality and corruption in rural land holdings throughout Colombia. Given this context of informality and corruption concerning rural land holdings, I maintain that the land restitution program is partially motivated by what Joe Painter, drawing on Derek Gregory (1994), terms “Cartographic anxiety”. Timothy Mitchell deploys the notion of “enframing” to interrogate how 19th Europeans made sense of their colonial encounters of Egypt—that is, how they brought Egypt into a realm of legibility. Joe Painter extends the explicitly spatial undercurrents of this enframing encounter through the notion of “cartographic anxiety”, which he describes as “the desire to make geographical space legible...the desire to render social space objectively mappable, and thus visible and knowable” (Painter 2008: 351). While maps are certainly central to this scheme, he notes that such “a cartographic impulse may be at work whether an actual map is produced or

not.” (Painter 2008: 346). For Colombia’s Victims’ Law, this “desire to make geographical space legible” hinges on addressing the informal and potentially corrupt panorama cloaking rural property relations. To bring land under the fold of the Bureau of Land Restitution and the Land Restitution Tribunal is to subject it to significant governmental investigation, intervention and oversight. In this way, the Victims’ Law is both motivated by and seeks to quell the cartographic anxiety produced through intertwined contexts of forced displacement, informality, and corruption.

Armed conflict and forced displacement form a focal point through which the shallowness or questionable legitimacy of “state presence” in rural Colombia is brought into sharp relief, especially with respect to land title and ownership. This questionable legitimacy stems from two-interrelated sources: high rates of informal land tenure that belie the limited capacity of state institutions to regulate land ownership, transfer and taxation through formal title; as well as endemic legacies of (primarily paramilitary) control and manipulation of state land regulating agencies and processes. Paramilitaries and their political associates’ co-optation and corruption of local land registries, agrarian reform offices, and municipal governments calls into question the legitimacy of the people and formal title documents claiming to represent the “state” in many parts of Colombia most devastated by armed conflict (Ballvé 2012; Grajales 2016; Reyes Posada 2016; Peña Huertes et al 2017). It is not so much that the state has “failed” or is “absent”, but that many parts of Colombia are constituted through “political ensembles that straddle the imagined insides and outsides of formally recognized state structures” (Ballvé 2018: 11).

If modern states, as Raymond Craib writes, have the primary obligation “to account for and regulate landed property and control over the space of the state”, then missing land titles,

indeterminate borders and patchy cadastral data--not to mention political corruption in their management--contribute to schema of "proprietary opacity" that render land as a "fugitive" element that escapes the fixating grasp and vision of state institutions (2004:2).¹² These plots point to the fundamental state concern with formal land title: "The state is interested in the formalisation of landownership because *it is essential for its own existence*," writes Colombian agrarian-legal scholar Sergio Latorre. "By formalising the relationship of ownership" he continues, "the state can collect taxes from monies on land, consolidate and organize its territory and control the access and movement of its citizens" (2015:1558 emphasis).

The Victims' Law land restitution process is, in part, a direct response to the panorama of informality and corruption cloaking the possession and occupancy of land in large swaths of rural Colombia. Specifically, the Victims' Law's land restitution process is one of the most concerted effort that Colombian state institutions have taken to clarify and sanitize schema of rural land ownership and occupancy in light of systemic forced displacement. These processes are, further, a means of asserting the notion that some semblance of the "Colombian state" exists in areas where state institutions were once unable to prevent forced displacement or were even complicit in precipitating it. In a rousing defense of the Victims' Law nearly five years after its passage, President Juan Manuel Santos (whose administration passed the law in 2011) defiantly stated:

This law is justice. It is no longer the paramilitary or guerrilla commanders who decide who owns the land. *Now it is the judges of the Republic who make those decisions.*

¹² Military institutions fret over these fugitive landscapes given inadequate cartographic and land registry systems' contribution to "organized criminality" in Colombia, as if political violence were principally a function of a lack of state presence that allows armed actors to wage war from the shadows (Demarest 2003:ix). Humanitarian organizations further perceive continued patterns of informality or illegitimacy surrounding land title as obstacles to provide both emergency and relocation assistance to displaced populations (Elhawary 2007). Running through these military and humanitarian concerns is an additional sense of anxiety, articulated most famously by Hernando de Soto, that without formal, clean property title, vicious cycles of poverty will remain unbroken. While there is much to critique of de Soto's gospel of formalization, it is one (as I will show in Chapter I) that profoundly influences state economic imperatives underlying the Victims' Law's focus on property formalization.

No one is above the law. Some want to pretend they are, but they are not. This is a law of the Nation (El País 2016, emphasis added).

His statement is an overt acknowledgement that the Victims Law's land restitution project aims to revert the arbitration of land ownership squarely back into the judicial hands of the Republic, fully recognizing that guerrillas or paramilitaries once had such power in many areas. To a degree, the land restitution process is a discrete attempt to rework a legal and political geography of "the state" that has in certain places and times been intricately constructed through overt modes of "non-state actor" violence, especially that of paramilitary forces (Ballvé 2012).

Any parcel subject to a land restitution claim goes through an extensive investigation process to determine if there were irregularities in its sale or transfer stemming from armed conflict. Once a parcel has passed through arbitration in Land Restitution Courts or Tribunals, its new title documents bear a stamp declaring that the piece of land has been vetted by the restitution process. In this sense, the plot's "proprietary opacity" has been sanitized and the state's cartographic anxiety ostensibly reduced. Through directly confronting informality and corruption in land title, the Victims' Law seeks to make legible otherwise "fugitive" or contaminated markers of state territorial presence. It is a process of enframing, therefore, driven by the cartographic anxiety to "corral complex nomad spatialities into coherent and mappable territorial configurations" (Painter 2008: 356).

The land restitution process, however, concerns far more than the contemporary distribution and visibility of land parcels ostensibly affected by armed conflict. The Victims' Law defines and characterizes the history of that very conflict in highly significant ways. Thus, in the following two sections I look beyond how the Victims' Law enframes the abstract space of the land restitution process in order to consider how it simultaneously enframes the history of Colombia's armed conflict.

Section II: *Enframing the “inside” and “outside”*

Intermeshed with enframing's division, containment and production of the “abstract space” of the state is its delineation of an inside from an outside. As Mitchell explains, enframing “works by determining a fixed distinction between outside and inside” (1991: 55) as a constitutive ordering process. The bifurcation between an “inside” and “outside” was a central facet of the “world-as-exhibition” ordering lens through which the European colonial encounter unfolded. Whether in downtown London or Cairo, Mitchell writes, “the European expected to find an order in the form of an unambiguous line which, like the gates of the exhibition or the cover of a book, separates what is inside from what is outside” (1991:56). The enframing process of “inside-outside” bifurcation, Derek Gregory continues, puts “in place an inside and an outside, a center and a margin [in order to see] the world as a differentiated, integrated, hierarchically ordered *whole*” (1994:36). This binary separation between an “inside” and “outside” is arbitrary and works to obscure interrelatedness and co-dependence amongst elements in order to construct an imagined bifurcation that nonetheless constitutes an ordered whole.¹³

In a parallel fashion, the Victims' Law enacts concerted processes of “inside-outside” bifurcation to enframe Colombia's armed conflict and the scope of the restitution program. The most readily apparent aspect of this “inside-outside” delineation is perhaps the already mentioned creation of “macro” and “micro” zones that determine which pieces of abandoned and stolen land lie “inside” the Victim Law's purview, and which do not. Alongside this jurisdictional framing lies the separation of specific types of land ownership and occupancy

¹³ This bifurcation nonetheless has powerful and very real effects. This boundary enframing is readily apparent, for example, through the manner in which markets create a formalized “inside” of the capitalist economy along with attendant efforts to bring non-formalized wealth and assets from the markets' “outside” under its purview through titling and other formalization processes (Mitchell 2005; 2007).

patterns eligible for restitution (private parcels, agrarian reform plots, and collective territories) from those deemed non-eligible (i.e. rented parcels). That is, the Victims' Law enframes the spatial inside and outside of Colombia's armed conflict for the purpose of defining the geographic extent of the land restitution program's jurisdictional units.

Underpinning this spatial enframing, however, are powerful mechanisms of temporal enframing that further condition the "inside-outside" parameters of armed conflict and land restitution. Forced displacement was rampant in the extreme mid-century partisan Liberal-Conservative violence that devastated Colombia from the mid-1940s to late-1950s. Later, with the nascent narco-trafficker and paramilitary onslaught against guerrilla groups in the 1980s forced displacement again emerged as a massive and systematic phenomenon. However, the Victims' Law specifies that only land sold or abandoned due to conflict on or after January 1st, 1991 is eligible for restitution. Any parcels or collective holdings sold or abandoned prior to 1991 are therefore excluded from the restitution program.

I explain the specific logics and debates concerning this 1991 cut-off date in greater detail in Chapter I. For now, I mention the 1991 cut-off date to highlight the enframing the Victims' Law enacts as a constitutive method of inscribing a temporally ordered "inside" and "outside" of Colombia's armed conflict. This temporal bounding extends to the future as well. The Victims' Law land restitution program sunsets in 2021 (ten years after the law's passage). All land lying within the "macro" and "micro" zones will be subsequently immune from restitution petitions. The Victims' Law thus designates 1991 to 2021 as the temporally enframed "inside" of the restitution program's scope. To lose land due to armed conflict "outside" of these temporal bounds is to also lose restitution rights to reclaim it.

Forced displacement was certainly a facet of Colombia's armed conflict prior to 1991 and continued turmoil suggests it will not cease along with the restitution program's 2021 sunset date. The Victim Law's temporal framing of forced displacement bounds the problem in order to create a timeframe (1991-2021) in which the Colombian state can claim to have addressed its effects. Central to the Victim Law's capacity to address forced displacement, however, is the capacity to place certain vestiges of violence on a temporally enframed "outside" where they sit beyond land restitution program's purview. Thus, the Victim Law's enframing of armed conflict does not just meld forced displacement to the abstract spatial "grids" (Blomley 2003) of state jurisdictional units. It also compresses it into a temporal container whose tightly defined "inside" and "outside" abstractly suture forced displacement onto a state-sanctioned timeline.

Section III: *Enframing the Knowing Subject*

Finally, along with the production of abstract space and the associated division of a (temporal) "inside" and "outside", enframing situates a subject who can observe, decipher and comprehend that which has been enframed. Enframing's third aspect, Mitchell writes, is thus "the way it provides a place from which the individual can observe." He continues that these "techniques of enframing, of fixing an interior and exterior, and of positioning the observing subject, are what create an appearance of order" (1991:59-60). For Mitchell, these subjects were 19th European tourists, explorers and businessmen who ventured to Egypt to observe and investigate it as one more piece in their colonial "world-as-exhibition" imaginative framework. Enframing, as a particular Western mode of seeing, continues Nicholas Blomley, serves "to present the world as set before and logically prior to a disembodied viewer" (2003:127).

Who does the Victims' Law enframe an observing subject, and what semblance of an enframed "order" of armed conflict are they able to observe and derive from their participation in

the land restitution program? In answering that question, I aim to show that land restitution's spatial and temporal enframing of armed conflict is also imbricated in highly contested processes of producing a particular "historical truth" about that conflict. This specific historical narrative of conflict, as I will show in Chapter III, is produced through Bureau of Land Restitution officials' pain-staking and in-depth field research in the "micro-zones" slated for restitution. Through an array of ethnographic fieldwork methods—coupled with archival investigation and mapping exercises—these Bureau officials seek to re-construct the precise patterns of forced displacement that took place as a result of armed conflict. Through this process, they are enframed as the state-sponsored observing subjects equipped to investigate and determine the minute details of forced displacement. By this I mean to suggest that the restitution process, in Mitchell's terms, enframes "a place from which the individual can observe" the apparent external history and reality of Colombia's armed conflict.

As I further explain in Chapter III, Bureau of Land Restitution officials' historical investigations result in a confidential "Context Analysis Document", which provides the juridically admissible historical record of forced displacement for magistrates in Land Restitution Tribunals to consider as they arbitrate restitution cases. The Land Restitution Court and Tribunals' sentences form a corpus of documentation that reveals the juridically sanctioned history of forced displacement in each "micro-zone". Combined, the Bureau of Land Restitution's Context Analysis Documents and the Land Restitution Tribunals court-case corpus constitute the Victim Law's "official" historical account of forced displacement. Bureau of Land Restitution officials and Land Restitution Tribunal magistrates are thus enframed as "observing subjects" in the land restitution program. They are therefore those who—through the Victims Law's epistemic lens—define the historical details of Colombia's armed conflict. These

simultaneously enframed and enframing subjects actively construct a particular historical narrative of violence and forced displacement. As I will show in more detail in Chapter III, this narrative not only forms the backdrop against which potential land claimants' restitution petitions are evaluated. It also works to invalidate, discard, and preclude the oppositional historical narratives that land restitution opponents mobilize to delegitimize the Victims' Law.

In many ways the Victims' Law works to place oppositional historical narratives and accounts of violence on the constitutive "outside" of the restitution program. That is, the Victims' Law sanctions the Bureau of Land Restitution/Land Restitution Tribunals' (admissible) historical framing of violence and forced displacement in particular "micro zones". Against this historical rendering, land restitution opponents mobilize oppositional historical framings of forced displacement in the Magdalena Medio to contest the restitution process (which I detail in-depth in Part II of this dissertation). However, land restitution opponents' means of contestation are largely reduced to the Tribunal's parameters. That is, they must present evidence of landownership at the court's behest and in accordance with the court's evidentiary dictates. For land restitution opponents, this means that their oppositional historical framings of conflict (which largely seek to cast the land restitution program as a guerrilla ploy to recuperate lost territory) enjoy no validation or recognition within land restitution proceedings. The Victims' Law's enframing power in this sense is its capacity to render oppositional historical narratives "outside" the scope of the law, and thus as an invalid means of contestation.

To further elucidate the implications of Victim Law's contested processes of historical enframing, I turn to insights from Matthew Sparke's (2005) accounting of modern cartography's capacity of nation-state enframing. In so doing, I do not mean to reduce land restitution to a cartographic process (even if, as I detail in subsequent chapters, the land restitution program can

be “mapped” in specific ways). Rather, I draw on these cartographic parallels to dissect how the Victims’ Law arbitrates competing historical narratives of Colombia’s armed conflict, validating some as judicially admissible while deeming others to be “inaccurate”.

Stemming from Mitchell’s formulation, Matthew Sparke (1998,2005) posits that ordering through spatial abstraction is a constitutive enframing element of nation-states, especially through the deployment of modern cartography. Taking up Henri Lefebvre’s (1991) notion of “abstract space”—a seemingly homogenous, empty, decorporealized and calculable encounter, conception and experience of space—Sparke shows how modern cartographic processes are instrumental in the production of nation-states as spatial abstractions. Sparke’s use of post-foundationalist state theory therefore pries open cartographic representations of nation-states to show them as processes through which “the abstract space around which this unstable complex of the state effect coheres” (2005:11). In this sense, cartography works to enframe nation-states as a hegemonic, all-encompassing entities capable of co-opting, erasing and silencing alternative historical narratives and their spatial formulations.

He situates his analysis, like Timothy Mitchell, in a (neo)colonial context, with specific attention on the cartographic interfaces between the Canadian state and First Nations groups. Extending Lefebvre’s insights on the production of “abstract space” Sparke argues that cartographic processes are at the cornerstone of producing abstractly construed (state) space. The 1993 state-funded *Historical Atlas of Canada*, for example, compiled and acknowledged an array of First Nations’ cartographic expressions of their historical migration routes, territorial claims and land use practices. Even though these were all maps that cut across and challenged the geographic specificity of the colonial/neo-colonial Canadian state, the *Historical Atlas of Canada*, Sparke argues, was able to co-opt and suture them into a teleological narrative that

ultimately positioned these counter-cartographies as expressions of the multi-cultural roots that constitute the modern Canadian State. The production of the *Historical Atlas of Canada* thus served “to enframe the modern Canadian state through the disciplined objectification of native peoples as part of the nation’s naturally non-American landscape” (Sparke 2005: 43). This “disciplined objectification” positioned the *Historical Atlas of Canada’s* authors as the cartographic arbiters of the history of the state and thus capable of co-opting First Nations’ counter-cartographies.

In other instances, specifically courtroom disputes between the Gitxsan and Wet’suwet’en nations, and the provincial government of British Columbia and the Canadian federal government, Sparke illustrates how only those maps that cohere with the Canadian state’s cartographic precepts—and that pose no challenge to the historical myth of Canada’s founding as a nation-state—are afforded judicial legitimacy. As such, Gitxsan and Wet’suwet’en maps that sought to give expression to their historical geographies—even using modern cartographic conventions—were dismissed by the courts as “inaccurate” and “ungeographical” (Sparke 2005: 49). Within the bounds of the Canadian nation-state, only certain cartographies could lay claim to historical and spatial veracity.

The maps in question are spatial and temporal, as they make claims about Canada as a modern nation-state as well as the histories of human activity that both pre-dated and challenged the spatial abstraction that is cartographic Canada. That indigenous cartographies were in these instances either co-opted or dismissed, Sparke concludes, shows that “the abstract effect of the state and the territorial hegemony on which it is secured are thus flatly presented as admitting no alternatives” (2005:21). The instances Sparke points to here show the capacity of nation-states to (re)affirm themselves through differentially validating or discarding claims to history through

cartography. The enframing of abstract space is co-constituted with the positioning of an observing subject (Canadian judges in this instance) who arbitrate which cartographies count as “geographical” and those which do not.

This conclusion draws a helpful set of parallel considerations for analyzing the Victim Law’s historical enframing practices. Like the judges in *Gitksan and Wet’suwet’en* case, magistrates in Land Restitution Tribunals must arbitrate competing claims to land (typically between the displaced land claimants and current property owners). In turn, they validate certain historical claims as judicially admissible, while tacitly rendering others as invalid or inaccurate. These competing claims to land rest upon competing historical perceptions of armed conflict. As I will show in Part II of this dissertation (Chapters IV, V and VI), landowners in the Magdalena Medio defending their properties against restitution claims in Land Restitution Tribunals often assert that the Bureau of Land Restitution has an inadequate, flawed, or highly partial understanding of the specific historical details of armed conflict in the region. As I show most specifically in Chapter IV, they deploy a counter-historical narrative that resoundingly stigmatizes state agrarian interventions as communist, guerrilla ploys to destroy private property holdings.

While these oppositional narratives enjoy substantial political clout and diffusion throughout the Magdalena Medio, the Land Restitution Tribunal rejects them out of hand. When Senator María Fernanda Cabal—the land restitution program’s most ardent political opponent—refers to the land restitution as a “governmental farce” that forms part of a leftist conspiracy to restore land rights to armed guerrilla sympathizers (Vanguardia Liberal 2018), she is indexing a deeply held set of historical beliefs that cast redistributive governmental interventions in agrarian property relations as guerrilla ploys to usurp land. This narrative mobilizes significant political

opposition against the Victims' Law and the land restitution program's interventions into rural property relations. However, it is also a narrative that the Victims' Law places on the constitutive "outside" of Colombia's armed conflict, and thus dismisses it as an invalid means of contestation against the land restitution process. Therefore, the Bureau of Land Restitution officials and Land Restitution Tribunal magistrates—positioned as the enframed, observing subjects of Colombia's armed conflict—mediate which historical accounts of violence merit inclusion within the Victims Law's constitutive "inside" and which accounts are juridically relegated to the "outside".

Given the above, two guiding considerations thus inform my approach to Colombia's land restitution program through an "enframing" theoretical lens. The first is somewhat descriptive of "Law" itself. That is, legal programs must make an order—define a problem—as a precondition of their intervention. In this sense, there is nothing odd about the Victims Law's creation of specific jurisdictional units nor its delineation of a timeline of intervention. Mitchell's notion of enframing helps illuminate the philosophical underpinnings of these spatial and temporal orderings. Secondly, however, I want to suggest that this ordering is much more than the simple logistical work necessary to make land restitution a viable political and legal project. Rather, this enframing work shapes the very conflict that the land restitution program sets out to address. That is, the Victims Law renders forced displacement, and thus armed conflict in Colombia writ large, as a specific judicial exhibit. The land restitution program is far more than a mere legal "response" to armed conflict. The program orders and creates knowledge about that very conflict. Land restitution thus entails much more than arbitrating present day property rights. It is also very much about arbitrating the "historical truth" of Colombia's armed conflict.

Drawing on Timothy Mitchells tripartite conception of enframing, I have sought to tease out: 1) how the Victims' Law enframes abstract conceptions of state space by grafting forced displacement onto a jurisdictional grid and an already existing state-grammar of property relations; 2) defines a boundary between the spatio-temporal "inside" and "outside" of Colombia's armed conflict; and 3) sanctions Bureau of Land Restitution employees and Land Restitution Tribunal magistrates as observing subjects able to arbitrate the historical truth of forced displacement. Cumulatively, these are interrelated processes of making land and histories of armed conflict legible and amenable to state intervention. These processes, in turn, underpin the enframing of the abstract space of the Colombian state by rendering armed conflict, forced displacement, and land restitution commensurate with state spatial and temporal dictates. I explore these enframing practices in greater detail in the following three chapters.

Chapter I concerns the legislative process unfolding between 2008 and 2011 through which the Victims' Law was formed. I focus on two particular debates from this period and how they bear upon the construction of the armed conflict the law purportedly sets out to address. The first concerns the Victims' Law official recognition of armed conflict. The Santos administration's (2010-2018) "official" recognition of armed conflict through the 2011 Victims' met with stiff political opposition from former president Uribe and his conservative block who has consistently denied the existence of armed conflict in Colombia. The Victims Law's controversial official recognition of armed conflict enframed the Colombian state as an entity both with an attenuated sense of responsibility to make amends for violence and one with the moral and legal authority to intervene in property relations affected due to armed conflict. The second debate from this period concerns the Victims Law's establishment of a 1991 cut-off date to determine the temporal scope under which parcels would be eligible for restitution.

Cumulatively, the legislative debates I detail in Chapter I point to the manner in which the Victims' Law sought to enframe the Colombian state vis-à-vis forced displacement and thus legitimate the interventions into rural property relations that the land restitution program presupposes.

Chapter II departs from the abstract legislative debates in Bogotá's congressional halls in order to provide a grounded history of armed conflict and forced displacement in Sabana de Torres, Rionegro and San Alberto. In this chapter, I detail the evolution of agrarian relations in these municipalities and how those relations texture and have been textured by armed conflict. I analyze these intertwined histories of agrarian change and armed conflict in order to detail the existing property relations the Land Restitution Bureau confronted in the municipalities when it began initial operations between in 2012 and 2013.

Chapter III analyzes how Bureau of Land Restitution officials, as the observing subjects of Colombia's enframed armed conflict, investigated the history of forced displacement in Sabana de Torres, Rionegro and San Alberto. I draw attention to the manner in which the Victims' Law affords their historical investigations judicial legitimacy. That is, these historical investigations come to serve as juridically admissible evidence in front of judges and magistrates in Land Restitution Courts and Tribunals. Drawing on land restitution court cases, I detail the particular historical narrative of forced displacement these legal processes substantiate. I conclude by comparing this historical narrative with that presented in Chapter II in order to show how the Bureau of Land Restitution presents a streamlined "human rights narrative" (Tate 2007) of armed conflict that identifies individual victims and perpetrators yet largely overlooks structural questions of the political economy of land and its relationship to patterns of armed conflict.

Cumulatively, then, the three chapters of Part I show how the Victims' Law enframes forced displacement as an object of governmental intervention through rendering armed conflict as a tightly delineated judicial exhibit. This enframing of armed conflict as a judicial exhibit serves to make forced displacement legible as a focus of juridical concern, but does so through a highly specific historical rendering of the causes and consequences of Colombia's armed conflict. As I show in Part II (Chapters IV, V and VI) that highly specific rendering serves to juridically invalidate oppositional landowners' contesting claims to historical knowledge of forced displacement in Sabana de Torres, Rionegro and San Alberto.

CHAPTER I: CRAFTING CONFLICT, CRAFTING LAND

Introduction

The Victims' Law's land restitution process aims to restore material property rights over an estimated six-million hectares of land that were abandoned or sold under duress due to conflict (Restrepo & Bernal 2014). Through restitution, the Victims' Law seeks to discursively and materially link relink land to the Colombian body politic. That is, the land restitution process is oriented toward sanctioning specific state territorial formations in which once stolen or abandoned land can be understood as now existing under the protective purview of state institutions. In this sense, land restitution "enframes" the abstract space of the state (Sparke 2005) through seeking to suture land stolen or abandoned due to armed conflict back into the representational purview of state institutions.

The Victims Law's enframing of the abstract space of the state through land restitution hinges on several interrelated processes. Specifically, these processes concern how the Victims' Law defines both "land" as an object of restitution as well as the "internal armed conflict" that gave rise to forced displacement. Therefore, in this chapter I considered the particular ideal representations of "land" and "armed conflict" that Colombia's congress put forth in order to foment these processes of state territorial enframing through the Victims' Law. These are the preliminary, discursive steps the Victims' Law takes in enframing forced displacement in terms amenable to an abstract, representational judicial exhibit. Concerning "armed conflict", the Victims Law—against significant opposition—officially recognizes that an internal armed conflict actually exists in Colombia, and that this conflict is structurally implicated with forced displacement. Concerning "land", I maintain that the Victims' Law sanctions a tripartite framing of land as:

- 1) A structural facet of Colombia's armed conflict
- 2) The preferred medium for rectifying human rights violations under Colombia's commitments to international human rights norms
- 3) A privileged site of spurring rural economic development through particular modes of "peaceful" agrarian production

Through analyzing these three facets, in this chapter I examine how land is assembled as an object available for restitution in the wake of forced displacement. Whereas Tanya Li (2014) asks how "land" is assembled as a locus of global investment within the global land rush, I focus on the Colombian context to ask parallel questions about how land is assembled and made available as an object of restitution in the wake of forced displacement. That is, what political work goes into making land a bounded entity that may be properly "given back" to those who were violently displaced from it? And how does this process of making land available for restitution serve state obligations for human rights protection and economic development? In answering these questions, I show that through sanctioning specific forms of state intervention into property rights through land restitution, the Victims' Law works to enframe the abstract space of the state by rendering "land" what Mitchell might call a "neutral surface or volume" (1991:44). That is, the Victims' Law produces land as seemingly transparent, knowable, and orderable object of analysis and control for state administrative and judicial bodies (namely the Bureau of Land Restitution and the Land Restitution Courts and Tribunals).

To illuminate this enframing of abstract state space through land restitution, I dissect the legislative process unfolding between 2008 and 2011 through which Colombia's national congress passed the 2011 Victims' Law. In particular, I focus on the legislative debates concerning the Victims' Law's ambitious land restitution program, especially the "official" the relationship between land and armed conflict that Victims' Law sanctions. I argue that Victims

Law's official framing of armed conflict casts land restitution as a *necessary* state spatial intervention. I do so under the premise that land restitution is not a self-evident step in addressing forced displacement. As myriad brutal histories of violent displacement and accumulation of land consistently show, the impetus to return land often remains hopelessly buried under the detritus of dispossession. The political project of land restitution is, therefore, a highly contingent process that hinges on particular understandings of how and why forced displacement has occurred and whether or not restituting land is an apt means of achieving certain symbolic and material ends of statecraft.

Land restitution does not just mobilize a particular conception of "land", however, but also a specific version of the history of armed conflict that caused such land to be abandoned or stolen in the first place. In Colombia, as I will show in Section I, crafting this "headline history of dispossession" (Walker 2008) was premised on officially acknowledging that an armed conflict actually exists in the first place and that this conflict had specific effects on land holdings patterns throughout the country. The particular manner in which the Victims' Law recognizes and crafts the history of Colombia's armed conflict works to further enframe the abstract space of the state. This enframing work, as I detailed in the introduction, defines the temporal boundaries that determine which land may be claimed for restitution and which land may not. The power to inscribe these temporal boundaries—to define the temporally constitutive "inside" and "outside" of Colombia's armed conflict— tentatively re-affirms state capacity to enframe Colombia's armed conflict within a state-created timeline of political violence. This process, as I will show throughout this chapter, was certainly contentious but nonetheless underpinned state capacity to—however imperfectly—delineate forced displacement within temporal boundaries that serve state land restitution goals.

Of course, the Victims Law's official recognition of armed conflict and its structural links to land faced (and continues to face) significant political opposition from those who posit different framings of the historical causes and consequences of Colombia's conflict. Throughout this chapter, therefore, I also highlight the prime oppositional political narratives mobilized against the land restitution project as the Victims' Law navigated passage in congress between 2008 and 2011. Specifically, I detail the extent to which oppositional figures portrayed violence in Colombia not in terms of political conflict but in terms of "narco-terrorism." I focus particularly on interventions made by former president Álvaro Uribe Vélez (2002-2010), whose current *Centro Democrático* party stands as the Victims Law's main political opponent. This oppositional framing attempts to sideline questions of juridical commitments to human rights protection as well as questions concerning the political economy of land concentration and its links to forced displacement. Framing conflict in terms of terrorism casts state obligations to victims in terms of humanitarian solidarity as opposed to human rights-based obligations to provide redress. It furthermore occludes consideration of land restitution as a form of human rights protection while simultaneously siphoning off consideration of pernicious patterns of unequal and concentrated land ownership.

In the next section, I provide theoretical framing for thinking about land's indeterminate political ontology. In the subsequent sections, I then detail how the Victims' Law mobilizes land as 1) a structural facet of Colombia's armed conflict; 2) a prism of state responsibility for human rights protection; and 3) a site of specific forms of economic intervention.

Section I: *Assembling land for Restitution*

Tanya Li's deceptively simple question of "what is land?" (2014) belies deep complexity concerning the multiple ways "land" may be understood across varying political projects. Land

escapes reduction to a neutral entity with a pre-given, universal meaning. Rather, its significance is produced through sustained social and political processes that endeavor to make land appear to have a specific character. Even once a set of criteria have been established for demarcating a piece of “land” (along with attendant schema of boundary making, ownership, occupation and use) there is still work to be done. This is because even the same bounded and inscribed tract of land may still be discursively and materially rendered in competing ways. These competing constructions can, for example, range from land a site of market-oriented transnational agricultural investment to land as a place of local, rights-based forms of cultural production (McMichael 2014). These disparate and at times competing discursive conceptualizations and material arrangements of land are always the product of sustained social practices. “Land”, then, may take on varying ontological identities as a commodity, a site of cultural rooting, or an ecological preserve (just to name but a few examples).

In the context of restitution, land’s supposed solidity is in fact an illusion. As social relations over land change and evolve, land too “moves, stretches and evaporates” (Verdery 1994: 1073) in conjunction with the fluidity of social dynamics. Schema of bounding, delineating and using land are not predetermined nor neutral, and land displays what Katherine Verdery deems a certain form of “elasticity” as it responds to new social and political realities under restitution programs. That is, land’s specific political ontology is never an intrinsically *a priori* fact, despite efforts to make it appear as such.

The particular ontological character attributed to land—what land *is*—is rather the product of an “assemblage of materials, relations, technologies that have to be pulled together and made to align” (Li 2014: 589). It is only through assembling an array of people, institutions, relationships, epistemologies and practices that something akin to “land” can be made intelligible

as a material entity available for a specific purpose. This is especially true when thinking about land as *property*, i.e. land as a bounded, alienable, discrete commodity that can be owned, sold or invested in. To make land “investible”, Tanya Li continues, requires a whole range of discourses, epistemic tools, technicians and material practices through which land is rendered as a means of financial investment. These processes are often accompanied by political violence through which land is rendered “available” as site of extraction— “a condition” Gago and Mezzadra write, “that is in no way *natural*” (2017: 577). Because these assemblages are not natural nor predetermined—and are always subject to the contingencies of temporal flux (Li 2017) —it is always possible to arrange the land in question in entirely different ways.

A primary step for arranging “land” as an object of restitution is the often-contested process of situating it within a particular history of (violent) displacement. As a political project, land restitution unfolds through what Cheryl Walker, sociologist and former member of South Africa’s Commission on Restitution of Land Rights, refers to as a “headline history of dispossession” (2008: 39) through which land was stolen, abandoned or sold under duress. This “headline history of dispossession” stands as the overarching narrative of violence and forced displacement used to mobilize governmental land restitution projects. “Headline histories of dispossession” used to sanction land restitution programs include racialized regimes of land theft, as in South Africa (Hall 2004; Walker 2008); the imperative to address horrific patterns of ethnic cleansing, such as in the former Yugoslavia (Williams 2006; Sivic-Bryant 2016); or the revocation of collectivization schemes to restore private property rights, as in many eastern European post-socialist contexts (Verdery 1994).

Under Colombia’s 2011 Victims Law, this “headline history of dispossession” is premised on an official acknowledgement that an armed conflict actually exists in the first place

and that this conflict had specific effects on land holdings patterns throughout the country. This work is predicated on discursive portrayals of both “land” and “armed conflict” that make land restitution intelligible as an apt and necessary political response to forced displacement. As I will show in the next section, the discursive melding of “land” and “armed conflict” necessary to craft Colombia’s “headline history of dispossession” traversed highly contentious terrain.

Section II: *Crafting Conflict*

Law 1448 of 2011 “The Victims’ and Land Restitution Law: *Through which attention, assistance and integral reparation measures are dictated for victims of internal armed conflict*”

At first blush, the full title of “Victims’ Law” highlighted above is verbose yet direct. It clearly states that the law intends to provide reparations to victims of Colombia’s internal armed conflict. Nevertheless, the inclusion of the last three words of the title, “internal armed conflict”, belies a deep political fissure concerning how legacies of violence in Colombia ought to be acknowledged and addressed. Colombia’s national government, through including the three words “internal armed conflict” within the Victims’ Law in 2011, officially acknowledged that such a conflict actually exists. This official recognition—apparently redundant given the undeniable magnitude of violence that has riveted Colombia over the past decades—in fact traverses deeply fraught political territory.

Beginning in 2008, the piece of legislation that would eventually be passed over three years later as the “Victims’ and Land Restitution Law” (Victims’ Law) was subject to intense debate. However, “the first big debate” writes senator Juan Fernando Cristo, “was the very title of the law because the government refused to incorporate the concept of ‘armed conflict’” (Cristo 2012: 74). When Cristo, a stalwart senator of Colombia’s traditional Liberal Party, first pushed for a victims’ reparation bill in 2008 he did so against the strong headwinds of the deeply conservative presidential administration of Álvaro Uribe Vélez (2002-2010). From the outset,

passing a victims' reparations bill would be an oppositional political project. Deep disagreement over official recognition of an "internal armed conflict" was central to that opposition.

In his political memoir entitled *War for the Victims (La Guerra por las Víctimas)*, Senator Cristo explains that he first introduced a victims' reparations bill in 2008 out of a sense of righteous indignation. In 2004 in downtown Bogotá, Ramón Isaza, Salvatore Mancuso and Iván Roberto Duque addressed an admiring crowd of Colombia's senators and representatives in the national congressional building. As the heads of Colombia's most powerful paramilitary organization, the three men were in Bogotá to tout and receive praise for their heroic "anti-subversive" deeds in light of concurrent paramilitary-demobilization negotiations being held with the Uribe presidential administration. They did not mention their grizzly history of forced displacement, massacres and forced disappearances during the political theatrics.

While a range of politicians expressed their profound discontent with paramilitary presence in the "cathedral of democracy where the majesty of the Republic resides" (to use Iván Roberto Duque's words), President Uribe nonetheless defended their speeches as an act of good faith with respect to the unfolding demobilization talks (Faciolince 2004).

In 2007, Senator Cristo invited dozens of victims from across the country to travel to Bogotá to give testimony in front of congressional representatives. Yet whereas the paramilitary leaders addressed a lauding audience, the conflict victims found most of the chairs empty. That congressional leaders had shown such deference to paramilitary warlords and such disdain towards their victims, Cristo writes, served as his impetus for sponsoring a reparations bill that would recognize and address the untold suffering of millions of Colombians. From the outset, therefore, victim reparations legislation would be steeped in a moral discourse that stingingly

rebuked governmental neglect of conflict victims and deference to paramilitary warlords.¹⁴

Colombian victims' organizations in turn played a decisive role in bringing a reparations project to congressional attention (Coronado 2019: 9).

Additionally, an array in international organizations including the UN High Commission on Human Rights, the Inter-American Commission on Human Rights, the International Center for Transitional Justice and the Washington Office on Latin American Affairs immediately supported the project. By 2008, Colombia's status as international pariah, especially due to the unfolding "false positives" scandal in which the military systematically assassinated thousands of civilians to present them as guerrillas killed in combat, was taking a toll. Free trade agreement negotiations with the USA and EU had stalled due to Colombia's human rights record.¹⁵ By 2009, the country was due to come under the full purview of the International Criminal Court after having ratified the Rome Statutes in 2002. Thus, Colombia's horrid human rights record was set for even further international scrutiny. A victims' reparations law might therefore offer significant political dividends on the international stage (Peré 2017:123-124; Cardona-Fox 2019).

As of 2007-2008, Colombia's legal environment was also increasingly amenable to conflict reparations, especially land restitution. The Colombian Constitutional Court's 2004 denouncement of forced displacement as an "unconstitutional state of affairs" gave land restitution a high degree of domestic judicial legitimacy (T-025/2004). In 2007, Colombia's

¹⁴ This ethical stance parallels what restitution scholar Elazar Barkan refers to as the "moral economy of restitution", which reflects an ascendant tendency of governmental willingness "to admit to unjust and discriminatory past policies and to negotiate terms for restitution or reparation with their victims based more on moral considerations than on power politics" (2000: 317).

¹⁵ Six months after the Victims Law's passage, Colombia and the United States signed a free trade agreement in 2012. Many observers credited the Victims' Law with effectively "de-freezing" the trade talks, which had been stalled for several years prior. "Santos' support of human rights clearly paid off by accelerating the passage of Colombia's free trade agreements with the US and Europe" (Cardona-Fox 2019: 167).

Constitutional Court issued another landmark ruling (Ruling 821 of 2007) that established the restitution of property as a fundamental right to which displaced persons are entitled. In this same ruling, the Constitutional Court integrated the non-binding 2005 United Nations Guiding Principles on Housing and Property Restitution for Internally Displaced Persons and Refugees (commonly known as the Pinheiro Principles) into Colombian domestic legislation, thus giving them legal efficacy. While this 2007 constitutional court ruling did not establish a specific restitution program, it nonetheless sanctioned property restitution as both a constitutional and human right for Colombians displaced due to armed conflict. Cumulatively, these court rulings—especially ruling 821 of 2007—firmly established forced displacement as a central human rights concern, and offered a solid juridical foundation upon which Cristo’s victims’ reparations bill could be introduced.

Yet as Senator Cristo’s reparations bill began to coalesce in 2008, the Uribe administration’s opposition to any official recognition of “internal armed conflict” was so intense that the bill’s sponsors dropped any reference to the phrase and eventually settled on the generic title “Attention and Reparation to Victims of Violence”. They were thus forced to omit any reference to “internal armed conflict” within the overall legislative text. This further required a depoliticized designation of “victims of violence” as opposed to “victims of human rights violations and violations of international humanitarian law”. The Uribe administration even reproached the Inter-American Commission of Human Rights’ use of the phrase “internal armed conflict” in its 2008 annual report. Against the Commission, then-president Uribe claimed that Colombia is a democracy confronting a (narco)terrorist threat under conditions that do not properly constitute an “internal armed conflict” (Sánchez 2009: 633).

Like his political contemporary George W. Bush (from whom he received the Presidential Medal of Freedom in 2009), Uribe had deep political commitments to the “War on Terror” and deep philosophical investment in framing violence in Colombia as a result of a vicious drug-fueled terrorist threat as opposed to a politically-situated conflict concerning political exclusion, unequal land tenure and neoliberal restructuring policies. Post-9/11, the substantial anti-narcotics military funding provided via the United States’ “Plan Colombia” was broadened to cover “counter-terrorism” operations in which President Uribe not only augmented military operations against guerrillas but modeled military detention and tribunal practices off of those exercised at Guantánamo Bay (Tate 2007: 304-305). Discursively framing violence as stemming from “terrorism” gave the armed forces significant latitude in conducting the military initiatives central to Uribe’s (US-backed) “Democratic Security” counter-narcotics/terrorism platform (Cortés 2013: 5).

Uribe’s framing also served to mask land as a structural facet of armed conflict. That is, through the epistemic lens of “terrorism”, violence is principally a function of narco-guerrillas’ inexplicable greed and depravity. The political-economy of land finds no traction in this framework except in reports detailing the quantity of hectares dedicated to coca cultivation. Occlusion of references to land concentration and conflict was personally expedient for Uribe. His family has traditionally controlled incredibly vast land holdings, amassed at times under quite dubious means (El Espectador 2017).

The 2008 “Attention and Reparation to Victims of Violence” bill (the eventual Victims’ Law’s precursor) met an untimely legislative demise in 2009. The bill’s defeat was largely due to Uribe’s insistence that the costs associated with providing such reparations amounted to “financial terrorism” and that a reparations bill recognizing state responsibility would equate

state soldiers with terrorists (Cristo 2012: 76). In fact, even after Uribe finished his presidential term in 2010 he continually railed against any recognition of state-responsibility for violence. Such recognition, he argued, would put soldiers' heroic defense of *La Patria* on the same moral and legal plane as the vicious deeds of narco-terrorists. With the defeat of the original "Attention and Reparation to Victims of Violence" in 2009, Uribe successfully stopped any sort of rights-based victims' reparations bill, and with it, the official recognition of Colombia's internal armed conflict that such a bill might possibly entail. He shortly thereafter concluded his presidential term in 2010 with an astoundingly high 80% approval rate, largely due to his "strong hand" (*mano dura*) against the guerrillas (El País 2010).

Juan Manuel Santos, Uribe's former Minister of Defense and political heir apparent, assumed the presidency in August 2010. Almost immediately, the now massive rift between the once close political allies began to form. This rift was irrevocably cemented in 2016 with Santos' historic signing of the Havana Peace Accords with the FARC, for which he received the 2016 Nobel Peace Prize. Former president Uribe, simultaneously, found new political life as the peace accord's most vocal opponent. However, this now vast gulf between Santos and Uribe initially coalesced around Santos' renewed effort to pass a victims' reparations bill and to officially recognize an internal armed conflict through such legislation. Upon assuming the presidency in 2010, Santos made a concerted push to revive the victims' reparations project, famously stating that passing the bill will alone have made "worth it to be president" (Semana 2011a).

After months of arduous debate in congress, the renewed "Victims' Law" inched toward final passage in May 2011. As the Victims' Law neared passage, Santos personally directed the legislature to include the text "internal armed conflict" within the bill. The words "internal armed conflict" had been dropped for political expediency, just as they had been during previous

debates concerning the 2008 version of the bill. Santos cited a host of seemingly pragmatic reasons for officially recognizing an internal armed conflict. This would allow the government to more easily determine who should be eligible for reparations, assuring that such reparations would only go to conflict victims as opposed to victims of mere “common crime” (*delincuencia común*). Santos also reasoned that official recognition of “internal armed conflict” would give Colombia’s military greater clarity of action (and protection) under International Humanitarian Law governing military operations in conflict (Cristo 2012: 178-180).¹⁶

To officially recognize an “armed conflict”, former president Uribe nonetheless maintained, was to both risk attributing a legitimized, political belligerent status to the FARC and ELN guerrillas, and to equate the actions of Colombia’s armed forces with those of terrorist organizations. This would, in turn, prove profoundly demoralizing to the Colombian military and thus further imperil Colombia’s security situation. To Uribe, officially recognizing armed conflict was tantamount to an act of terrorism itself.

After shepherding the legislative process for nearly four years, Senator Cristo argued that the official recognition of internal armed conflict stood in stark contrast to “Uribe’s feudal vision of rural Colombia and negation of the undeniable reality propelling the war”, such as regressive land tenure policies. To recognize armed conflict, Cristo maintained, therefore “sent an overwhelming message that we could maintain a military offensive against violent groups while also opening a road to reconciliation with the victims and restituting dispossessed land” (Cristo 2012: 181). In that sense, the 2011 Victims’ Law completed the task set out in the 2008

¹⁶ International and domestic legal experts heralded Santos’ official recognition of armed conflict. David Tolbert, president of the International Center of Transitional Justice, cautiously noted that “The step from negation to recognition could open space to better analyze the crimes all parties to the conflict have committed (ICTJ 2011). Meanwhile, Arturo Mujica of the Colombia Commission of Jurists commented that “this would be the first time there is political recognition of conflict, which will open the door for victims of the paramilitaries, guerrillas and state agents to claim justice, reparations and truth” (Semana 2011b).

reparations bill of, according to legal scholar Nelson Camilo Sánchez, “firmly positioning in the national political agenda the need to counteract the unequal land concentration that has only been accentuated due to armed conflict” (Sánchez 2009: 713). In fact, president Santos reasoned that a land restitution program would help initiate peace talks with the FARC guerrilla group, who ostensibly sought more egalitarian land distribution. The land restitution program could therefore allow the government to co-opt one of the FARC’s main rallying cries. Indeed, after initial hesitation, the FARC cautiously came to support the land restitution program prior to the beginning of peace negotiations in 2012 (Cardona-Fox 2019: 159-160).

Therefore, implicit in the Victims’ Law’s official recognition of conflict is a linkage between forced displacement and land concentration, with an attendant positioning of land restitution as the necessary structural solution. “The law was historical” writes political scientist Gabriel Cardona-Fox “in that, by making land restitution the center of its reparation policy, the state recognized what academics and leftwing activists had argued for a long time—that land ownership was ‘the center of gravity’ of Colombia’s five-decades-long armed conflict (2019: 146).

Rebuffing former president Uribe’s “terrorism” framework through official recognition of an “internal armed conflict” provided greater recognition of land as a structural facet of conflict. The Victims’ Law’s official recognition of internal armed conflict cast violence not as the ahistorical and inexplicable bloodshed of “narco-terrorists”. Rather, with the passage of the Victims’ Law the link between conflict, forced displacement, and the attendant need for land restitution became authoritative. As did the government-sanctioned statistics: 6 million hectares of forcibly abandoned or stolen land since 1991, with approximately 2 million hectares directly stolen by (primarily) paramilitary forces (Restrepo y Bernal 2014: 30).

Officially recognizing conflict also implied temporally bounding when conflict victims would be subsequently eligible for reparation measures. These temporal markers, in turn, define the specific, “official” framing of land as a structural facet of Colombia’s armed conflict. In March 2011, only two months prior to the Victims’ Law eventual passage, the Colombian congress was riveted with debate about when to recognize a conflict “cut-off” date in order to determine the magnitude of reparations the Victims’ Law would offer. Importantly, those who suffered victimizing acts outside of this temporal boundary would not be entitled to material reparations (although they would be eligible for symbolic reparations such as guarantees of non-repetition and inclusion of their testimony in the newly-created National Center for Historic Memory).

Amongst Colombia’s congress there was general agreement that some sort of cut-off date was needed. However, there was initially little consensus on a specific date. Liberal Party representative Guillermo Rivera (the bill’s main sponsor in the House) initially proposed 1993. He specifically cited the government’s adoption of the Public Order Law that year given the horrific dimensions Colombia’s conflict had assumed, especially in light of booming narco-trafficking. Others, such as Senator Iván Cepeda, pushed for moving the date back to 1980 in order to ensure that the victims of the political genocide against the Patriotic Union party, as well as those of the overall paramilitary explosion in the early 1980s, would be entitled to reparations.

However, Juan Camilo Restrepo (then Agricultural Minister) argued that a 1980s cut-off date would be disastrous for the land restitution project. There would be, he argued, an avalanche of thorny extraordinary adverse possession claims that would greatly complicate determining legitimate ownership of stolen or abandoned land. This was coupled with the fact that Colombia’s cadastral and land record systems precipitously deteriorate in quality as one moves

further back into the past. Given that these difficulties would prove fatal to land restitution's practical implementation, Restrepo therefore argued for moving the date up to 1993 for purposes of technical feasibility.¹⁷

Shortly thereafter, the House of Representatives settled on 1991 as the official cut-off date for reparations-eligibility. The House specifically chose 1991 to draw a symbolic link to the passage of Colombia's new constitution that same year (Semana 2010). At the same time, however, the Senate introduced an important bifurcation into the bill's cut-off dates. Specifically, the Senate called for two different dates defining when conflict victims would be eligible for material reparations generally and land restitution specifically. The Senate kept the House's 1991 cut-off date for which conflict victims would be eligible for land restitution, yet marked 1985 as the cut-off date for which conflict victims would be able to claim general reparations other than land restitution such as cash indemnities, education and employment assistance.

The Victims' Law's final version kept the 1985 general reparations and 1991 land restitution cut-off dates. With the passage of the law in May 2011, these dates took on an official, juridical significance. Specifically, the Victims' Law Article 3 defines victims' rights to material reparations for "human rights violations and violations of international humanitarian law as of January 1st, 1985 within the context of internal armed conflict". Relatedly, Article 75 stipulates that land owners, those with usufruct rights over land obtained through agrarian reform legislation, and those in the process of obtaining usufruct rights, could "solicit the juridical and material restitution" of land they abandoned or had stolen due to internal armed conflict as of January 1st, 1991. Several months after its initial passage, the Victims' Law was amended to include the "Ethnic Restitution" (*restitución étnica*) Decrees 4633 and 4635 through which

¹⁷ For a detailed recapitulation of this debate see C-250/12 § 7.

indigenous and afro-descendent communities would also be able to claim restitution rights over collective land titles lost due to armed conflict on or after January 1st, 1991.¹⁸

Articles 3 & 75 were almost immediately challenged in Colombia's Constitutional Court for "arbitrary discrimination" against people who were victimized before 1985 or who lost their land prior to 1991. Which begs the question: why these dates? 1985 as a temporal limit for general reparations was ostensibly settled upon in order to include emblematic events such as the fiery destruction of the Colombian Supreme Court building in 1985, the assassination of various presidential candidates in the latter half of the 1980s, as well as the consolidation of the paramilitary expansion project (Semana 2011c). Government lawyers defending the 1991 land restitution cut-off date in the Colombian Constitutional Court argued for the date's validity on four specific counts:

- 1) The "majority" of studies concerning forced displacement conclude that paramilitaries began to systematically displace civilian populations beginning in 1990
- 2) Registries of abandoned and stolen land date to the early 1990s, and there is therefore "no certainty" concerning forced displacement prior to these dates
- 3) Records from INCODER (the Colombian rural development office) place the majority of registered forced displacement cases between 1997 and 2008; only 3% of registered cases date to before 1991
- 4) Beginning in 2005, formal solicitation for land protection increases drastically, while such petitions were only requested sporadically before this date.¹⁹

There is no specific mention of which studies confirm the augmentation of displacement as of 1990²⁰. Nor is there any acknowledgement that the INCODER agrarian reform offices (and their records) have faced serious allegations of corruption (Reyes Posada 2016). Furthermore,

¹⁸ To date, nine indigenous communities have received restitution rights to their collective territories (through Decree 4633) while one afro-descendent community has received such rights (through Decree 4635). (Datos Abiertos 2019) As of January 2019, there are 52 collective ethnic restitution cases pending in front of Land Restitution Tribunals (URT 2019).

¹⁹ See C-250/12 §3.2

²⁰ In their analysis of the Victims' Law, however, Attanasio and Sánchez cite governmental statistics claiming that "1,023,703 hectares were abandoned, sold, or transferred to third parties between 1980 and 1997, 5,263,282 hectares between 1998 and 2008, and 351,210 hectares between 2009 and July, 2010" (Attanasio and Sánchez 2012:46).

those who lost land before 1991 surely derive little solace from the argument that the lack of reliable records prior to this date makes restitution unfeasible.

These issues aside, the government's arguments do important political work in enframing land and conflict in Colombia. First: the Constitutional Court accepted the Santos administrations' arguments, ruling that 1985 and 1991, while unable to account for all conflict victims, were nonetheless not arbitrarily chosen dates. These dates were thus constitutionally admissible and therefore legally binding (C-250/12 § 9). In that sense, the Victims' Law adheres to the 2005 UN's Pinheiro Principles' stipulations that any cut-off dates for land restitution must not be arbitrarily chosen (Attanasio & Sánchez 2012: 45-46).

Second, and perhaps just as importantly, the government's arguments specifically highlight paramilitary organizations as the main drivers of forced displacement. In fact, government lawyers prefaced the four arguments mentioned above by specifically detailing the formation of the AUC paramilitary organization in 1997 and the sophisticated logics they deployed to violently steal land and re-appropriate it for their own strategic purposes (C-250/12§ 3.2). Government lawyers defending the 1991 land restitution cut-off date make no overt mention of guerrilla or state involvement in forced displacement. The Victims' Law thus tacitly premises coercive land sale and abandonment as a largely (although not exclusively) paramilitary phenomena.

Regardless of the responsible party, the Bureau of Land Restitution (created in 2011 through the Victims' Law) officially maintains that conflict and displacement in Colombia are structurally related to the political economy of land. "The dispossession and abandonment of land", the Bureau states in a 2015 report, "is principally due to the control and amassing (*acaparamiento*) of large extensions of land as a means of financing armed groups and

accumulating power through alliances with the most powerful members of the political class in different regions of the country” (URT 2015: 41-42). To be sure, displaced conflict victims are eligible for land restitution regardless of whether guerrillas, paramilitaries or state agents were party responsible for displacement. Bringing paramilitary responsibility to the fore, however, situates the Victims’ Law even more discursively far-afield from former President Uribe who, since leaving the presidency, has faced consistent accusations from Colombian courts for his role in perpetuating paramilitary massacres (Alsema 2017, El Tiempo 2018).

Section III: *Casting Blame*

The Victims Law’s official recognition of internal armed conflict—and of land as a structural facet of conflict— was not the only substantial rupture president Santos had with the previous Uribe administration. The Victims’ Law also recognized an attenuated form of state responsibility toward conflict victims and therefore re-positioned state institutions vis-a-vis their obligations to address conflict’s enduring effects. Following the 2005 UN Pinheiro Principles, this framing casts land restitution (as opposed to monetary compensation, for example) as *the* preferential prism of state responsibility for rectifying human rights abuses associated with forced displacement. Through assuming this responsibility, state agents and institutions furthermore cast themselves as protectors of human rights. Land as an entity mobilized for restitution, therefore, serves as the privileged site and medium through which state responsibility for amending certain human rights violations is materialized. However, as I detail below, the Victims’ Law specifically sanctions land restitution as a facet of state responsibility to address human rights violations, as opposed to responsibility for perpetuating them in the first place.

Whereas the previous Uribe administration (through presidential Decree 1290 of 2008) had sought to provision certain forms of aid to victims, it did so under the notion of state

“solidarity” as opposed to “responsibility”. These two terms imply sharp distinctions in not only the type of material redress to which conflict victims are entitled, but also the symbolic position of the state in provisioning such redress. Uribe’s decree 1290 of 2008 did indeed offer monetary indemnities and other forms of social and economic assistance to conflict victims, although any form of land restitution for displaced conflict victims was intentionally omitted. This state assistance, however, was made available under the presupposition that the government offered such aid in “solidarity”, and not because victims had free-standing rights to redress. Controversially, many forms of such “solidarity reparations” were in fact basic social services which Colombians are guaranteed regardless of their status as conflict victims (Sánchez 2009: 680-684).

The recognition of state responsibility thus proved another defining debate concerning the Victims’ Law’s passage. In particular, Uribe and his political allies in Congress lobbied heavily against reparations stemming from state agents’ actions (particularly those of soldiers), *unless* those particular individuals were previously found guilty of crimes in military or penal court. That is, guerrilla and paramilitary responsibility could be assumed *a priori* and their victims thus entitled to humanitarian assistance. Conversely, state agents’ responsibility, and thus the responsibility to provide reparations, could only be determined via judicial sentence. In effect, this created two classes of victims: those victimized by guerrilla or paramilitary groups who could receive reparations via direct administrative petition to the Victims Bureau, and those victimized by state agents whose reparations would be further contingent upon a judicial sentence finding particular state agents’ criminally liable. This bifurcation remained in the original 2008 “Attention and Reparation to Victims of Violence” bill at the time of its defeat. However, it was roundly defeated in the second push to pass a reparations bill in 2010, based

largely on the argument that the lengthy delays in court sentences against state agents would effectively bar their victims from reparations and thus further violate victims' constitutional and human rights (Cristo 2012: 105-107).

Under the 2011 Victims' Law, therefore, victims have reparation rights regardless of whether the responsible party has been judicially convicted of criminal wrongdoing or not. The state, in turn, assumes direct responsibility for providing reparations even when acts are not attributed to state agents or institutions. The Victims' Law therefore anchors a restorative, as opposed to criminal or negligent, valence of state responsibility. That is, the state is not criminally responsible for human rights violations but rather responsible for addressing their consequences. In particular, the Victims Law's Article 9 states that reparations have the purpose of helping victims overcome or endure (*sobrellevar*) suffering. State responsibility is therefore cast as the obligation to assist conflict victims in this process of overcoming suffering and to restore their rights. Because of this, Article 9 continues that offering reparations:

Does not imply recognition nor can it be presumed or interpreted as recognition of State responsibility... The fact that the State recognizes the status of victims under the terms of this law may not be acknowledged by any judicial or disciplinary authority as proof of State or state agents' responsibility.

This framing intentionally bifurcates the responsibility to make amends for violence from the responsibility for causing violence. Article 9 specifically precludes that reparations imply recognition of State or state agents' responsibility for conflict-related violence. Per the Victims' Law, that is, the state casts itself as responsible for the protection of victims' rights and well-being, while simultaneously eliding responsibility for causing or allowing conflict-related violence.

The Victims Law's specific framing of state responsibility, as transitional justice scholar Peter Dixon writes, "does not recognize the state's culpability in directly or indirectly

perpetrating acts of violence...[which] means that the state can claim responsibility without being held accountable for any role it may have played in the perpetration of violence” (Dixon 2016: 96). Per the Victims’ Law, therefore, the provisioning of reparations may not be read as an admission of state guilt, especially pursuant to future lawsuits conflict victims may bring against state agents or institutions.²¹

Concerning state responsibility for land restitution, the Victims’ Law delineates a specific hierarchy through which land restitution rights are assigned. This hierarchy mirrors the UN Pinheiro Principles’ preferential positioning of land restitution as a medium for addressing forced displacement. Given that the Pinheiro Principles are considered constitutionally binding in Colombia (CC-821/2007), they heavily influenced the legal precepts underpinning the Victims’ Law’s land restitution project (Attanasio & Sánchez 2012). Through the Pinheiro Principles’ foundational framing of the Victims’ Law, first order preference is given to restituting the *specific* land parcels from which claimants were displaced. That is, the Victims’ Law requires the Bureau of Land Restitution to orient its efforts towards helping displaced land claimants recuperate the *exact* house or parcel they abandoned or sold due to armed conflict (Article 72).

When the restitution of the specific parcel is impossible due to reasons such as environmental degradation or security risks for the returning land claimant, land claimants are then given the option to choose from “equivalent” parcels with similar conditions and characteristics in another location. It is ultimately up the Bureau and Land Restitution Courts and Tribunals to decide what counts as an “equivalent” parcel, although it is typically designated as a plot with similar size, commercial value and land-use potential. Only when the original parcel is

²¹ Nonetheless, state institutions have been held criminally responsible for violence in the past. The Inter-American Court of Human Rights, for example, has ruled the Colombia State criminally responsible for its participation, often with paramilitary forces, in at least ten massacres (Anaya & Mogollón 2016:109).

unavailable for restitution and when no viable “equivalents” have been located may land claimants receive monetary compensation for their land.

This disposition is largely in keeping with sections 2.1 and 2.2 of the Pinheiro Principles, which frame restitution “as the preferred remedy” over monetary compensation for addressing forced displacement. While the Pinheiro Principles stipulate that displaced claimants cannot be forced to return against their will and that there should be an option for determining monetary compensation for previously stolen or abandoned land in certain cases, material restitution of specific houses and land parcels ought to nonetheless stand as the preferred measure. The preference for material restitution of land parcels, according to the Pinheiro Principles, is to ensure that past processes of forced displacement are reversed *in situ* and that monetary compensation does not *de facto* legitimize the previous theft of land (Pinheiro Principles Handbook 2007: 24-25).

Land—as a bounded, mapped, titled and locatable unit—therefore assumes a privileged role concerning state responsibility to address human rights violations associated with forced displacement. The Victims’ Law, following the Pinheiro Principles, positions land as the simultaneously material and juridical figure through which state responsibility to amend legacies of forced displacement is preferentially made manifest. Only under certain circumstances may that responsibility for addressing forced displacement be alleviated via alternative measures such as monetary compensation for land. This is no trivial matter. To restitute land implies an entire range of fraught considerations. How to clarify thickets of potentially corrupt or non-existent land titles? How to ensure the “safe and dignified” return of land claimants? What about addressing the property rights of those who currently own or occupy land slated for restitution?

Beyond an obligation to repair human rights violations, as the next section will show, the Victims' Law also construes land restitution within overall processes of economic revitalization of Colombian agricultural production. Land therefore is not just a medium through which state institutions attempt to amend past human rights violations. It is also a site through which state institutions attempt to recreate their presence through the provisioning of clearly legible land title and the market participation that such land title theoretically renders possible. The political ontology that land assumes within restitution schema is subsequently linked to questions of title formalization and economic production that have been ruptured by conflict. The Victims' Law therefore positions the state as responsible for both rectifying human rights restitutions via land as well as making that land "produce" in highly specific ways.

Section IV: *Titling Peace*

The Victims' Law not only cements an official position concerning the existence of Colombia's armed conflict and the state's human rights obligations with respect to that conflict. It also anchors an official diagnostic concerning structural problems associated with land use/tenure and, by extension, the essential role land restitution ought to play in addressing those problems. The economic imperatives associated with land restitution are discursively blended with *territories de paz* (territories of peace) and overcoming conflict. "Land restitution is a relevant step toward peace" the former director of the Bucaramanga, Santander Bureau of Land Restitution explained to me when I asked what the Colombian government hoped to achieve through the process. "After we resolve all of the restitution cases in the field, these areas are going to be declared 'peace territories' where the state entered, restituted parcels to whom they belonged, and also provided animals and crops so these people can begin their new life-project".²² The

²² Interview, Bucaramanga, July 25, 2015

small-holder modes of landed production that the land restitution process promotes (which I detail below) are discursively cast as “peaceful” modes of land use that not only amend for past human rights violations but will also serve as foundational blocks of the post-conflict Colombian countryside.

Juan Camilo Restrepo served as the Minister of Agriculture and Rural Development in the Santos administration during the drafting and passage of the Victims’ Law and has since been one of the land restitution program’s defining political patrons. In 2014, Restrepo published *La Cuestión Agraria: Tierra y posconflicto en Colombia (The Agrarian Question: Land and post-conflict in Colombia)*, a 300-page tome in defense of the Victims Law’s land restitution project. Conflict in Colombia, he argues in the book, has undoubtedly been conditioned by historically concentrated levels of land ownership which have excluded millions of people from establishing viable rural livelihoods.

Fundamentally related to concentrated patterns of land ownership, Restrepo posits, is the “bad use” (*mal uso*) of land. This “bad use” is evidenced through massive tracts of concentrated land that are left dormant (*subutilización*) or dedicated to intensive and environmentally precarious cattle ranching (*sobreutilización*) (Restrepo & Bernal 2014: 160-162). Not only have many such “bad use” estates likely been obtained and protected through paramilitary violence, but they perpetuate a structural form of violence through which small-scale *campesinos* are precluded from having sufficient land to work and raise their families (see Richani 2012). Subsequently, the form of land use and tenure that the Victims’ Law promotes through land restitution is discursively predicated upon yeoman *campesinos*’ “sustainable”, “responsible” and “productive” use of land in direct contradistinction to the *latifundio* “bad use” estates so often identified as key drivers of armed conflict.

Against this framework of “bad use”, The Victims’ Law’s framers conceptualized restituted land claimants’ rights to “effective enjoyment” (*goce efectivo*) of restituted land as a specific facet within an overall project of economically revitalizing agricultural production in Colombia. That is, land restitution (at least as it is officially framed) is intimately bound up with a series of economic imperatives to (re)establish small-holder agricultural production.

In a purely pragmatic sense, this reflects the fact that a substantial proportion of those displaced by conflict are readily identifiable as precariously positioned small-scale farmers who fall under the generic category of *campesino*. Many of those who were displaced had tenuous formal rights to their land, or were beneficiaries of previous rounds of agrarian reform initiatives. For the former, land restitution is directed toward formalizing once precarious legal rights to land, while in the case of the latter land restitution aims to reestablish *campesino* occupancy rights founded upon agrarian reform legislation.

The Victims’ Law’s principles of progressiveness (*progresividad*), stabilization (*estabilización*) and juridical security (*seguridad jurídica*) thus underpin a vision of revitalized, small-holder agricultural production (Article 73 §3-5). The first two principles (progressiveness and stabilization) dictate that conflict victims ought to be able to return to land and progressively re-establish their life project (*proyecto de vida*) under stable conditions of “sustainability, security and dignity” (Article 73 §3-4). The emphasis on “progressiveness” maintains that displaced land claimants should not return to impoverished rural livelihoods, but rather be able to construct prosperous futures.

To achieve these goals, land restitution recipients are entitled to an array of support measures. In particular, when land restitution judges and magistrates emit a restitution case, they typically order specific forms of agricultural assistance to be included with the land parcel. These

support measures often include: alleviation of previous tax burdens accrued on the land; housing subsidies for the returning land claimant; electricity and sewage hook-ups; and municipal and Bureau of Land Restitution-backed technical and financial assistance to help the claimant establish an agrarian “productive project” on the restituted land parcel.

The Bureau of Land Restitution’s weekly TV program *Tus Tierras Tus Derechos* (with over 200 episodes available on YouTube) is always sure to detail how the Bureau provided restituted land claimants with the material support to obtain crop or livestock inputs, the necessary machinery to process crops or the infrastructure to care for animals, as well as the technical guidance to effectively market their agricultural projects. Depending on the region and particular characteristics of the land parcel in question, restituted land claimants typically manage a mixture of livestock, coffee, fruit and vegetable production. The *Tus Tierras Tus Derechos* TV program takes specific pride in highlighting the instances in which restituted land claimants have even begun to market their products (typically bananas and coffee) on international markets, therefore propelling them into the agricultural modernity the Victims Law’s framers so adamantly pushed for.²³

The Bureau of Land Restitution further underlines the importance of supporting small-holder production on restituted parcels as a matter of practical necessity. As Ricardo Sabogal (the national director of the Bureau of Land Restitution from 2012-2018) summarizes:

It is not sufficient to just give people their land back. We have to also provide productive projects so that the family can recover the land and make it produce. So that they can break out of cycles of poverty and therefore dignify *campesino* labor... This is the

²³ Should the land parcel in question have been integrated into a larger agro-industrial production scheme (such as African oil palm) after the conflict victim was displaced, the Bureau of Land Restitution assumes management obligation over the land parcel and redirects profits from the crop to the restituted land claimant (Article 99). This approach is framed as a necessary compromise with respect to agro-industrial land use practices that seeks to integrate displaced land claimants into these production schemes.

goal of productive projects, and the campesinos are carrying them out *on their land*, on the land that the state recuperated for them, land that they lost due to conflict.²⁴

Per Sabogal's rendering, to reconstitute land is to create economic opportunities through which displaced people may return and ultimately re-root themselves in idealized *campesino* production. The dignity inherent in being able to sustain oneself and family in the countryside, Sabogal is sure to remind us, is thanks to the state's ability to recuperate land from the abyss of armed conflict. The state, as it were, reproduces itself through restituted *campesino* agricultural production.

The *campesino* agricultural production highlighted above turns on the implicit premise that the land in question is formally titled and thus legible to state and financial institutions. It is perhaps therefore the notion of "juridical security" (Article 73 §5) through which the Victims' Law aims to most fundamentally influence rural production as well as reassert state legitimacy and presence in rural areas once decimated by conflict. "Juridical security" refers to the integrity of state-recognized title over land, something which has been deeply affected by intertwined legacies of violence and corruption. Thus, the land restitution process has a fundamental orientation towards the clarification and formal titling of once stolen or abandoned land. This focus on formal titling through the land restitution process, former Minister of Agriculture Restrepo maintains, is essential because an estimated 50% of rural parcels in Colombia lack formal title. This number, Restrepo estimates, rises precipitously to 61.1% for abandoned or stolen parcels (Restrepo & Bernal 2014). Accordingly, when a displaced claimant successfully petitions for restituted land, they not only receive financial and technical assistance for managing

²⁴ "Tus Tierras Tus Derechos Especial Proyectos Productivos" (minute 23:30-25:09) available at https://www.youtube.com/watch?v=LN6Po-2YrbQ&list=PLjoZg1_LsbVMtn6-E0oZofwKUnuKuY0JM&index=7 This episode offers a particularly emblematic portrayal of the re-established rural livelihoods the Bureau of Land Restitution seeks to promote.

economic production, but also a re-issued land title (if their land was previously titled) or an entirely new, formal title (should their land have previously lacked formal registration).

In fact, the Victims' Law requires that all judicial land restitution sentences—beyond emitting a new title—must identify and individualize a parcel's "location, extension, geographic coordinates, cadastral identification and property registration number" (Article 91b). Once registered in public notary offices, restituted land parcels' title documents carry a distinctive line from the Bureau of Land Restitution stating the land's judicial security has been validated through the land restitution process. Through little stretch of the imagination one can conceive of land restitution as a discrete process of producing "state legibility" (Scott 1985) through the delineation of officially sanctioned title over land. It might be said that The Victims Law's focus on formalization seeks to fixate the plots once rendered "fugitive" (Craib 2004) in the context of conflict and forced displacement. The Victims' Law's focus on titling land via the restitution process is essential, former Minister of Agriculture Restrepo writes, because not having formal title "implies being excluded from the avenue of modernity and social mobility that the State is currently advocating" (Restrepo & Bernal 2014: 132).

With respect to agricultural production, the preceding paragraphs highlight the so-called "virtuous triangle" the Victims' Law is designed to promote: restitution, formalization and rural development (Restrepo & Bernal 2014: 28). Beyond juridical human rights obligations, this twin focus on agricultural production and formalization seeks to further justify state spatial interventions into conflict-affected areas. Together, these facets discursively position land restitution as a means of ending conflict and promoting a stable and economically prosperous peace. As the Victims' Law's Article 49 states, the promotion of economically viable "productive projects" on restituted land parcels aims to ensure "the effective vigilance of

victims' rights, offer them the security to live dignified lives, and guarantee their incorporation into social, economic and political life". That is, to render conflict victims as fully fledged, rights-bearing subjects of a modern state. The economic imperatives associated with land restitution, in turn, serve as the material conduits through which this new "post-conflict" array of state-subject relations is to be grounded.

Conclusion

In this chapter, I have argued that the Victims' Law sanctions a specific conception of "land" within the overall equation of land restitution. This version posits land as: 1) a structural facet of Colombia's armed conflict; 2) a medium of honoring juridical commitments to human rights protection, and; 3) as a node of revitalized small-holder agrarian production. Despite the opposition leveled against this project, the Santos' administration sought to portray land restitution as a necessary means of state spatial intervention in light of forced displacement. In this way, the Victims' Law enframes the abstract space of the state by positing land affected due to armed conflict as a specific site of administrative and juridical intervention. Through the Victims' Law, the spatial dimensions of forced displacement and armed conflict are furthermore grafted into the abstracted post-1991 timeline through which plots of land are eligible for restitution. This enframing work therefore renders forced displacement as both a spatial and temporal phenomenon and, just as importantly, delineates which land affected due to armed conflict lies on the Victims Law's constitutive "inside" and which land is therefore excluded.

By way of conclusion, I would like to reiterate the Victims Law's sanctioning of the seemingly "natural" relationship between state and land through a brief focus on the term "restitution". In its most basic sense, "restitution" implies re-establishing a once-existent state of

affairs. In terms of land, this connotes a sharp distinction with other agrarian “r” words: reform and redistribution.

In the strictest sense, the Victims’ Law does not create any novel schema of relationships over land. The array of landed relationships that the law deems eligible for restitution are ones that already enjoyed official state verification prior to the Victim’s Law’s passage. Specifically, privately owned parcels as well as those titled (or in the process of being titled) via agrarian reform legislation are eligible for restitution (Article 72). Additionally, indigenous and afro-descendent populations may make restitution claims for communal land holdings of which they were dispossessed (Decrees 4633 and 4635). All of these forms of land tenure adhere to the spatial grammar of already existing state-sanctioned patterns of land ownership, occupancy and use. Restitution, then, would appear to simply be the reassertion of state regulation over land for which it enjoyed formal oversight even before it was sold or abandoned due to conflict.

Land restitution, however, is by no means a neutral endeavor. Even the Victims’ Law’s official recognition of the seemingly undeniable existence of “internal armed conflict” was a contested project. Although an abstract legal project, land restitution must furthermore confront the particular, localized histories and geographies where forced displacement took place. Whereas the Victims’ Law sets out straightforward criteria for defining who may petition for restitution rights, under what circumstances, and through what procedures, these criteria nonetheless uneasily brush up against the convoluted knots of conflict that accrue in specific places. In the next chapter, I provide a history of land, conflict, and forced displacement in one such place—Colombia’s Magdalena Medio region.

Like many regions of Colombia, the Magdalena Medio endured a horrendous paramilitary onslaught beginning in the late 1980s, resulting in massive levels of forced

displacement. Yet the Victims' Law confronted a particular challenge in the Magdalena Medio that vaulted restitution proceedings in this region into the national spotlight: many of those who currently owned once stolen or abandoned land claimed for restitution did not bear direct or indirect links to the armed groups responsible for displacement. Nor were such landholdings necessarily subsumed within paramilitary-backed agro-industrial ventures. Rather, many of these land parcels were currently dedicated to the very same forms of small-holder production that the Bureau of Land Restitution intended to foment. The next chapter, therefore, provides a historical analysis of land and conflict in the Magdalena Medio. I offer this analysis in order to foreshadow how the Victims Law's abstract enframing of "land" as a facet of restitution agonizingly matched up with contemporary, material land ownership and use schema on the ground.

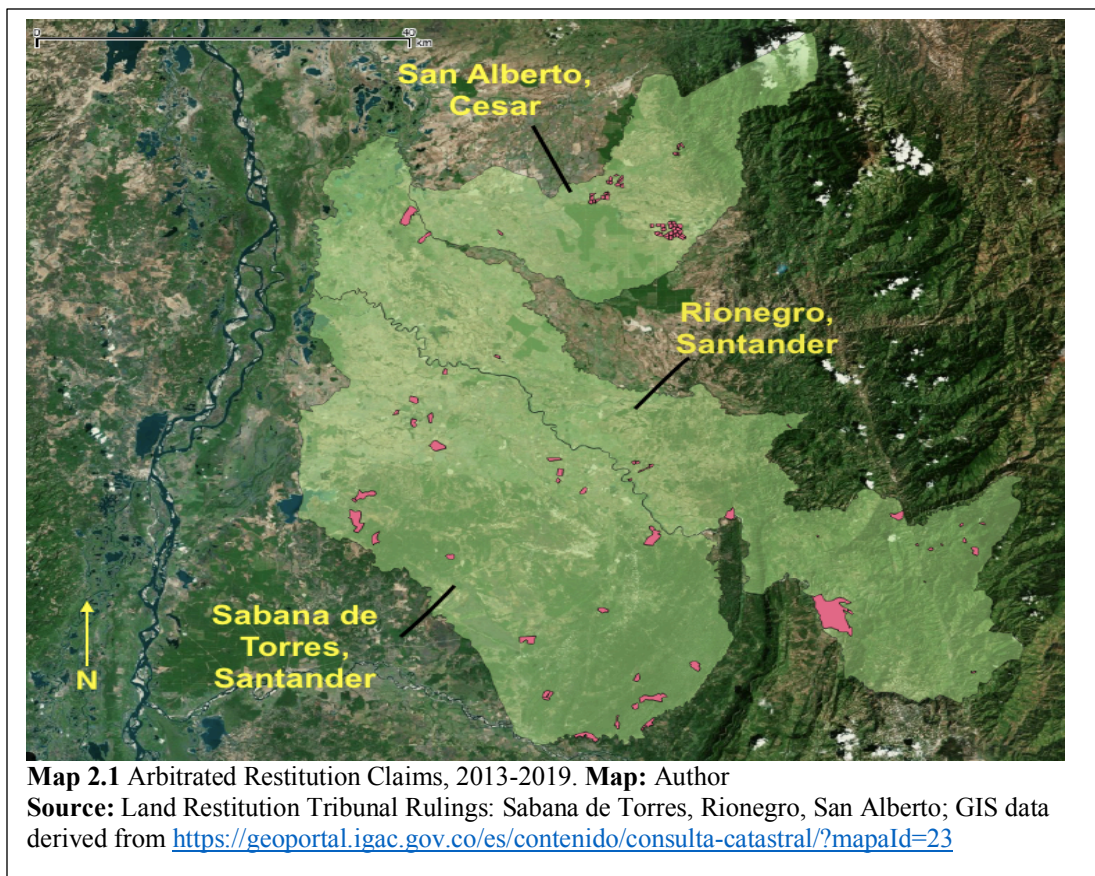
Chapter II: Land and Armed Conflict in the Magdalena Medio

Introduction

The Victims Law's land restitution program makes discrete interventions into rural property relations. Through the program, individuals and families claim restitution rights over individual parcels²⁵ through a petition to the Bureau of Land Restitution. Should the Bureau then forward claimants' cases to Land Restitution Courts or Tribunals, their property rights are adjudicated individually, regardless of the status of the neighboring plots. Even though multiple plots may be presented simultaneously in front of Land Restitution Courts and Tribunals, judges and magistrates nevertheless deliberate each parcel on its own terms. As such, singular plots are brought into the restitution spotlight one at a time. To an extent, therefore, these plots are lifted out of their larger context so that individual claims of forced displacement may be investigated and individual property rights potentially restored. Whereas the Victims' Law enframes forced displacement as a product of Colombia's armed conflict writ large, it is through individualizing judicial procedures that restitution unfolds in specific localities.

The following map (Map 2.1) shows the parcels over which Land Restitution Courts and Tribunal arbitrated restitution claims in Sabana de Torres, Rionegro and San Alberto between May 2013 and March 2019. In Sabana de Torres and Rionegro, the plots are spread apparently randomly throughout the municipalities' rural areas (in a fashion that one Bureau official likened to the spots on a Dalmatian). In San Alberto, the plots cluster in four large agglomerations (the former *Tokio*, *La Carolina*, *Los Cedros* and *7 de Agosto* estates).

²⁵ For present purposes, I do not include restitution claims made over collective indigenous and afro-descendent territories. While these claims are certainly central to the overall land restitution program, they are not present amongst claims launched in Sabana de Torres, Rionegro, or San Alberto.



The plots range in characteristics. A small handful are relatively large estates over 300 hectares in size, while a significant portion are twelve to twenty-hectare parcels provisioned through redistributive agrarian reform programs. In Sabana de Torres, the average size of land parcels claimed for restitution is approximately similar to the average municipal land parcel size. In Rionegro, the average plot claimed for restitution is somewhat larger than the average municipal land parcel size (likely due to several large plots claimed for restitution that skew the average size). In San Alberto, the majority of plots claimed for restitution are agrarian reform parcels, which are significantly smaller than the average municipal land parcel size (See Table 2.1).

Municipality	Average size of land parcels claimed for restitution	Average land parcel size in municipality*
Sabana de Torres, Santander	62 square hectares	71 square hectares
Rionegro, Santander	29 square hectares	14 square hectares
San Alberto, Cesar	16 square hectares	56 square hectares

Table 2.1 Average size of plots claimed for restitution (calculated using available plot-size data collected from Land Restitution Tribunal cases from May 2013 to March 2019). *(See IGAC 2012:237,379)

Of the 150 individual parcels claimed for restitution in these three municipalities between May 2013 and March 2019, only fifteen (10%) were abandoned at the time a restitution petition was launched against them. The other 90% were currently owned and occupied, and were typically dedicated to dairy ranching, cattle pasture, and in some cases small-scale palm oil production. Of these occupied plots claimed for restitution, only four were owned by business interests.²⁶ The rest were owned by private individuals and families, some of whom lived full time on the property whereas others did not

I created the map above using publicly available geospatial data referenced in individual Land Restitution Tribunal court sentences. From Land Restitution Tribunal rulings we can glean the specific locations of individual plots, their size, and a few details about the agrarian practices exercised upon them. These court documents usually identify the plot’s *codigo catastral*, a numeric code unique to each parcel. With this number, the plot can be easily located on the Colombian Geography Institute’s (IGAC) “geoportal” parcel locator website, from which the parcel’s GIS data be may be freely downloaded.²⁷

²⁶ These four plots are located in Sabana de Torres and were owned by small-scale agro-industrial palm oil collectives. See Cases Sabana de Torres: Sep 24 2013; Oct 31 2013; Sep 2 2014; Nov 28 2016

²⁷ IGAC Geoportal: <https://geoportal.igac.gov.co/es/contenido/consulta-catastral/?mapaId=23>

Beyond this geospatial information, Land Restitution Tribunal court sentences typically identify the date the ostensibly displaced conflict sold or abandoned their property (always after 1991). From court documents we further learn that the ELN and FARC guerrilla groups had a strong presence in Sabana de Torres, Rionegro and San Alberto since the early 1980s. In the early 1990s, regional “self-defense” paramilitary organizations formed to combat the guerrillas. By the late 1990s, those regional units were part of the national AUC (United Self Defense Forces of Colombia) paramilitary organization. In the majority of cases, paramilitary groups were responsible for forced displacement in Sabana de Torres, Rionegro and San Alberto.

However, the parcels in the map above are largely excised from a more complete historical context of agrarian relations. In many ways, this is the cartographic gaze the land restitution process makes possible: we can identify where are individual parcels with arbitrated restitution claims are located and glance at their general size dimensions. By reading Land Restitution Court Tribunal cases, we learn something of the armed actors involved, their dates of operation, and the general scope of their human rights violations.

But what of the underlying agrarian and conflict relations that led people to abandon or sell their land under duress? And what about the violence transpiring prior to the Victim Law’s 1991 cut-off date? What is there to be said of the historical evolution of land tenancy patterns in the region, and the market factors affecting agrarian production and landownership? How did armed conflict intertwine with agrarian restructuring in these municipalities? We might sum up the following questions thus: what is the relationship between land, armed conflict, and forced displacement in these municipalities? Bureau of Land Restitution and Land Restitution Tribunal investigations provide limited albeit important insight on that question. But there is a larger story

to be told. Telling that story requires looking beyond individual parcels in isolation in order to re-construct a larger panorama of agrarian relations and armed conflict.

This chapter, therefore, attempts to add important contextualization to the map above by looking beyond land parcels in their juridical isolation. Specifically, I detail the general contours through which forced displacement and agrarian relations mutually constituted one another in specific ways. The paramilitary onslaught in the region beginning in the late 1980s was no mere “counter insurgent” operation, but intricately bound to unfolding processes of redistributive agrarian reform as well as the neoliberal opening of agricultural markets. Paramilitary forces—initially founded by agrarian elites in the region—were starkly opposed to agrarian redistribution programs. They killed, tortured and forcefully displaced landless agrarian reform participants, consistently stigmatizing them as FARC and ELN guerrilla associates. Similarly, paramilitary forces played a key labor-disciplining role as agro-industrial interests in the region enlisted them to break union organization, especially in light of Colombia’s neoliberal opening of the early 1990s (FUNDESVIC 2011, 2016; Vega Cantor 2009). Paramilitary violence is much more productively thought of, then, as an expression of Colombia’s continually unfolding “agrarian counter reform” (Álban 2011) as opposed to mere “counter insurgency”.

In this chapter, I therefore trace the knotted history of armed conflict and agrarian relations in the Magdalena Medio, drawing attention to the processes of both violent land accumulation as well as state-sanctioned agrarian reform and land distribution. While I attempt to paint a broad picture of the Magdalena Medio, I specifically focus on how these dynamics unfolded in the Sabana de Torres and Rionegro, Santander and San Alberto, Cesar. I draw particular attention to the complexities of the historical evolution of agrarian relations in these municipalities for two interrelated reasons.

First, I do so in order to illuminate the complex thicket of land tenure patterns that the Bureau of Land Restitution confronted in 2012-2013 when it began initial land restitution proceedings in this region. As the land restitution program unfolded, restitution petitions were launched over a small handful of “large” estates (those greater than 200 hectares). Yet most of the plots claimed for restitution were indeed much smaller. Many of these parcels were private estates established in the 1970s, oftentimes dedicated to subsistence agricultural, dairy ranching and in some cases small-scale palm oil production. A significant portion of the plots claimed for restitution, especially in San Alberto (and to a lesser extent Sabana de Torres and Rionegro) were small parcels ranging between twelve to twenty hectares that the Colombian Institute of Agrarian Reform (INCORA) distributed to landless *campesino* families in the early 1990s per agrarian reform legislation.

In the vast majority of cases the land parcels claimed for restitution—whether private estates or a smaller agrarian reform plots—were owned and occupied as of 2012-2013 when the Bureau of Land Restitution began processing restitution claims. Thus, when the Land Restitution Tribunal subsequently began arbitrating restitution cases in this region, it confronted a panorama of diverse landholdings concerning plots that typically had formal title documents and present-day owners and occupants. Only very few of these parcels were owned by agro-industrial enterprises or individuals with apparent ties to armed groups. Thus (as I detail in Chapter IV) the Land Restitution Tribunal’s stringent application of the Victims Law’s “good faith with due diligence” provisions resulted primarily in the eviction of small and medium-scale farmers and ranchers who ostensibly bore no apparent connections to armed groups responsible for forced displacement. It is in these instances, as I will suggest in later chapters, where the land restitution

program encounters a reality that spilled over the Victims Law's particular enframing of Colombia's armed conflict.

The second major facet of agrarian relations in this region I wish to highlight deals with the discursive frameworks that have traditionally conditioned land and conflict in the Magdalena Medio. That is, understanding the significance of material agrarian relations requires looking beyond quantitative measures of land concentration and distribution, dominant modes of landed production, and the net amount of agricultural goods produced (although these are all, of course, important factors). Beyond these facets, it is important to understand how practices of land use and distribution are differentially framed as reflections of Colombia's armed conflict. Therefore, in this chapter I highlight why agro-industrial projects in the Magdalena Medio are simultaneously cast as markers of agricultural modernity as well as bloody, paramilitary-backed imprints of land theft. Similarly, I detail how agrarian reform movements are cast as heroic demands for subsistence for landless families on one hand, and widely stigmatized as guerrilla tactics to steal property and extend their territorial control on the other. It is only through attending to these competing and contentious discursive portrayals of land and conflict that we can begin to understand the present-day controversies concerning land restitution.

That is—as I will more fully address in Part II of this dissertation (Chapters IV, V and VI) — when land restitution opponents in the Magdalena Medio mobilize to block restitution proceedings, they very much understand themselves to be opposing the re-establishment of guerrilla territorial control of the region. It is only through examining the manner in which agrarian reform movements in this region have been historically stigmatized as guerrilla invasion tactics can the logics of this present-day opposition to land restitution be better understood. This stigmatization of land restitution claimants as guerrilla pawns indexes perceptions of armed

conflict that the Victims' Law attempts to enframe on the externalized "outside" of the land restitution process and thus render inaccurate and irrelevant. Through showing the deeply ingrained historical roots of these stigmatizing discourses in the Magdalena Medio, I draw attention to how the Victims Law's enframing of armed conflict only partially encapsulates the complexities of agrarian relations and forced displacement in the Magdalena Medio.

In what follows, therefore, I trace the history of armed conflict in Sabana de Torres, Rionegro, and San Alberto to both illuminate the historical roots of present-day land tenancy patterns and to detail how evolutions in agrarian relations have been intricately imbricated in violent processes of forced displacement. Many of these facets do not appear in the official, historical record of forced displacement produced through Land Restitution Tribunal proceedings (see Chapter III). But it is only through understanding the tumultuous tapestry of agrarian change and armed conflict that present-day political opposition to the restitution program may be understood. This chapter aims to stitch that tapestry together.

In Section I, I briefly comment on the general patterns of land tenancy and distribution in Sabana de Torres, Rionegro and San Alberto. I highlight diverse patterns of land tenancy in this area in order to show that dominant processes of violent "accumulation by dispossession" in the Magdalena Medio (Moreno and Zamora 2012), while certainly important, do not fully explain prevalent land tenancy patterns. This is not to downplay the impact of forced displacement, but rather to foreshadow the fact that not all land sold or abandoned due to conflict is readily sutured into the agro-industrial ventures that a violent "land grabbing" (Thomson 2011, 2014) or "accumulation by dispossession" (Moreno and Zamora 2012) optic suggests. That is, rural areas in Sabana de Torres, Rionegro and San Alberto are not entirely subsumed within the *latifundia* agro-industrial and cattle estates to which paramilitaries often dedicated their stolen lands in

other regions of the country. Smaller land tenancy patterns prevail, despite their imbrication in paramilitary violence.

In Section II, I draw specific attention to the legacies of both industrial oil palm expansion as well as agrarian reform initiatives in these municipalities to detail their influence on prevailing land ownership patterns. In so doing, I show how these interventions into the political economy of land became directly embroiled in conflict dynamics. Namely, the expansion of agro-industrial palm oil production throughout San Alberto (and later Sabana de Torres and Rionegro) relied on coercive pressure from the Colombian military to usurp land and, later, direct paramilitary violence to break labor organization amongst palm oil workers. Palm oil executives and paramilitaries accused the latter group of being guerrilla associates to tacitly justify violent oppression.

Concurrently, the Colombian military, their paramilitary allies and agrarian elites heavily stigmatized redistributive agrarian reform programs as guerrilla ploys to gain territorial control over large estates. Although agrarian reform efforts led by the National Association of Users of State Agricultural Services (ANUC) successfully pressured the Colombian Institute of Agrarian Reform to retitling thousands of hectares in the early 1990s, those receiving land were often accused of harboring guerrilla connections and thus subject to paramilitary violence. Like unionized palm oil workers throughout the region, agrarian reform participants were subject to horrific paramilitary violence under the presupposition they bore connection to the FARC or ELN guerilla groups traditionally present in these municipalities. Decades after initial waves of forced displacement, this is a presupposition that the Victims' Law has struggled to counteract.

Section I: *Land Tenancy Patterns*

Colombia's Magdalena Medio certainly witnessed intense processes of violent land concentration, which scholars of the region have readily identified as "accumulation by dispossession" (Moreno and Zamora 2012) stemming from the coercive expansion of traditional cattle ranching, the inflation of industrial palm-oil plantations, and the speculative investment of narco-dollars in large tracts of rural property. However, the violent concentration of land in cattle, oil palm and narco-laundering schemes only partially illuminates the reality of land tenancy patterns throughout the Magdalena Medio. In both Santander and Cesar, over 50% of landholdings are held in so-called "medium" scale plots (those with a size ranging from 50 to 200 hectares), as opposed to traditional *latifundia* estates. This pattern holds especially true for Sabana de Torres, Rionegro and San Alberto; approximately 55% of landholdings in Rionegro and San Alberto are "medium", while nearly 70% of parcels fit this profile in Sabana de Torres.²⁸ (IGAC 2012: 229-239;370-381).

This broad statistical picture shows that processes of land concentration in the Magdalena Medio cannot be reduced to a typical *latifundia* mold defined by a single owner presiding over a massive estate, despite sustained processes of violent land accumulation throughout the region. Both neoliberal reforms to the dominant palm oil sector, coupled with sustained rounds of agrarian reform, have promoted smaller land-holding patterns *alongside* more concentrated cattle ranching and industrial oil palm land-ownership schema. Sabana de Torres, Rionegro and San Alberto therefore contain patchworks of varying land tenancy patterns, ranging from the

²⁸ Of course, the size of individual plots is only one gauge of land concentration. San Alberto and Rionegro's relatively high GINI coefficient indexes (ranging between .66 to .73 and .745 to .804, respectively) indicate that one person or entity (*propetario*) often owns several "medium" plots. Meanwhile, Sabana de Torres' lower GINI coefficient (estimated between .624 and .684) suggests land owners tend to have fewer plots to their name (IGAC 2012: 229-239;370-381).

INDUPALMA palm oil corporations' 11,000-hectare plantation in San Alberto, to sixteen-hectare family plots provisioned through redistributive agrarian reform legislation. Parcel size patterns in Sabana de Torres, Rionegro and San Alberto are therefore largely defined by their heterogeneity.

There is no doubt that agro-industrial expansion in the Magdalena Medio—most notably in the form of African oil palm—relied on military and paramilitary suppression to both expand land holdings as well as break unionized worker organization. Even if most of this land bears “legal” title, a seething mix of fraud and violence often times lurks underneath (See Chapter IV). However, an exclusive focus on these classic facets of violent “accumulation by dispossession” only partially illuminates the complexity of agrarian relations in this region. Amidst these processes of violent land concentration, rural communities organized by the National Association of Users of State Agricultural Services (ANUC) successfully pushed for redistributive land reform in order to combat endemic issues of landlessness and poverty. These mobilizations for land redistribution under the auspices of Colombian agrarian reform legislation have indeed resulted in significant land concessions for rural communities, although only after sustained rounds of contentious struggle.

In what follows, I elucidate how armed conflict patterns have conditioned these heterogenous land tenancy patterns in the region in light of both neoliberal restructuring and agrarian reform measures. Amidst these processes of flux, the denouncement of certain groups (organized workers, human rights defenders, agrarian reform participants) as guerrilla sympathizers and associates has remained an unfortunate constant, as has the potential violence these groups face in light of such accusations (Van Ischott 2015).

Section II: *The Land Question*

Paramilitary Accumulation

My primary focus on paramilitary—as opposed to guerrilla—violence in this section is intentional. Across the 117 cases arbitrated in Sabana de Torres, Rionegro and San Alberto, Land Restitution Tribunals identify paramilitaries as the party responsible for displacement in 70% of instances (see Table 2.2). This is much higher than national land restitution statistics, in which paramilitaries are identified as the responsible party in 56% of cases (Forjando Futuros 2019).²⁹

Armed Group	Identified as party responsible for forced displacement
Paramilitaries	81 Cases (70%)
Guerrillas	30 Cases (26%)
Military	3 Cases (2%)
Other/unidentified	3 Cases (2%)

Table 2.2 Armed party responsible for forced displacement in Sabana de Torres, Rionegro and San Alberto restitution cases (see Annex A)

Even after their formal demobilization under the auspices of Colombia’s 2005 “Justice and Peace Law”, many paramilitary commanders largely denied having any economic interest in land. According to their accounts, they were nothing more than heroic defenders of *La Patria* from the guerrilla scourge. Any forced displacement they caused was—rather than bloody land theft—the inevitable collateral damage that always accompanies armed conflict (CNMH 2012: 80-85). Today, however, paramilitary forces’ intricate ties with the expansion of certain extractive sectors is hardly a subject of dispute, and the Victims’ Law land restitution program contains legal facets designed to specifically address conflict-related land theft (see Chapter IV).

²⁹See Land Restitution Tribunal Statistics at: <http://sifff.eaconsultores.com.co/Datos/Index>

In the Magdalena Medio, the relationship between land and conflict unfolded through the violent expansion of extractive enclaves, as well as the exigencies of strategic military control and dispute. These include control of coca producing areas, such as the San Lucas mountains in Bolívar Province that both ELN and FARC guerrillas and Bloque Central Bolívar of the AUC paramilitary organization have alternately dominated. The Barrancabermeja oil enclave, whose petroleum resources have been consistently siphoned off as a financial resource for paramilitary organizations, has also been a key site of strategic contention and by 2002 was under the firm military and political grip Bloque Central Bolívar of the United Self Defense Forces of Colombia (AUC) paramilitary organization (O' Loingsigh 2002; Gill 2009).

Relatedly, highway construction in the Magdalena Medio in the 1980s (especially via the *Troncal del Magdalena Medio* route which passes near both Sabana de Torres and San Alberto *en route* to the Caribbean Coast) only augmented the strategic importance of the region as a transportation corridor. The construction of this prominent highway infrastructure attracted both guerrillas and paramilitaries vying to control important narco-trafficking routes to Venezuela and the Caribbean coast. This highway, ironically dubbed *Highway of Peace (Carretera de la Paz)* in 1982 when construction began, quickly became a central guerilla extortion site over passing traffic. In turn, paramilitary forces violently usurped land parcels near the highway in order to both control transportation routes to the coast, the Catatumbo region of northeast Colombia and Venezuela, as well as to appropriate service stations along the highway where they sold gasoline pilfered from the state refinery (Zamora and Moreno 2012: 26-27; Verdad Abierta 2018b, 2018c). Although the construction of the Troncal del Magdalena Medio highway reduced the overall importance of riparian transportation via the Magdalena river, this river nonetheless continues to offers important fluvial access to Colombia's Caribbean ports. The control of these

transportation corridors has in turn cemented the Magdalena Medio in terms of strategic importance for the illicit finance of conflict through cocaine production and transportation (Vicepresidencia de la República 2006).

Narco-economies are also intricately tied with the political economy land. This was especially true in the southern Magdalena Medio near Puerto Boyacá where narco-traffickers, many associated with the Medellín Cartel, began purchasing huge swaths of land in the late 1970s, largely as a means of laundering narco-dollars and to strategically cement their territorial influence (Moreno and Zamora 2012: 24-25; See Also Richani 2012 and McSweeney et al 2017). The imposition of narco-estates was not only predicated upon the usurpation of small-scale campesino land holdings, but also fomented declines in subsistence agriculture as less and less land became available for small-holder production. Small scale agricultural production in Colombia continued to decline throughout the 1990s, owing in part to neoliberal openings of agricultural markets. This provided another venue through which extensive cattle ranching could usurp now abandoned lands (Richani 2012: 74). And while cattle ranching is certainly significant in Sabana de Torres, Rionegro and San Alberto, it is industrial palm oil that has more centrally driven agrarian economies in these municipalities. And it is to that story I now turn.

Shades of Gray in Palm's "Black Legend"

The establishment of industrial African oil palm plantations in the Magdalena Medio in the 1960s coincided with increased military preoccupation with revolutionary guerrilla activity, meaning that palm oil was from the outset a militarized industry willing to train a repressive counter-insurgent glance upon workers' labor organizing. The principle palm oil corporations in the region, notably Indupalma and Hipilandia (Later 'Palmas del Cesar') were founded in San Alberto, Cesar in the early 1960s, the former through European venture capital and the latter

through prominent regional industrial families. Today, INDUPLAMA represents the single largest palm interest in the Magdalena Medio.

In 1957, the Institute for the Promotion of Cotton (*Instituto del Fomento Algodonero*, IFA) under the direction of the Rojas Pinillas military dictatorship (1953-1957) began a concerted push to establish palm oil production in the region, both to foment further colonization of the Magdalena Medio's heavily forested riparian lowlands and to complement Colombia's nascent push toward import-substitution-industrialization (Salinas 2008:5). Hipilandia and Indupalma began their operations in what is present-day San Alberto, Cesar which—before gaining status as a municipality in 1967—consisted of a train station called “La Llana” on the Atlantic bound trainline (*El ferrocarril del Atlántico*), and a small intersection called “El Cruce” on the Atlantic bound highway.

Amidst extremely dense jungle, settlers (*colonos*), many of whom were former soldiers from both Liberal and Conservative factions demobilized in the wake of *La Violencia*, established a handful of small hamlets (*caserios*) in these flat lowlands in the 1950s. The *colonos* living in these small settlement communities practiced a mixture of subsistence agriculture in addition to *tumbando monte*, or clearing forest to establish new pasture for a handful of local ranchers. The arrival of industrial palm in the early 1960s, however, meant drastic changes in both the landscape, local agrarian production, and land tenancy.

In imagery evocation of the ever-recurring pristine myth of the Americas, a former INDUPALMA employee recalls witnessing the arrival of the company:

This used to be a magical jungle. Sloths, anteaters, more snake species than I can remember. Deep blue lizards, turtles, so many types of frogs, beautiful insects, more kinds of butterflies than you can imagine. To see the Fabaceae trees in bloom...It was to look upon the first day of Creation. But now no one will ever see them again, it will take at least two hundred years to recuperate what used to be here.³⁰

³⁰ Quoted in Salinas 2008: 25

The ‘Creation’ slated for the coming decades would be of a very different sort, as thousands of hectares of tropical forest, subsistence plots and cattle pasture were overlain with interminable tracks of neatly organized palm oil plants. In just a few short years, INDUPALMA rapidly expanded its land holdings from an initial 74 hectares in 1961 to over 4,100 hectares by 1967 (FUNDESVIC 2011: 16). Land purchases were under the purview of INDUPALMA subdirector José Joaquín Ortiz Duarte, a former high-ranking Conservative military commander whose ghastly reputation during the war earned him the nickname *Capitán Tinieblas*. (which can only be properly translated as something akin to ‘Captain of Darkness’).

Members of INDUPALMA’s workers’ union recall that *Capitán Tinieblas* paid uninvited visits to both small-scale *colonos* and larger landowners alike throughout San Alberto, carrying his typewriter and flanked by two gun-slingers (*pistoleros*). As a notorious military commander with the direct support of Moris Gutt (INDUPALMA’s Ukrainian-born owner), not to mention the Rojas Pinillas regimes’ full-backing of industrial palm production, he had little trouble effectuating the desired land sales.

It was not simply small *colono* landowners who felt the pressure to sell their holdings; at least two *latifundista* landowners from San Alberto sold their 500- and 800-hectare estates to the company after visits from “the Captain”. To date, blocks two to thirteen of INDUPALMA’s current plantation are alleged to sit on land coercively usurped from those living in the region prior to the company’s arrival. The coercive usurpation of *colono* landholdings was central to INDUPALMA’s physical expansion, and fomented the creation of a landless workforce of approximately 1,500 people initially needed to perform the grueling labor of planting palm (FUNDESVIC 2011: 19-23; Moreno and Zamora 2012: 20).

In 1963, two years after INDUPALMA's inauguration, palm workers leveraged support from regional labor organizations including the Colombian Federation of Workers, the Santander Workers' Union, and the Santander Federation of Free Workers to establish a workers' union originally called UTRASAN (Santander Workers' Union). Palm oil workers toiled in atrocious conditions, which included arduous hours and exceptionally low wages, coupled with myriad health risks including dismemberment from palm cleaving tools, bites from venomous snakes, as well as exposure to tropical diseases. Compounding these problems was the fact that most workers were hired on contracts and therefore did not have access to any of the medical, housing, and food services that INDUPALMA's smaller population of in-house workers enjoyed. Workers' initial unionizing efforts for better conditions were met with stiff resistance, including significant lay-offs and the black-listing of labor leaders.

Organizing efforts were met with concomitant threats of violence, reaching an apogee in a 1971 workers' strike in whose wake several union members were falsely accused and sentenced to prison for the assassination of INDUPALMA's human resources manager. This blow was accompanied by the "accidental" destruction of the union's headquarters one night by an unattended bulldozer whose parking break mysteriously gave out. Ironically, the national attention brought to San Alberto in light of these latter events forced INDUPALMA to the negotiating table, resulting in the company's acceptance of a collective bargaining agreement and official recognition of the INDUPALMA United Workers' Association (ASINTRAININDUPALMA) the following year (FUNDESVIC 2011: 24-31). Despite brutal repression of the subsequent palm oil workers' strike in 1977, the ASINTRAININDUPALMA workers' union was able to successfully push for more direct contracting practices and better working conditions. Unionized labor's esteem only increased, and in 1985 three regional palm

workers union, including ASINTRAINDUPALMA in San Alberto, formed an industry wide union alliance known as Sintraproaceites.

INDUPALMA's official recognition of ASINTRAINDUPALMA and the formation of the regional Sintraproaceites palm oil workers' alliance, however, did not extricate palm oil workers from the conflict dynamics engulfing the region. Over the coming years, palm oil workers were specifically targeted by combined military-paramilitary "counter-insurgency" efforts in San Alberto and the Magdalena Medio more broadly under the allegation that they bore close connections with various guerrilla fronts in the region. As one current INDUPALMA employee (and former workers' union council member) told me:

Union members have always been targeted by the extreme right-wing. To be honest, in Colombia that is quite common. Extreme right-wing groups, including the state, look at unionizing as a guerrilla activity. They concoct the argument that they are combatting the guerrilla, but in reality they kill ordinary citizens, civic leaders, union leaders...always claiming that they are guerrillas.³¹

The violence visited upon palm oil workers in southern Cesar in the context of such stigmatization has been truly devastating. In the 1990s alone, six palm oil union presidents were assassinated in rapid succession, alongside another ninety-five unionized palm oil workers murdered in the region since 1971 (CNMH 2019: 328). In these cases, paramilitary forces, working in close cooperation with military units (particularly the 5th Brigade headquartered in Bucaramanga) are suspected to be the responsible party, even if most crimes have gone unprosecuted. The legacy of this violence, however, has been largely responsible for fragmenting organized palm oil labor in the region: from its peak of 3,500 members in 1988, SINTRAPROACEITES was reduced to a mere 630 members by 2016 (FUNDESVIC 2016: 68-69).

³¹ Interview, San Alberto, August 21st, 2017

If the stigmatization of palm oil union members as guerrilla sympathizers gave discursive justification for direct violence, Colombia's neoliberal reforms of the early 1990s in turn placed palm oil workers in an even more precarious position. As the following section will show, paramilitary influence lurked beneath the "labor adjustments" that INDUPALMA deemed necessary in light of neoliberal reforms. These reforms, in turn, helped usher in changing land tenancy patterns that promoted small and medium scale land owners as the neoliberal agents of palm production.

Opening the Land

In an ostensible attempt to control inflation and boost macro-economic growth through exportation, the César Gaviria administration (1990-1994) ushered in a series of neoliberal reforms between 1990 and 1991. This so-called "economic opening" (*la apertura económica*) hinged on eliminating protectionist tariffs and allowing duty-free importation on a wide variety of agricultural products. In tandem with trade liberalization policies, the neoliberal opening was accompanied by domestic legislation that reduced worker protections and labor security, coupled with financial reforms to pension systems. This opening signaled long-term declines in domestic agricultural productivity due to competition from cheaper imports, as Colombia's agricultural sector diminished from 14% of the overall economy in 1995 to 8.5% by 2009 (Bonilla González 2009: 47-51).

Colombia's neoliberal pivot in the early 1990's had drastic impacts on agrarian production in the Magdalena Medio. Corn, rice, sorghum and cotton production was largely eviscerated due to competition from cheaper foreign imports (Salinas 2008, Baldovino 2011). The precipitous drop in production of these staple crops proved disastrous for many subsistence and small-scale landholders. As traditional modes of *campesino* production became increasingly

unviable, thousands of hectares throughout the Magdalena Medio were abandoned.

Compounding *campesino* precarity caused by neoliberal reforms in the early 1990s was the simultaneous eruption and consolidation of the paramilitary project throughout the Magdalena Medio.

While largely fatal to corn, rice, sorghum and cotton production, the twin pincers of Colombia's neoliberal opening and paramilitary agrarian counter-reform coincided with a drastic increase in palm oil production, despite the augmented international competition this industry was slated to face due to reduced trade barriers. From 28,242 hectares in 1995, palm oil production swelled to 77, 287 hectares by 2006 throughout the Magdalena Medio (Salinas 2008: 7). This nearly 50,000-hectare increase in palm production after Colombia's neoliberal opening was particularly reflected in Sabana de Torres, whose cultivated palm area skyrocketed from 528 hectares in 1998 to an astounding 17, 929 hectares by 2009 (Baldovino 2011: 33-34). Meanwhile, in neighboring San Alberto INDUPALMA managed over 8,000 hectares by the late 1980s, and since then has expanded its overall landholdings in San Alberto to over 11,600 hectares (FUNDESVIC 2016: 28; Alcaldía de San Alberto 2018).³² Today, an estimated 78 % and 79.61% of Sabana de Torres' and San Alberto's respective agricultural workforce participates in palm production (Rueda-Zárate and Pacheco 2015: 16).

A typical read on palm oil's "black legend" (Hurtado et al 2017: 443) might portray this massive increase in palm cultivation as an industrial land grab girded by heavy-handed paramilitary force. If this framing is certainly illustrative of what has happened throughout many parts of Colombia, especially the coastal lowlands of the Urabá and the Lower Atrato Valley, it does not capture important nuances of palm expansion and associated changes in land-tenancy

³² <http://www.sanalberto-cesar.gov.co/entidades-descentralizadas/indupalma>

patterns throughout much of the Magdalena Medio. For whereas palm cultivation has precipitously expanded in Sabana de Torres (and to a lesser extent in San Alberto), this has not primarily been through an expansion of INDUPALMA or other palm conglomerates' direct landholdings. Rather, the growth of palm cultivation in the neoliberal era has been largely fomented through small and mediums-scale owners who, owing to the combined neoliberal reforms and paramilitary onslaught against palm worker unions in the early 1990s, have been readily sutured into this industry.

In particular, two dominant forms of palm-associated labor and land management grew out of the neoliberal reforms of the 1990s. These are “Associated Worker Cooperatives” (*Cooperativas de trabajo asociado*, henceforth CTAs) and “Strategic Alliances” (*alianzas estratégicas*), both of which hinge on ensuring industrial palm conglomerates' access to palm plants without associated labor and input costs. Beyond their strict obedience to neoliberal orthodoxy of labor flexibility and precarity, they are key outgrowths of the legacy of direct paramilitary violence against organized labor throughout the Magdalena Medio (Moreno and Zamora 2012: 26).

“Associated Worker Cooperatives”, or CTAs, are principally associated with San Alberto and the massive plantation INDUPALMA has maintained there since the early 1960s. In brief, CTAs are associations of at least ten workers who palm conglomerates contract to plant and harvest palm crops on the companies' land. While INDUPALMA manages certain financial and administrative aspects of the CTAs, the CTAs themselves bear all costs for providing workers' tools, machinery, healthcare, pension and related expenses. They receive payment as third-party contract associations hired to work on the palm conglomerates' already existing land holdings (Salinas 2008: 11-12).

INDUPALMA specifically pushed for the formation of CTAs in the early 1990s as part of the “labor adjustments” (*ajustes laborales*) the company deemed necessary to remain competitive in Colombia’s newly liberalized international market. Without such adjustments, INDUPALMA maintained it would be forced to abandon some 3,000 of its 8,000 hectares in San Alberto. Thus, in the mid-1990s INDUPALMA management proposed substantial layoffs of unionized employees who could then “form their own companies” as CTAs to be contracted to manage the 3,000 hectares in question.

The ASINTRAININDUPALMA workers union vehemently opposed the company’s scheme to reduce labor costs through CTAs given that they would erode all previous workers’ benefits the union had achieved. In November 1995, however, union resistance was broken and ASINTRAININDUPALMA begrudgingly signed an agreement authorizing the CTAs. The union’s decision was certainly the result of paramilitary coercion. As Leslie Gill notes, paramilitary violence directed toward unionized workers throughout Colombia in light of neoliberal reforms has ensured “they are available for incorporation or exclusion from the social relations of neoliberal capitalism on terms not of their choosing” (2009: 314). By 1995, ‘Camilo Morantes’ “United Self Defense Forces of Santander” paramilitary group had established its headquarters in San Rafael de Lebrija, Rionegro, Santander, just south of INDUPALMA’s plantation. Meanwhile, alias ‘Juancho Prada’s’ paramilitary group exerted increasing military control over San Alberto. The paramilitary vice grip was tightening and palm oil workers felt the pressure bearing down.

Amidst contract negotiations concerning the CTAs in 1995, paramilitaries assassinated several ASINTRAININDUPALMA union members. Paramilitary soldiers, with the apparent acquiescence of INDUPALMA management, openly patrolled INDUPALMA’s plantation to

threaten workers. If palm workers signed the CTA agreement it was only, as former union members relate, due to their demoralization in light of “so much death, crime and accusations” stemming from the industrial-paramilitary forces aligned against them (FUNDESCIV 2016: 32-33; 61-63).³³ As CTAs came to redefine the labor-landscape in San Alberto’s long-standing, industrialized palm sector after 1995, neighboring Sabana de Torres saw a concomitant rise in palm oil production on vast swaths of newly abandoned rice patties, corn fields and dairy pasture (Baldovino 2011).

In distinction to San Alberto, however, Sabana de Torres’ palm production was largely propelled by individual, small-scale producers and cooperatives working in so-called “Strategic Alliances” with regional palm conglomerates such as INDUPALMA. Generally, these “strategic alliances” incorporate small-scale landowners through crop-buying contracts in which landowners plant palm on their own property and agree to exclusively sell their harvests to specific processing plants (including but not limited to INDUPALMA’s) for a period typically consisting of twelve years (Moreno and Zamora 2012: 34-35). In this way, palm conglomerates ensure access to crop harvests, without bearing any of the associated land and labor costs or risks (Salinas 2008: 21).

In Sabana de Torres, several palm-oil cooperatives (including *Coopsabana I*, *Asopalsat*, *Palmares el Portico*, *Coopalmag*, *Alpasar*) are responsible for managing the majority of palm-oil production in “strategic alliance” with regional palm oil corporations. Individual members provide financial support and agree to dedicate a minimum of ten hectares of their own land to these “strategic alliance” associations. These associations, in turn, help manage technical facets of land management as well as financial and administrative aspects of selling the palm to

³³ Over 26 CTAs currently manage INDUPALMA land in San Alberto, whose workers toil under continually more precarious labor conditions (<http://ail.ens.org.co/movilizaciones/arranco-la-huelga-en-indupalma/>)

industrial processing plants, of which thirteen are currently located throughout the Magdalena Medio (Rueda-Zárte and Pacheco 2015: 43-44). Cooperatives typically have several dozen members, and their combined landholdings range anywhere from 500 to over 1500 hectares. These are not massive estates, but rather patchworks of smaller parcels distributed throughout Sabana's rural areas. These parcels are managed by an array of people, including conflict victims supported through international development programs, traditional agricultural families from the region, and urban mid-level investors from Bucaramanga.

Many of these “strategic alliances” are simultaneously supported through a number of entities, including municipal governments, NGOs, international aid organizations, as well as private industry. For example, both the Coopsabana I (an INDUPALMA associate) and El Portico “strategic alliances” were created via a mixture of municipal and state-funds, as well as through assistance from USAID's MIDAS (*More Investment for Alternative Development*) program. USAID's MIDAS program specifically aims to diminish coca production through “alternative” forms of agrarian production, of which palm oil has played central role. Thus, these strategic alliances purport to suture small-holders' land parcels within purportedly anti-narcotic palm oil projects. In a similar fashion, the Magdalena Medio Peace and Development Program (an NGO formed to address poverty and conflict in the region who manages significant US and European developmental aid) helped form the *Asopalsat* strategic alliance in Sabana de Torres within an overall “Peace Laboratory” (*Laboratorios de Paz*) initiative designed not only to enroll conflict victims in palm oil production but to also foment “peaceful” agrarian economies independent of coca-production (Baldovino 2011: 44-62; Zamora and Moreno 2012: 33).

Although palm oil production has a well-earned reputation as a paramilitary-backed motor of land grabbing (especially in Colombia's largely afro-descendent coastal regions), there

is nonetheless considerable diversity in land holding patterns throughout the sector. The Magdalena Medio's palm oil sector is a microcosm of this diversity. As described above, it consists of multi-thousand-hectare industrial oil palm plantations sitting in close proximity to family and cooperative-run operations through which the palm grown on these smaller parcels is contracted in "strategic alliance" to larger processing plants. Both the breaking of union resistance to the CTA model on INDUPLAMA's plantation holdings, as well as the ushering in of "strategic alliance" agreements on smaller parcels, was made possible through the twin barrages of neoliberal reforms and heavy-handed paramilitary force.

Agrarian Reform

Alongside the consolidation and expansion of oil palm, agrarian reform efforts are another key prism through which land and conflict have been refracted in the Magdalena Medio. I address Colombia's tumultuous legacy of agrarian reform in greater detail in Chapter V, which traces processes of *campesino* mobilization for land in the Magdalena Medio and the subsequent paramilitary-backed "agrarian-counter reform" to which agrarian reform participants have been subject. For the moment suffice it to note that agrarian reform programs in the Magdalena Medio, as in other regions of Colombia, have fallen well-short of their overall land redistribution goals, but have nonetheless left their mark on both patterns of rural land tenancy as well as deeply-held perceptions concerning land's proper owners and uses.

In terms of agrarian reform, Sabana de Torres (with 12,695 appropriated hectares between 1988 and 1995), Rionegro (6, 890 hectares) and San Alberto (2, 901 hectares) have been key epicenters of land redistribution in the Magdalena Medio (see Appendix B). The table below shows the quantity of state-appropriated hectares retitled to landless *campesinos* through the Colombian Institute of Agrarian Reform (INCORA) under the auspices of Law 135 of 1965.

Municipality	Number of Estates Appropriated (1988-1993)	Average size of Appropriated estate	Average size of redistributed plots
Rionegro, Santander	14 estates	378.31 Ha	22.5 Ha
Sabana de Torres, Santander	12 estates	1250.80 Ha*	69.5 Ha
San Alberto, Cesar	6 estates	483.56 Ha	16.67 Ha

Table 2.2: INCORA land distribution through Law 135 of 1961. **Source:** Santander Regional INCORA office (see Annex B: Agrarian Reform Figures) *This figure for Sabana de Torres include INCORA’s 1988 massive 8,500 Ha purchase of multiple ranches to create the Valle del Río Lebrija irrigation district, which was retitled to 187 families in 46 Ha plots. Without factoring this single massive purchase, the average expropriated estate is Sabana drops from 1250 Ha to 584.57 Ha (see Peré 2017:169).

Both Santander and Cesar have been significant sites of state-retitling of public lands (*baldíos*) to landless *campesinos*. The titling of de-facto public lands has been a cornerstone of Colombian agrarian reform efforts since the early twentieth century, both as a means of ensuring *campesino* access to land as well as to expand Colombia’s agricultural frontier. Between 1901 and 2012, the Colombian government has adjudicated 1,309,593.1 and 1,089,785.4 hectares of public land to small-holders in Santander and Cesar, respectively. Of Colombia’s 32 departments, Santander and Cesar respectively rank 6th and 7th in terms of quantity of public land titled to rural households (Villaveces and Sánchez 2015:57).

While the adjudication of public lands in Sabana de Torres, San Alberto, and the inter-lying municipality of Rionegro has certainly impacted land tenancy patterns in these areas, it is the expropriation and subsequent redistribution of *private* estates, however, that has had a larger impact in terms of land and conflict. Prior to the clearing of tropical forest for oil palm plantations in the 1960s, massive cattle ranches expanded throughout the region during the 1920s and 30s, relying on *colono* labor to eradicate forest for cattle pasture (Arias n.d.). In the 1980s *campesino* demands for land grew more prominent owing to a number of factors including increased displacement in the southern Magdalena Medio due to the paramilitary eruption as well as the hemorrhaging of the cotton industry in Cesar. Traditional large cattle estates were

singled out for the idle character of their sparsely used pasture, and many were thus occupied by landless peasants who claimed rights to the idle land per Colombia's agrarian reform statutes.

INCORA's redistribution of land through Law 135 of 1961 in these municipalities often came in the wake of significant *campesino* pressure through land occupations on the estates in question. The National Association of Users of State Agricultural Services (a state-created *campesino* organization formed in 1967 to channel agrarian reform programs) organized these land occupations nationally. In Sabana de Torres, Rionegro and San Alberto, the ANUC-UR (a reconfigured branch of the ANUC organized in 1987 to reconcile difference between varying ANUC factions as well as denounce increasing paramilitary brutality) was the principle agrarian organization in these municipalities. Whereas the ANUC-UR *campesino* organization played a central role in these "recoveries" (*recuperaciones*) of private land, landless *campesinos* also received significant support from San Alberto's palm oil workers, as well as assistance from organized oil workers in Barrancabermeja.

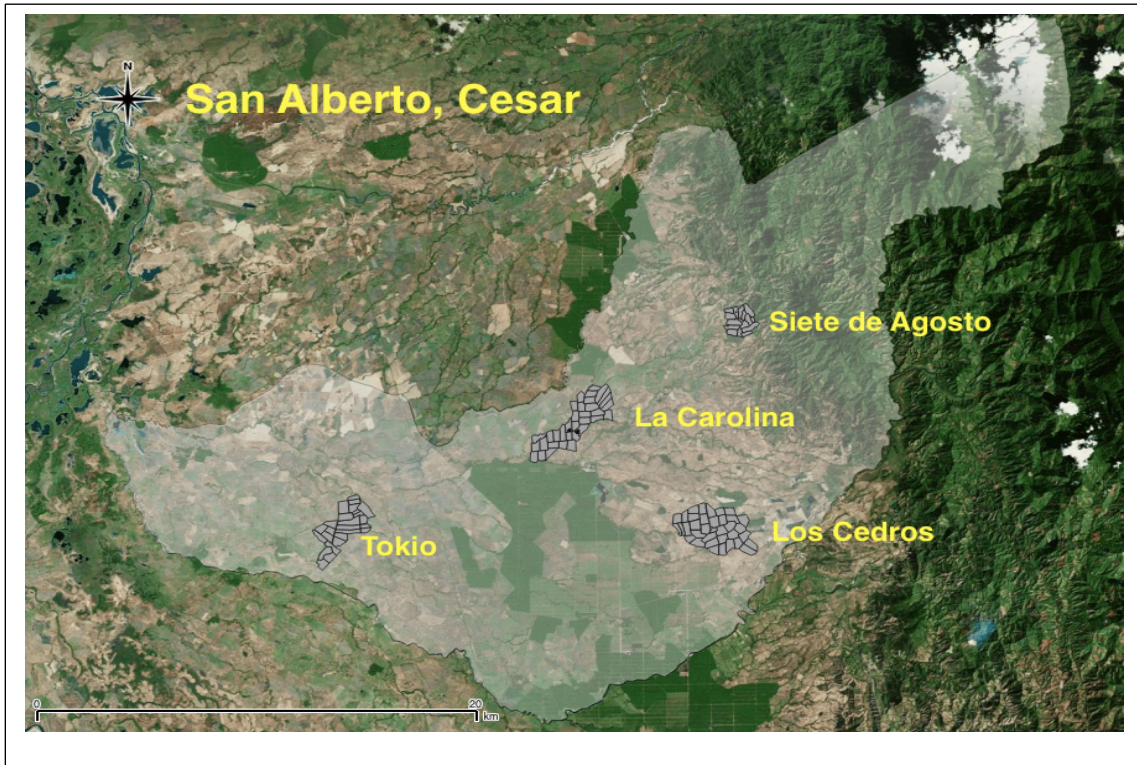
This *campesino-obrero* alliance to "recover" idle estates from *latifundistas* overcame significant police and military opposition in order to effectuate the desired land redistribution. Nonetheless, in the eyes of local agrarian elites and their paramilitary allies, these so-called "recoveries" were nothing more than "invasions" (*invasiones*) of private property. Worse yet in their eyes, they were almost certainly organized by guerrilla organizations and thus demanded a militarized response.

During this period, particularly the late 1980s and early 1990s, the ANUC-UR was active in helping landless *campesinos* organize and occupy large estates they deemed to be dormant and thus eligible for redistribution to those who would directly live on and work them. In San Alberto in particular, INCORA appropriated the large *Tokio*, *La Carolina*, *Los Cedros* and *7 de*

Agosto estates in the early 1990s and retitled them to landless families associated with the ANUC-UR. Specifically, on November 17th, 1989 INCORA appropriated the 649 hectare *La Carolina* estate and distributed it to 39 occupying families. These families then renamed each plot in a manner they saw fit. On *La Carolina*, for example, the 1st redistributed plot was renamed *La Lucha*. In a television interview some years later, the man to whom the plot was titled recounts a brief origin story: “Why did I name my farm ‘*La Lucha*’? [*The Fight*]. Because I had to fight so damn hard to get it!”³⁴

Soon after the redistribution of *La Carolina* estate in 1989, the 157 hectare *7 de Agosto* estate was then retitled to dozens of landless families on December 1, 1991. On July 15th, 1992 INCORA subsequently bought the 675-hectare *Los Cedros* estate (retitled to 31 families), and on December 30, 1992 bought the 670-hectare *Tokio* estate (retitled to 26 families). These estates were subdivided into allotments ranging from sixteen to twenty-six hectares, over which the occupying landless families were given formal usufruct possession rights per agrarian reform law 135 of 1961. In the following years, paramilitary forces displaced many of these families, accusing them of harboring guerrilla connections. These plots, as I show in Part II, therefore currently represent a significant portion of the current restitution cases in the Magdalena Medio.

³⁴*Tus Tierras, Tus Derechos* Episode 112 (San Alberto) <https://www.youtube.com/watch?v=SXecGpZQcDM>



Map 2.2 *La Carolina, Los Cedros, Tokio and Siete de Agosto* estates, San Alberto, Cesar. This map shows the 12 to 20-hectare parcels into which INCORA divided these estates, which were then retitled to landless occupying families between 1989 and 1992. **Map: Author**

The ANUC-led occupation of these estates in San Alberto arose in the context of massive *campesino* mobilization throughout northeastern Colombia in the late 1980s. This mobilization sought to draw the national government’s attention to both the increasing levels of paramilitary violence to which rural populations were subject, as well as the continued “abandon” (*abandono*) rural communities experienced due to insufficient governmental support for health, education and infrastructure. In this context, between June 7th and 15th, 1987 an estimated 80,000 *campesinos* occupied highways and towns squares throughout the Magdalena Medio and Catatumbo regions in what was called the “Northeastern Strike of 1987” (*Paro de Nororiente del 87*). This unprecedented mass mobilization paralyzed large sections of the Magdalena Medio through occupations of highways and city centers. Campesino communities, in collaboration with ANUC as well as urban and industrial workers’ unions, organized the *paro* in response to a

series of *campesino* demands including access to a range of basic social services, redistributive land reform and, significantly, human rights protection against the ever-expanding paramilitary project (Fajardo Cely 2017: 91-100).

These peaceful *campesino* occupations of municipal city squares across the Magdalena Medio and Catatumbo regions led to a series of tentative governmental commitments to invest in public infrastructure and investigate military abuses. But the cost was high. During this brief two-week period in June 1987, over 57 people who took part in *el Paro de Nororiente* were assassinated, including three members of the committee negotiating with the government (Paredes 2010)³⁵. This violence was condoned and perpetuated within a larger discursive framework that correlated *campesino* mobilization with guerrilla activity. As a *campesino* leader recalls, all those who took place in *el paro* were “señalados”, or singled out, as guerrillas. “For the authorities” he continues, “this was a guerrilla strike” (Carrascal Pérez 2017).³⁶

In May 1988, *campesinos* mobilized again in what was called the *Marcha Campesina* to highlight continually unmet demands stemming from the 1987 *Paro de Nororiente* strike for land and human rights protection. Between May 22 and 24th 1988, tens of thousands of *campesinos* converged on major cities throughout the country. Again, governmental and military authorities stigmatized these demonstrations as subversive guerrilla movements, which resulted in the detention and in some cases murder of participating *campesinos*³⁷.

It was in this context of *campesino* mobilization that the ANUC-UR began a series of land occupations in San Alberto, Cesar on the above mentioned *La Carolina, 7 de Agosto, Los*

³⁵ <https://www.alainet.org/es/active/40296>

³⁶ <https://www.youtube.com/watch?v=8VBjwH3i9pc>

³⁷ The most chilling display of state repression of the *Marcha Campesina* occurred near San Vicente de Chucurí in Southern Magdalena Medio, where military forces massacred 17 *campesinos* who were *en route* to joining the national marches. Dozens more participants were harassed, detained, and, in some cases, forcefully disappeared for their participation in demanding land, social services and human rights protection for *campesinos* communities (Van Ischott 2015: 141-142; Vidas Silenciadas 2017).

Cedros and *Tokio* estates (as well as on estates in nearby Sabana de Torres and Rionegro, Santander). Nearly thirty years later, these landholdings now form the epicenter of restitution efforts and controversy in the Magdalena Medio. As mentioned, in San Alberto in particular, groups of landless families associated with the ANUC-UR *campesino* organization first occupied *La Carolina* hacienda in 1987, and then the *Tokio* and *Los Cedros* estates in 1988. In 1990, more landless families then occupied the *Rodeo* estate outside San Alberto, renaming it “7 de Agosto” to commemorate the day they first occupied the land.

Angel Tolosa, now a member of a prominent human rights legal organization in Bogotá, was the president of ANUC-UR during these land recuperations. When we met in his office in October 2017, he explained to me that:

We started [the first recuperation] on *La Carolina* hacienda in 1987, in the midst of the 1987 *Paro de Nororiente* and in anticipation of the 1988 *Marcha Campesina*. In 1987 we took *La Carolina*. There were so many people that they didn't all fit so in 1988 we took the nearby *Tokio* and *Los Cedros* estates as well.³⁸

Police and military units forced the hundreds of occupying families off of the land several times, but ultimately to no avail. INCORA effectuated the sale of the estates and their subsequent “parcellation” into individual plots for the occupying families. However, receiving land through this process made many families subject to reprisal violence from paramilitary forces.

Dozens of landless *campesinos* who received plots on expropriated private cattle estates in the early 1990s were, like their counterparts in regional oil and palm oil workers' unions, direct targets of paramilitary violence. These land occupations—while often successful in obliging The Colombian Institute for Agrarian Reform (INCORA) to retitle private estates to *campesino* families—were nonetheless largely stigmatized by the Colombian military, agrarian

³⁸ Interview, Bogotá, October 2017

elites, and paramilitary forces as guerrilla ploys to steal private property. The same waves of violence directed at palm oil workers were simultaneously measured on agrarian reform participants to the extent that both groups were accused of either harboring guerrilla sympathies or being members of the FARC, ELN or EPL guerrilla groups themselves.

I detail these violent dynamics more fully in Chapters V & VI, but for now offer some preliminary contextual insights by briefly turning to a 2015 Land Restitution Tribunal case.

Concerning a parcel claimed for restitution on the former *Los Cedros* estate in San Alberto, the Land Restitution Tribunal court sentence notes the following:

Regarding plots on *La Carolina* and *Los Cedros* estates...the [Bureau of Land Restitution's] Context Analysis Document affirms that the invasions (recuperations) of these estates were carried out by *campesinos* associated with the National Association of Users of State Agricultural Services (ANUC-UR) and the Unión Patriótica [a leftist political party formed in 1985]. According to a land claimant cited in the [Bureau of Land Restitution's] Context Analysis Document, the *campesinos* that occupied *Los Cedros* estate belonged to the Unión Patriótica party. Gonzalo Bentacur, San Alberto mayor between 1992-1995, was also a member of the Unión Patriótica, and assisted with this process.³⁹

This brief glimpse sketches out the general parameters through which landless *campesinos* were made subjects of paramilitary violence: they were organized through organizations (ANUC and the leftist Unión Patriótica party) which political and agrarian elites consistently derided as guerrilla fronts. It is this discursive stigmatization, as I show throughout the rest of this dissertation, upon which paramilitary-induced tides of force displacement were unleashed in Sabana de Torres, Rionegro and San Alberto.

Conclusion

Throughout this chapter I have attempted to show how conflict dynamics, far beyond simple state and paramilitary “counter-insurgent” operations against guerrilla groups, have

³⁹ See Court Case: San Alberto, December 18, 2015: 14

pivoted on the wholesale stigmatization of sectors of civil society, and bear intricate links to the political economy of land and agrarian production. The landholding patterns found throughout Sabana de Torres, Rionegro, and San Alberto bear considerable diversity, ranging from massive agro-industrial estates to smaller, family parcels provisioned through agrarian reform programs. Armed conflict has played a central, albeit distinct role, in shaping these varying land tenancy patterns. Palm plantations were established using military and paramilitary muscle, while smaller “strategic alliance” cooperative palm plots are partially a legacy of the violent labor discipline paramilitaries enacted in light of Colombia’s neoliberal reforms in the 1990s. Agrarian reform programs also came under a paramilitary gaze, as many agrarian reform participants (as well as their counterparts in regional oil and palm oil unions) were stigmatized as guerrilla associates and thus subject to horrific violence.

It is the legacy of these broad historical contours of land and conflict that the Bureau of Land Restitution confronted when it began restitution proceedings in the region in 2012. As I will show in the next chapter, the Bureau of Land Restitution conducts exacting studies of armed conflict in the particular regions where it works, although the public record these investigations produce in the Magdalena Medio is an essentially streamlined human rights narrative that closely defines victims and victimizers without providing substantial insights on the political-economic junctures through which violence transpired. This historical rendering justifies and facilitates the Bureau’s particular land restitution efforts, but only stands as a partial bulwark against the historical narrative that land restitution opponents mobilize against the land restitution process. Nonetheless, the following chapter shows how the Bureau of Land Restitution’s history of conflict is made, what it highlights— and what it tellingly omits.

CHAPTER III: CODIFYING THE MAGDALENA MEDIO

[S]ources do not encapsulate the whole range of significance of the occurrences to which they testify.

--Michel-Rolph Trouillot. *Silencing the Past*.⁴⁰

Introduction

Land restitution does not unfold solely in the abstraction of law but also in the particular fields, mountains, sidewalks and houses where violence occurred. A certain story of forced displacement in specific regions must therefore be told in order to facilitate the land restitution process. In the last chapter, I provided an account of the intertwined history of agrarian change and armed conflict in Sabana de Torres, Rionegro and San Alberto based on available academic material, media sources and human rights organizations' reports. In this chapter, I consider the history of forced displacement in these municipalities from a distinct vantage point: Land Restitution Tribunals' official court records concerning individual restitution claims. These are the only publicly available official documents that provide in-depth insight into the specific unfolding of individual restitution cases. Collectively, this corpus of court case documents provides a particular historical framing of armed conflict in Sabana de Torres, Rionegro and San Alberto.

Through focusing on Rionegro, Sabana de Torres and San Alberto in the "Magdalena Medio macro-zone", I detail how Bureau of Land Restitution officials produce a particular historical narrative of conflict, and how Land Restitution Tribunal magistrates validate that narrative as juridically binding. This chapter therefore addresses two related empirical questions: 1) How do the Victims Law's institutional representatives craft a particular historical narrative of forced displacement in the Magdalena Medio, and; 2) What facets does this narrative highlight

⁴⁰ Trouillot 1995: 47

and exclude? To answer these questions, I detail the Land Restitution Tribunals' court records of forced displacement in Sabana de Torres, Rionegro and San Alberto, as well as the investigative processes through which the historical narrative contained therein is produced.

I consider this "official" historical record of forced displacement for two inter-related reasons: first, it provides nuanced detail about the armed groups responsible for sustained human rights violations in the region, their scope and dates of operations, and the *individual* instances of forced displacement for which they are ostensibly responsible. In this sense, the land restitution program sheds continued light on localized histories of armed conflict (I highlight these details in Section II of this chapter). Secondly, I consider this official historical record in-depth because it is one that land restitution opponents vehemently claim is short-sighted, skewed, incomplete and inaccurate. It is a historical record, as I more fully elaborate in Part II, that they claim wrongfully invalidates their historical understandings of armed conflict.

This chapter therefore argues that far more than an arbitration of property rights, the Victims Law's land restitution program entails fraught arbitration concerning the very history of forced displacement. The historical record of forced displacement produced through Land Restitution Tribunal court documents largely eclipses the structural relationship between the political economy of land and armed conflict outlined in the previous chapter. Rather, these documents offer a much more direct analysis concerning the specific dates individual episodes of forced displacement took place, the armed groups responsible and the general panorama of violence in each municipality. This streamlined history made available through Land Restitution Tribunal court documents reflects the dictates of legal process: the Land Restitution Tribunals' purpose is to arbitrate individual claims to property, not to produce a robust structural and historical account of the political economy of land and violence. Yet this is no neutral

recounting of events. As I will show, the Land Restitution Tribunals' historical narrative sidesteps, rejects, and invalidates oppositional historical framings that many landowners in Sabana de Torres, Rionegro and San Alberto mobilize to delegitimize the land restitution process.

I draw attention to these disputes over history in order to further illuminate the enframing work the Victims' Law does concerning armed conflict and forced displacement in Colombia. The creation of a particular historical take on forced displacement positions Bureau of Land Restitution officials and Land Restitution Tribunal magistrates as the privileged observing subjects who can investigate and determine the truth of Colombia's armed conflict. Enframing, Timothy Mitchell writes, rests upon the positioning of an observing subject who can look upon the external "world-as-exhibition" in order to determine an underlying order (1991: 5). Bureau of Land Restitution officials and Land Restitution Tribunal magistrates serve as the central subjects that the Victims' Law sanctions to observe and determine the order of the judicial exhibit of Colombia's armed conflict. What Bureau of Land Restitution officials and Land Restitution Tribunal magistrates come to observe through specific investigative and judicial processes stands as an officially sanctioned historical truth of Colombia's armed conflict.

This observation, however, enacts an additional facet of enframing, namely its capacity, according to Mitchell, of determining "a fixed distinction between outside and inside" (1991:55). In this sense, the Bureau of Land Restitution and Land Restitution Tribunal enframe a whole series of historical details on the "inside" of the Victims Law's rendering of armed conflict. These are the details and facets of armed conflict that find traction and validation as evidence within Land Restitution Tribunal proceedings. Pervasive and deep-seated oppositional sentiment toward the Victims' Law—which rests on counter-historical narratives that stigmatize the land

claimants of today as yesterday's guerrilla pawns—is relegated to the constitutively enframed “outside” of the Victims' Law. These narratives are not afforded evidentiary merit and are therefore rendered an ineffective means of judicial opposition against the land restitution program.

In the first section of this chapter, I examine the Bureau of Land Restitution's investigative work as it unfolds through two interrelated phases. The first phase entails the elaboration of a “Context Analysis Document” (CAD) which constructs the officially verified (and judicially admissible) historical account of violence and forced displacement in each municipality of the Magdalena Medio slated for restitution. The second phase is that of “administrative investigation” through which Bureau of Land Restitution officials investigate land claimants' particular narratives of displacement in order to decide the initial merits of their restitution petition. The Bureau's investigations of the history of forced displacement in the Magdalena Medio work to create it as a region both in need of and amenable to land restitution.

In the second section of this chapter, I explain how magistrates in Land Restitution Courts and Tribunals issue specific rulings based largely on the historical evidence of displacement that the Bureau of Land Restitution provides via the municipal Context Analysis Document and the subsequent “administrative investigation” of individual restitution petitions. Thus, I analyze the particular historical narrative about violence and forced displacement in the Magdalena Medio that this judicial process substantiates. I do so through content analysis of the 117 Land Restitution Tribunal court sentences arbitrated over Rionegro, Sabana de Torres, and San Alberto to date. In particular, I use these documents to reconstruct the “official” historical framing of violence in the municipalities of Rionegro, Sabana de Torres, and San Alberto. These court case documents provide exceptional detail concerning the timeframe in which different

armed actors were present in the region, as well as some quantitative insight regarding the human rights violations they committed. What these court documents largely omit concerns the political economy of land, struggles for control of local political offices, and the effects of agrarian restructuring policies. These are all fundamental facets of armed conflict and forced displacement largely enframed on the “outside” of the historical record accessible through Land Restitution Tribunal court cases.

Taken together, the investigative processes associated with the land restitution program (see Table 3.1) underpin interrelated—and contested—processes of enframing the abstract space of the state. In the most direct sense this is because the historical narrative produced is legally admissible and binding, meaning that it paves the way for state spatial interventions via the land restitution process. Land becomes eligible as a direct site of intervention due to the manner through which the Victims’ Law places it within schema of legibility concerning legacies of violence and attendant needs for redress. Through land restitution, state-backed land titles are re-issued, state-legible subjects (re)gain possession of land, and they bring with them an array of state-financed support measures. Once abandoned or stolen land becomes, in a certain way, repossessed by state institutions via the restitution process.

Phase 1	Phase 2	Phase 3
Bureau of Land Restitution elaborates Context Analysis Document (CAD) for each municipality prior to beginning restitution procedures	After restitution procedures begin, Bureau of Land Restitution conducts administrative investigation of individual restitution claims and evaluates them against the CAD. Claims considered valid are sent to Land Restitution Courts and Tribunals	Land Restitution Judges/Magistrates decide restitution claims, partially relying on evidence from CAD and administrative investigation. Tribunals produce court documents detailing particular historical narrative of violence

Table 3.1: Investigation and Arbitration Phases. The three key phases producing a juridically-sanctioned history of forced displacement under the Victims’ Law

Overall, the specific historical reconstruction of armed conflict and forced displacement through the Victims' Law enframes Colombia's conflict in a highly specific manner. I argue that this enframing of forced displacement tacks along a narrow, juridical "human rights" framing of violence (Tate 2007; Bilsky 2017) that tends toward the identification of victims and perpetrators, but leaves structural questions of the interplay between the political economy of land and forced displacement relatively unattended. This exclusion, in one sense, obeys the practical dictates of court proceedings. These are designed not to illuminate the underlying political and economic dimensions of armed conflict, but to determine individual rights to restitution in light of specific violent acts. In this sense, for example, paramilitaries' near complete control of San Alberto's mayoral office by late 1990s is largely irrelevant to proving that paramilitaries were responsible for the individual crime of displacing a land occupant on the *Tokio* estate.

This exclusion of structural facets of violence also helps to enframe oppositional historical narratives on the Victims Law's "outside" as well. Land restitution opponents argue, to take one example, that Gonzalo Betancur (San Alberto mayor 1992-1993) was undoubtedly a guerrilla supporter given his ties to the leftist Unión Patriótica party, which emerged in 1985 out of peace talks between the FARC guerrillas and the Colombian national government.⁴¹ That he supported landless families' occupations of large estates in San Alberto, their argument goes, means that these "invasions" were undoubtedly guerrilla projects designed to steal land and increase their territorial influence.⁴² Yet Land Restitution Tribunals withhold any judgement concerning the historical veracity of these political dimensions of agrarian relations. In effect,

⁴¹ To date over 3,000 members of the Unión Patriótica party have been assassinated. These assassinations stem from accusations leveled against Unión Patriótica members for supposedly harboring ties to armed FARC guerrillas (see Gomez-Suarez 2014).

⁴² For example, see Court Case: San Alberto, December 18, 2015: 12-14

they therefore render these oppositional historical narratives as an invalid means of judicial contestation in land restitution court proceedings. In what follows, then, I aim to explore the facets underlying this enframed economy of the “inside” and “outside” concerning the history of forced displacement in Rionegro, Sabana de Torres, and San Alberto.

Section I: *Social evidence, atypical evidence*

Before land restitution procedures begin in a specific municipality, the Bureau of Land Restitution elaborates a Context Analysis Document (*Documento de Análisis del Contexto*), or “CAD”, meant to identify which armed actors were present in the area in question, what human rights abuses they committed, during which specific dates, and what patterns of forced displacement may have occurred during that timeframe. While the CAD is meant to detail the particular micro-details of violence in a specific municipality, it sets out from the premise that general conflict-related violence in each municipality is a “notorious fact” (*hecho notorio*) that may not be contested in court and that requires no additional proof in order to be judicially admissible (*Ámbito Jurídico* 2015). The CAD’s aim, therefore, is not to investigate *if* conflict-related violence transpired, but rather illuminate the micro-details of *where*, *how*, and (presumably) *why*.

According to the Bureau, the purpose of each Context Analysis Document (CAD) is to “reconstruct the political, social, economic, cultural and armed conflict dynamics that propelled the processes of abandonment and displacement of the land parcels claimed for restitution” (URT 2016: 39). Once produced, the CAD serves as the Bureau of Land Restitution’s official background history against which to weigh land claimants’ restitutions petitions. Within the Magdalena Medio, for example, Sabana de Torres, Rionegro, and San Alberto each have their

own (highly classified) Context Analysis Document detailing their particular histories of conflict and displacement.

The CAD and the subsequent “administrative investigation” of land claimants’ particular experiences of displacement are not just state-sanctioned processes of historical investigation. They are recollections of *permissible evidence* that can be presented in front of judges and magistrates in Land Restitution Courts and Tribunals. These investigative processes, however, are not conducted by lawyers or other judicial officials. Rather, they are carried out by employees in the Bureau of Land Restitution’s social research team (*area social*), made up largely of sociologists, social workers, anthropologists and other researchers with social-science degrees. Likewise, the methods they use go beyond standard judicial practices of evidence collection such as depositions and under-oath testimony. Instead, the Bureau of Land Restitution’s social research team relies on a tightly delineated suite of research methods (detailed below) to produce narratives of historical patterns of violent conflict that are ultimately judicially admissible.

These research methods and the knowledge they produce are simultaneously classified as “social evidence” (*prueba social*) and “atypical evidence” (*prueba atípica*), in contradistinction to the “classical evidence” (*prueba clásica*) typically associated with penal trials (URT *Pruebas* 2016). They are *social* because they are collected with the participation of a local community members, oftentimes *in situ*. That is, they are collected directly in the community where violence took place with people thought to have direct knowledge of the local community dynamics relating to violence, land tenure, etc. These methods of evidence collection are in turn deemed *atypical* because they occur outside the strict confines of judicial settings (URT *Pruebas* 2016: 68-79). Whereas under-oath testimony and revision of official government documents may

constitute “classical” means of evidence gathering, the Victim Law’s land restitution program validates “atypical” means of evidence collection such as focus groups, “social cartography”, and fieldwork interviews.

These processes of collecting “social evidence” and “atypical evidence” according to the Bureau of Land Restitution, “adhere to a transitional justice framework concerning the flexibility of evidence regarding damage caused [due to conflict] and are therefore accredited as evidentiary” (URT 2015:93). Thus, the Bureau of Land Restitution’s investigative work counts as a juridically pertinent history of human rights abuses that is both an “official”, state-backed rendering and one that is also legally binding. These “atypical” forms of evidence and evidence collection stem from the importance placed on “evidentiary flexibility” when dealing with conflict situations. As Colombia’s Supreme Court ruled in 2009:

Without doubt, the complexity of reconstructing facts given the degradation of conflict and the barbarity of the methods employed (dismemberment, mass graves), in addition to the difficulty of finding the historic trace of many violent acts given deficiencies in civil registries (regarding birth and death), and in public notaries, as well as the permanent movement of displaced communities, amongst other innumerable difficulties, *requires the flexibility of evidentiary thresholds, not only with respect to plaintiffs’ claims, but with respect to the entirety of the damage caused, which ought to be proven using particular means of transitional justice.*⁴³ (emphasis added)

That is, the Colombian Supreme Court acknowledged that given the peculiar nature of investigating and prosecuting massive and systematic human right violations, “atypical” means of collecting and documenting evidence are both necessary and permissible. With respect to the land restitution process, this means not only using formal documentation and judicial witness testimony, but also going beyond these “classical” evidentiary means to conduct community-based fieldwork to produce “social evidence” in order to judicially substantiate restitution

⁴³ See URT 2016: 61

petitions. Accordingly, the investigative processes that the Bureau of Land Restitution conducts heavily inform subsequent legal rights to land restitution.

In particular, land claimants' narratives of displacement are compared to the Bureau of Land Restitution's Context Analysis Document when the presumably displaced person initially files a restitution petition. Bureau officials check the information the claimant provides concerning the location, date and armed actor responsible for violent displacement against the CAD's official narrative of conflict in that particular municipality. Whether or not the Bureau of Land Restitution accepts the claimants' petitions and forwards the case on to the Land Restitution Court or Tribunal depends in large part on the degree of discrepancy between the historical narrative the claimant provides and the narrative contained within the CAD. If the locations, dates and armed actors the claimant identifies are radically distinct from the information contained in the CAD, this is possible grounds for rejecting the petition.

To take one brief example: the Context Analysis Document for Sabana de Torres, Santander establishes that alias "Camilo Morantes" (the founder of the "United Self Defenses of Santander" paramilitary group) began his incursion into the town in 1993-94. "If someone comes to the Bureau office and says they were displaced from Sabana by paramilitaries in *1991*, then that raises some red flags" a Bureau of Land Restitution researcher told me.⁴⁴ She continued that it is certainly possible the land claimant could be confounding dates, which is especially common amongst people recounting trauma. Nonetheless, the comparison of the claimants' narrative with that contained in the CAD is an initial evaluation point of the restitution petition's potential merit.

⁴⁴ Fieldnotes: July 16, 2016

Given the CAD's central function as a judicially admissible historical narrative of conflict, it is blanketed in layers of confidentiality. Over the course of field work I was consistently denied access to a copy. This was no accident. "Have you heard about our Context Analysis Document for San Alberto, Cesar?", the director of the Magdalena Medio Bureau of Land Restitution replied when I asked him about the relationship between forced displacement and the violent paramilitary-prosecution of the palm-oil workers' union in the town. "Yes," I said, further stating that I had continually come up short trying to find a copy of the CAD. "No, no they are not public" the director admitted somewhat hesitantly, presumably due to the frankness of my frustration. "They're not public because they are elaborated from information collected from the community which we triangulate with other sources to draw conclusions. It contains very specific information about what very specific people and social leaders said." His implication was that such sensitive information could be used against those identified in the CAD, especially people pertaining to human rights groups, unions, or other traditionally targeted social organizations.

I was quite surprised, then, when he quickly pivoted to how the confidentiality of the CAD was also largely meant to protect the Bureau: "Given that this document counts as judicial evidence, then of course if the opposition obtained a copy they would try to contradict it, debate it, and use that as a litigation strategy against us." He then explained that the CAD's confidentiality was also due to the fact that "these documents are constantly updated as we collect more and more information from the field."⁴⁵ The CAD could not be made public, therefore, due to the evolving nature of the information contained therein. Not to mention, of course, what that information could do in oppositional hands.

⁴⁵ Interview: Bucaramanga, September 5th 2017

At this juncture of my research it is therefore impossible to more fully comment on the content of the Context Analysis Documents. It is unclear if these documents will be publicly released after the Victim Law sunsets in 2021. As I will address in the next section, however, judges and magistrates reference small fragments of the CAD in their sentences and therefore reveal brief glimpses into the historical account of violence these documents contain. In fact, what the judges and magistrates reference is the *only* part of the CAD that is publicly available to date.

Over the course of fieldwork, I spoke with two former land restitution employees who were responsible for drafting several municipal Context Analysis Documents. One of these employees allowed me to briefly (very, very briefly) glance at the PDF of the Context Analysis Document she had produced, commiserating with me that such information was not public. I appreciated the risk she took in showing me a confidential document, so I put my notebook away and sat cautiously back in my chair as she scrolled rapidly through the roughly 200-page CAD. Amidst the seemingly endless text I glimpsed a few maps in which she had geo-referenced every politically motivated homicide that had occurred in the town. My heart sank seeing the wealth of information contained in the document, knowing that it was officially off-limits. She closed her laptop and I congratulated her on what was surely a gargantuan research project. “Sometimes I have to write one of these every couple of months” she confided “and it feels like giving birth to a doctoral dissertation each time.”⁴⁶

She relied on two primary sources to elaborate the CAD: institutional documents and community-based fieldwork. The former consisted mainly of meticulously detailed reports compiled by human rights organizations which list the date and location of assassinations,

⁴⁶ Field notes: April 25th 2017

massacres, and forced disappearances in each town. Principle amongst these reports are *Noche y Niebla (Night and Mist)*, produced by the Jesuit, Bogotá based Center for Investigation and Popular Education (*CINEP*). She also relied heavily on the *Colombia Nunca Más (Colombia Never Again)* reports produced by the Colombian Movement of Victims of State Crimes (*MOVICE*). Each of these regionally elaborated reports contains thousands of entries and reads like the credits to a human rights horror film. They sequentially list the date, the victim's name (always in CAPITAL LETTERS), the presumable author of the crime, and the location where the kidnapping, torture, murder or massacre occurred.

Beyond these reports, various newspaper articles, governmental studies, as well as court transcripts from the Justice and Peace Tribunals also served as important sources for elaborating the CAD. Created via Law 975 of 2005 the Justice and Peace Tribunals primarily prosecuted paramilitary members, offering reduced prison sentences and demobilization benefits in exchange for their detailed recounting of their participation in crimes. These court transcripts, in turn, offer important detail for elaborating the history and patterns of paramilitary-violence expounded in the Bureau of Land Restitution's Context Analysis Documents.

However, as another Bureau of Land Restitution employee involved in writing CADs in the Magdalena Medio told me, it was necessary to go beyond these institutional documents and do fieldwork to collect community-based evidence. This was due to the fact, she explained, that there is a dearth of historical information regarding many towns throughout the Magdalena Medio. Given the violence of previous years, academic historians had only made minor progress in studying these towns. "And the information we need is so precise, we need to know what happened on which farm, in which corner of the town, on which small road. We have to go to the

community itself to get that information.”⁴⁷ Without the work she and other social scientists conducted, she went on, the judicial process would be impossible: “the law nourishes itself (*se alimenta*) with what the social sciences provide.” In this sense, the CAD is a privileged source of judicial evidence which, according to the Bureau of Land Restitution “is an innovation in juridical practice” because it allows judges and magistrates in the Land Restitution Courts and Tribunals to weigh an entirely “new catalog of social evidence” when making their decisions (URT 2015:94).

She kindly shared with me a Bureau of Land Restitution handbook detailing the techniques social researchers are required to use when doing fieldwork investigations of histories of forced displacement. As I flipped through the handbook’s general explanations of “social cartography” (*cartografía social*), “timelines” (*lineas del tiempo*), “focus groups” (*grupos focales*), “in-depth interviews” (*entrevistas a profundidad*) and “genealogy analysis” (*genograma*), I was drawn to the lengthy preamble affirming that these techniques can indeed produce judicially admissible—as opposed to merely “academic”—evidence.

In fact, the handbook stated that legal professionals “tend to disparage these techniques’ evidentiary quality, or esteem them with less evidentiary merit than other means of conviction” (URT *Pruebas* 2016:12). Less of a handbook on how to properly conduct “social cartography” or an “in-depth interview”, the text she shared with me was largely a defense of these very techniques that, when done “rigorously” and “seriously”, ought to be given merit as judicial evidence of human rights violations. The Bureau researcher noted that to count as proper evidence her work needed to be very thorough and that individual interviews, for example, could not count as evidence themselves. They could only gain such status once they had been

⁴⁷ Field notes: July 25th 2017

“triangulated” with other sources and compared to other interview data from people in the same region: “To be considered judicial evidence the sources need to be trustworthy, and even though they are subjective, transitional justice mechanisms allow them to be admitted” she said, poetically concluding that “historic memory has come to be considered *evidence*”. Of course, *whose* memory ought to count as evidence is certainly subject to debate.

These techniques of collecting “social evidence” are central to investigating land claimants' particular narratives of forced displacement. Much like those used to construct the CAD, these fieldwork processes are entirely confidential given that they involve conflict victims' identifying information. From a methodological standpoint, this meant that my requests to observe these fieldwork processes were flatly denied. Nonetheless, after sharing the research techniques handbook with me, the Bureau researcher explained the importance of connecting the land claimant's particular case to that of their extended family (to determine inheritance rights to land, for example), and then connecting that individual/family node to the “territory” in question (i.e. how their land use practices differed from or adhered to dominant land tenure and agricultural trends in the region). Finally, and most importantly, was connecting this individual/family/territory conglomerate to the larger “territorial history” (*história territorial*) of forced displacement in the region. This “territorial history” corresponds to the historical narrative of violence contained within the CAD and is key to deciding if armed conflict was the “casual nexus” (*nexo causal*), or the reason the claimant sold or abandoned their land. Of equal importance, of course, was corroborating that such displacement took place during or after 1991 given the Victims' Law's cut-off date.

To connect these disparate pieces of information, she relied on the standard Bureau of Land Restitution “tool box” of research techniques, noting that the in-depth interviews, focus

groups and timelines she created were done in community centers in the towns where she worked, often with people the land claimant identified as having knowledge about their case. Finding these participants, she explained, was often difficult given that people with relevant information may have moved away or died long ago. Additionally, she conducted fieldwork with current neighbors and residents (*pobladores*) of the area in question, as well as with local social and human rights groups in order to further contextualize the claimants' restitution petition with community-based perceptions of displacement.

Amongst these various participants she conducted several "social cartography" sessions in which groups of people hand drew maps replete with information they found historically relevant for understanding violence: who owned what farm, where they grazed their cattle, the site of the new school location, which roads cross through dangerous territory, which were safe, where landmines had been planted, what happened to the community leader at that specific road intersection, etc. All the mundane and terrifying elements that blend together in conflict situations.

Flipping to a clean page in my notebook she traced a rough map of one of the towns and its rural surroundings where she had conducted "social cartography" sessions (See Photo 3.1). She drew an arrow to the northeast corner of the town and wrote "guerrillas 1980s", noting where the ELN had first established its base. She then put an "X" through the ELN's name and wrote "paramilitaries 1990s", specifying the period when paramilitary forces began rooting out the ELN present before them. Next, she drew a succession of arrows tearing south through the countryside, closer and closer to the municipal center. These arrows, accompanied by the dates "1995", "2000", "2005" showed the progression of paramilitary territorial domination around the town. She drew particular attention to the oil fields near the urban center, explaining that that

was where the FARC had traditionally held sway until the paramilitary forces also drove them out. “That’s also where you find all the landmines” she grimly concluded.

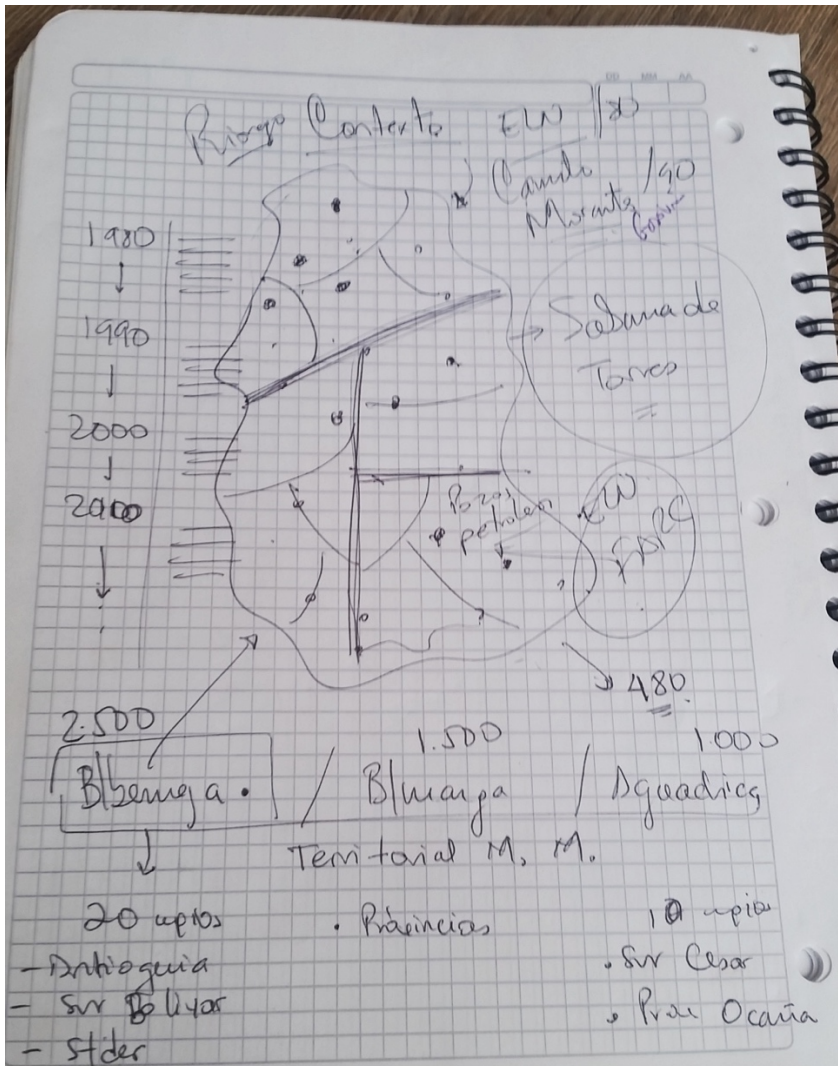


Photo 3.1 Informal Bureau of Land Restitution “fieldwork” map, July 2016

The map she quickly scratched out in my notebook reflected substantial amounts of information she had amassed during several years of in-depth fieldwork in just this one town (both through the initial elaboration of the CAD as well as the subsequent investigation of individual restitution claims). More importantly, however, the map gave a visual dimension to the juridically-admissible historical narrative of armed conflict in this particular municipality. In conjunction with other official documents and reports, the fieldwork she had done over the last several

years—which by her estimate had resulted in thousands of hours of recorded interviews—was the primary lens through which Bureau of Land Restitution lawyers, and later judges and magistrates in Land Restitution Courts and Tribunals, would come to interpret forced displacement’s spatial and temporal dynamics.

Section II: *Judging the Land*

Should the Bureau of Land Restitution accept the claimant’s petition and therefore legally represent the presumably displaced person in front of judges or magistrates in Land Restitution Courts or Tribunals, the judges and magistrates further consider the claimants’ narrative with respect to the narrative contained in the CAD in order to evaluate restitution rights. In this judicial phase, the CAD (in conjunction with other traditional judicial processes such as witness testimony and the evaluation of land titles, public land registries and other legal documents) plays a fundamental role in helping the judge or magistrates decide if armed conflict was the direct reason (*nexo causal*) why the claimant abandoned or sold the land parcel in question.

Crucially, the particular details of the Bureau of Land Restitution’s historical rendering of violence only become publicly accessible when land restitution judges or magistrates emit individual sentences. This revealing of information occurs, however, only to the extent that judges or magistrates reference specific details from the CAD in their court-case documents. Each restitution sentence results in a roughly thirty to sixty-page court-ruling document, all of which are available at the Bureau of Land Restitution’s digital archives.⁴⁸ Unlike the Bureau of Land Restitution’s Context Analysis Documents, however, these court documents are *publicly* available and contain specific information concerning armed actors’ dates of operation, locations and the human rights abuses they committed. They are therefore the most privileged publicly

⁴⁸ All court cases available here: <https://www.restituciondetierras.gov.co/sentencias-por-departamento>

accessible documents for gleaning insight into the inner workings of what is an otherwise exceptionally confidential process

Generally, each court case document recounts the land claimants' individual experiences of forced displacement along a general narrative framework: how and when the land was originally acquired; which armed group compelled the claiming party to abandoned their land; how the land was dispossessed (i.e. sold under duress or abandoned); how the displaced individual or family sought to survive after violent displacement; and, finally, how and when they launched their restitution petition. In recounting this personalized narrative, the court documents typically include snippets of witness testimony, along with the registry number (*matrícula inmobiliaria*) of the land parcel and, in some cases, particular geospatial-coordinate information.

More relevant for present purposes, however, are the overall historical narratives of forced displacement in each municipality that can be gleaned from the information these court-rulings provide. In what follows, I re-construct the specific historical narrative of armed conflict that these court-rulings proffer for Rionegro, Sabana de Torres, and San Alberto. I do so through treating each set of restitution court cases for these municipalities as a closed, textual corpus that offers a specific lens into historical patterns of conflict-related violence. The historical narratives below are, therefore, constructed exclusively from information presented in restitution court-ruling documents concerning each municipality. Overall, the land restitution court-sentences relating to Rionegro (with twenty-eight resolved restitution cases concerning thirty properties), Sabana de Torres (thirty-five cases concerning thirty-eight properties) and San Alberto (thirty-three cases concerning fifty-five properties) establish specific timeframes in which guerrilla, and

later paramilitary organizations were present, and what human rights violations they committed (See Tables 3.2, 3.3 and 3.4).

These documents certainly identify guerrilla groups, yet given the Victims Law's 1991 cut-off date and this date's coincidence with the escalation of paramilitary offensives in the Magdalena Medio, the land restitution court documents provide substantially more detail on paramilitary organizations, their locations, and human rights abuses. Accordingly, in restitution court documents paramilitaries figure as the central protagonists of violence in the Magdalena Medio. The following sub-sections offer the Bureau of Land Restitution and Land Restitution Tribunals' particular take on that violence in Rionegro, Sabana de Torres, and San Alberto.

Rionegro, Santander

Like its neighboring municipality Sabana de Torres, Rionegro is located in the provincial region of Santander known as "Mares". During the 1980s and into the early 1990s, Mares was the "principle ELN stronghold in all of Colombia."⁴⁹ In particular, the "Manuel Gustavo Chacón" front of the ELN dominated Rionegro, establishing itself in the region sometime between 1980 and 1983. Under front-leader "Francisco Galán", the ELN practically took over the municipality of Rionegro in 1990 after attacking the police station and killing two officers. The police station then closed in 1991. The ELN was principally interested in the Mares region due to its natural resources, especially petroleum.⁵⁰

Rionegro would later be the epicenter of the paramilitary reprisal against the ELN. In late 1992, alias "Braulio" (Ernesto Cristancho Acosta) and his brother alias "Camilo Morantes" (Guillermo Cristancho Acosta) arrived in the municipality. They forced a local resident to sell them his small house at the intersection of 9th Avenue and 7th Street, which they used as their

⁴⁹ Court Case: Rionegro June 5 2015: 25

⁵⁰ Court Case: Rionegro, June 7 2017: 11-12

residential headquarters.⁵¹ Originally from Bajo Simacota, Santander, located some 98 miles south of Rionegro, the Cristancho Acosta family had been forcefully displaced by the ELN when Ernesto and Guillermo were in elementary school. Because of this, the brothers Guillermo and Ernesto joined the Isidro Carreño paramilitary organization in 1981 in San Juan Bosco de La Verde (near El Carmen and San Vicente de Chucurí, Santander) where they would cut their teeth as anti-guerrilla paramilitary soldiers.⁵²

At the request of Vicente Zabala Bueno, a prominent rancher in the municipality of La Esperanza, Norte de Santander, “Braulio” and “Camilo Morantes” came north to Rionegro, where they founded the “United Self Defense Forces of Santander” (AUS) between 1992 and 1993. Zabala Bueno’s son was assassinated in 1992 by the smaller EPL (Popular Liberation Army) given Bueno’s refusal to pay extortion payments. Ostensibly for these reasons, the brothers “Braulio” and Camilo Morantes” were contracted to leave San Juan Bosco de La Verde in southern Santander and bring their “anti-subversive” expertise up north to Rionegro.⁵³ Their AUS paramilitary organization established itself in Rionegro not only to confront the ELN guerrillas firmly established in the area, but to also carry out military operations against members of the palm-oil workers union located in the contiguous municipality of San Alberto, Cesar, who palm oil executives, and the Colombian military accused of being guerrilla sympathizers.

“Braulio” was captured by state forces in 1996, leaving control of the AUS to his brother “Camilo Morantes”. That same year, Camilo Morantes melded his paramilitary organization with that of Juan Francisco Prada Marquez (alias “Juancho Prada”) in nearby San Alberto, Cesar.⁵⁴

⁵¹ Court Case: Rionegro, June 5 2017

⁵² Court Case: Sabana de Torres, September 24, 2013:27

⁵³ Court Case: San Alberto, Tokio, Jan 12 2016: 2

⁵⁴ According to judicial prosecutions of Juan Francisco Prada Marquez under the auspices of Law 975 of 2005, Carlos Castaño Gil (head of the national AUC paramilitary organization) ordered Morantes and Prada to combine their forces under one unit. The resulting “United Self Defense Forces of Santander and Southern Cesar” (*AUSAC*)

Together, Morantes and Juancho Prada formed the “United Self Defense Forces of Santander and Southern Cesar” (AUSAC). In 1999, the AUSAC thus came under the umbrella of the larger *United Self Defense Forces of Colombia* (AUC) paramilitary organization, headed by the Castaño brothers. From his base in Rionegro, Camilo Morantes not only routed the ELN guerrillas but as of 1998 had helped established a new “paramilitary hegemony” in the region through his alliance with the paramilitaries in southern Cesar province and the larger, national AUC.

Morantes stands out for his singular cruelty and depredation. He was particularly infamous for keeping a large pond full of crocodiles on his ranch outside of Rionegro, where he would mercilessly cast his victims. On top of his cruelties, Morantes began to garner a reputation as dangerously insubordinate to his commanding superiors in the larger AUC paramilitary organization. Principal amongst his insubordinate displays was the May 16th, 1998 massacre in the nearby oil-refining city of Barrancabermeja, Santander in which Morantes’ forces penetrated the eastern neighborhoods of the town, assassinated seven people and abducted and later murdered a further twenty-five. Although the AUC certainly had the goal of exercising military control over Barrancabermeja, Morantes’ actions do not appear to have stemmed from a direct AUC order.

Due to his dangerous insubordination, the AUC assassinated Morantes on November 11th, 1999. As “Julian Bolívar”, then commander of the *Bloque Central Bolívar* front of the AUC explained during his trials under the Justice and Peace Tribunals, the AUC decided to assassinate Morantes:

was incorporated as a sub-unit within the larger AUC paramilitary organization (See *Unidad Nacional de Justicia y Paz* 2006: 24).

Because by October 1999 the situation in Santander was getting worse and worse...All of [Morantes'] orders were given in a semi-conscious, alcoholic state, carrying an imminent death threat for whoever refused to carry them out.⁵⁵

After Morantes' assassination, the AUC's *Bloque Central Bolívar* enveloped Morantes' previous areas of influence in Rionegro and the neighboring town of Sabana de Torres. Overall, the paramilitary eruption in Rionegro correlated with a precipitous rise in forced displacement. Rionegro experienced a dramatic increase beginning in 1998.⁵⁶ According to official statistics from the state's Victims' Registry (*registro único de víctimas*), between 1985 and 2006 (when the *Bloque Central Bolívar* of the AUC demobilized) an estimated 6,806 people were violently displaced from Rionegro (See Chart 3.1).

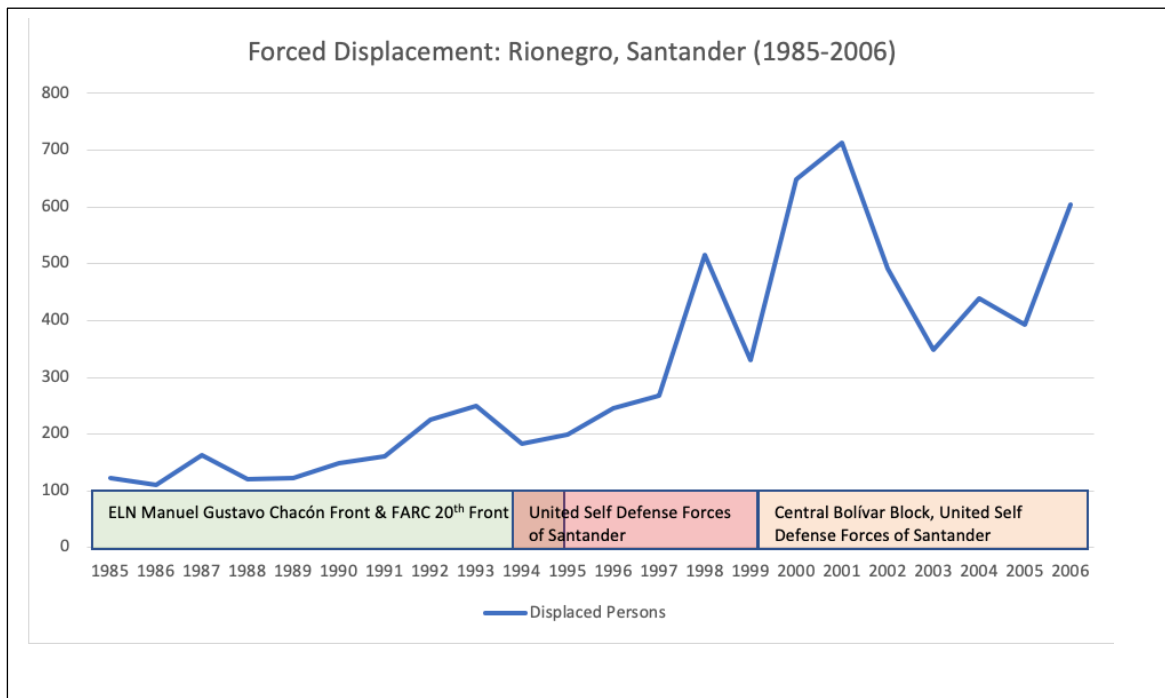


Chart 3.1 Forced Displacement and Dominant Armed Groups, Rionegro, Santander. **Chart:** Author
Source: Unidad de Víctimas: “Número de Personas por Municipio y Año de Ocurrencia”
<https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

⁵⁵ Court Case: Sabana de Torres, November 28 2016: 21

⁵⁶ Court Case: Rionegro, May 20 2015:17

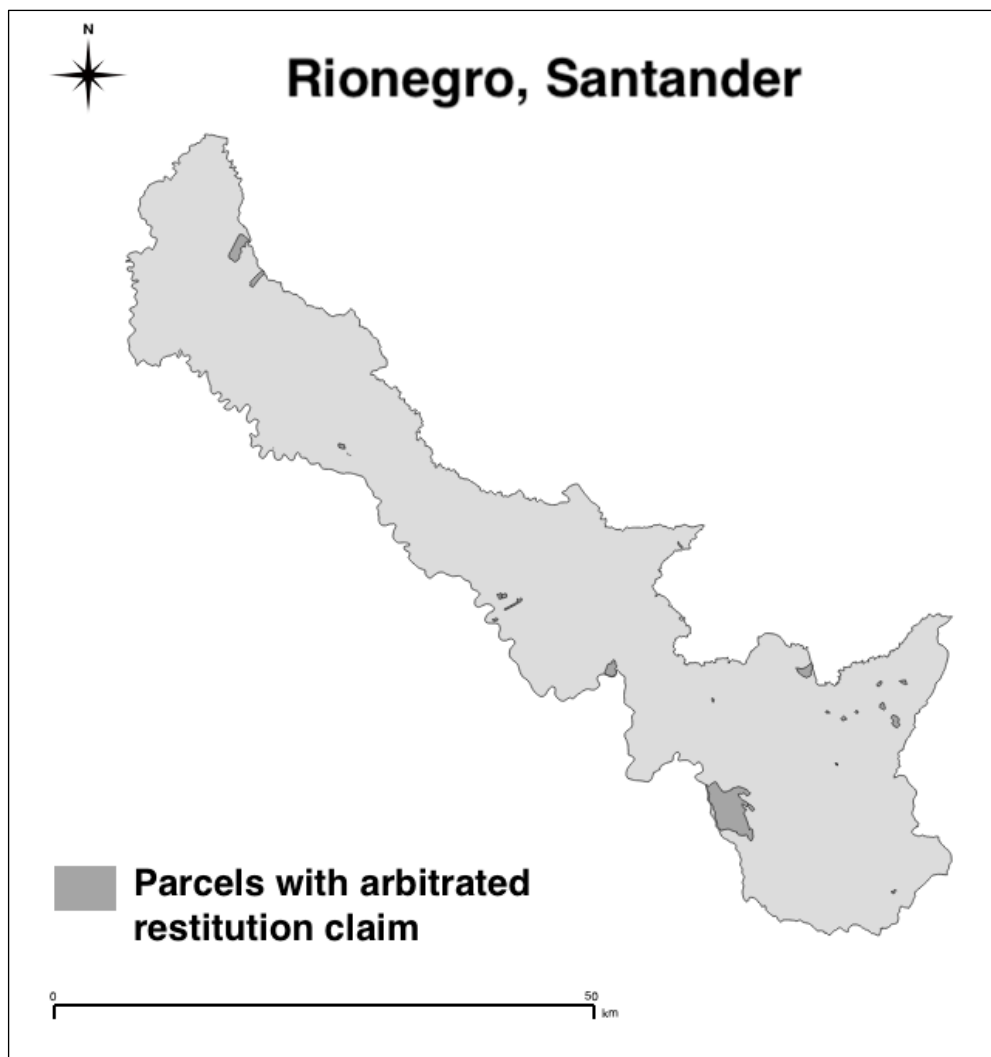
As of December 2018, Land Restitution Courts and Tribunals had proffered twenty-eight rulings concerning thirty-one properties. Restitution magistrates recognized land claimants' restitution rights in nineteen cases, and denied them in eleven cases. The total area of properties successfully claimed for restitution is 577 Ha.⁵⁷ Against this backdrop of displacement, judicial officials to date have recognized restitution rights to the following properties in Rionegro:

Houses/Urban Lots	4
Private Rural Parcels	21
Agrarian Reform Parcels	3
Denied Claims	15
Totals	43

Table 3.2 Rionegro property restitution orders: September 2014—Feb 2019

The following map (Map 3.1, next page) shows the location of individual parcels throughout Rionegro over which Land Restitution Court or Tribunals have arbitrated a restitution claim. Of those parcels, twenty-eight (out of a total of thirty-one parcels with an arbitrated restitution claim) appear in the map below based upon the geospatial data available in Land Restitution Tribunal court documents. As I noted in the previous chapter, this cartographic rendering reflects the particular nature of the restitution process by focusing on individual parcels in their juridical isolation. That is, through the land restitution program, each parcel becomes cartographically legible given the individual restitution claims launched over it in light of the specific violence the displaced land claimant purports to have experienced. Although violence (and especially forced displacement) was generalized, widespread and systematic, the land restitution process draws land parcels under its purview in an individual, piecemeal fashion based upon an individual or family's specific decision to launch a restitution claim. The maps for Sabana de Torres and San Alberto (Maps 3.2 and 3.3) reflect the same cartographic tendency highlighted for Rionegro.

⁵⁷ See Forjando Futuros Statistics Portal: <http://siff.eaconsultores.com.co/Datos/Index>



Map 3.1 Arbitrated Restitution Cases (Rionegro, Santander, 2014-2019). **Note:** This map does not show the specific ruling Land Restitution Court and Tribunal judges and magistrates reached regarding each parcel. (I provide further detail on the diversity of Land Restitution Tribunal rulings in Part II).

Sabana de Torres, Santander

Sabana de Torres is contiguous with Rionegro, lying just south of the Lebrija River. From their base in the Magara rural district (*vereda*) in northwestern Sabana de Torres, the “Manuel Gustavo Chacón” front of the ELN exerted heavy influence in both Rionegro and Sabana de Torres beginning in approximately 1980. Beyond their interest in extortion of oil infrastructure, the ELN carved out a notorious reputation for kidnapping prominent landowners throughout

Sabana de Torres, as well as requiring monthly extortion payments (*vacunas*) from local residents.

Whereas Camilo Morantes had arrived in neighboring Rionegro in 1992, by early 1994 he began making violent inroads across the Lebrija river into Sabana de Torres. Morantes' actions were directed particularly against the ELN, although his anti-guerilla operations eventually unfolded in the southeast stretches of Sabana de Torres against the FARC's 20th front as well. At an unspecified time in the early 1980s, the 20th Front of the FARC had established a substantial presence in the rural areas south of Sabana de Torres, effectively suffocating the town between ELN presence in north and FARC presence in the south. Between 1991 and 2000, the FARC's 20th Front was commanded by Erasmo Traslaviña Benavides ("Jimmy Guerrero"), and from 2002-2004 by Gómez Niño ("Alfredo").⁵⁸

Although the FARC and ELN were once dominant, Sabana de Torres, like Rionegro, would eventually come under firm paramilitary control. As noted, by 1998 Morantes' reign of terror throughout the region was unparalleled until his assassination in 1999 by the AUC. From that time on, the *Bloque Central Bolívar* front of the AUC (and in particular the "Walter Sánchez" unit) dominated Sabana de Torres until its demobilization in 2006.

Beginning in 1997, Sabana de Torres saw a precipitous rise in human rights violations—especially forced displacement—which is causally attributed to the violent paramilitary expansion and virtual domination of the town. Between 1985 and 2006 an estimated 7,711 people were forcefully displaced from Sabana de Torres. (See Chart 3.2)

⁵⁸ Court Case: Sabana de Torres, Feb 25 2014: 11-12

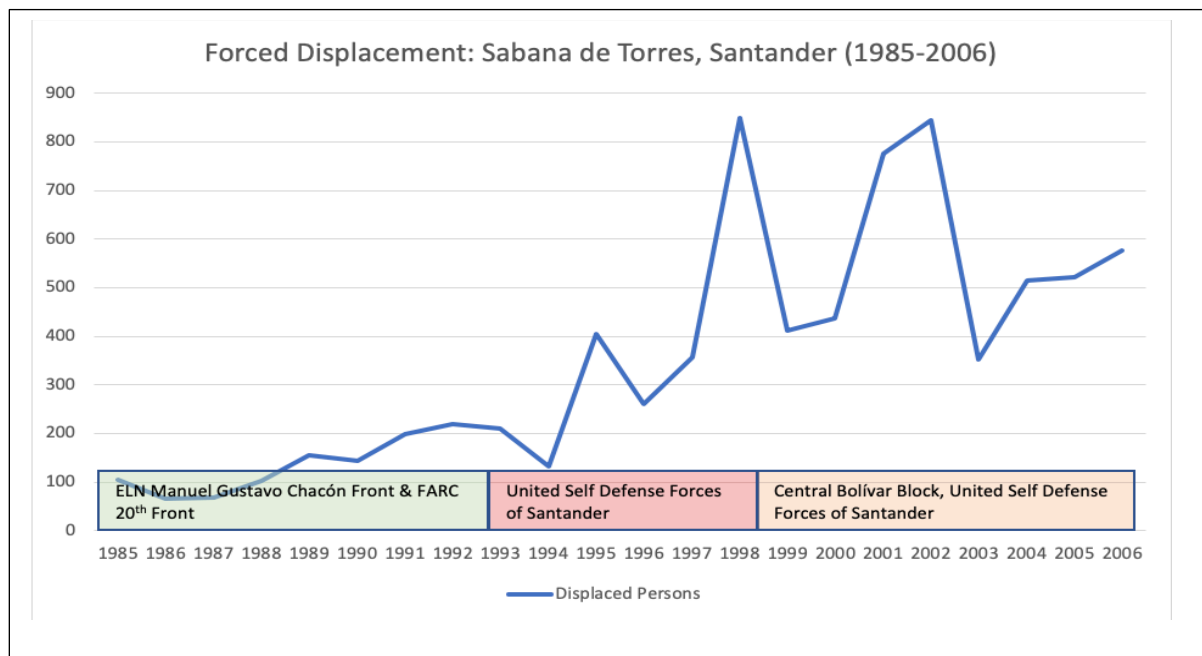


Chart 3.2 Forced Displacement and Dominant Armed Groups: Sabana de Torres, Santander
Source: Unidad de Víctimas: “Número de Personas por Municipio y Año de Ocurrencia”
<https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

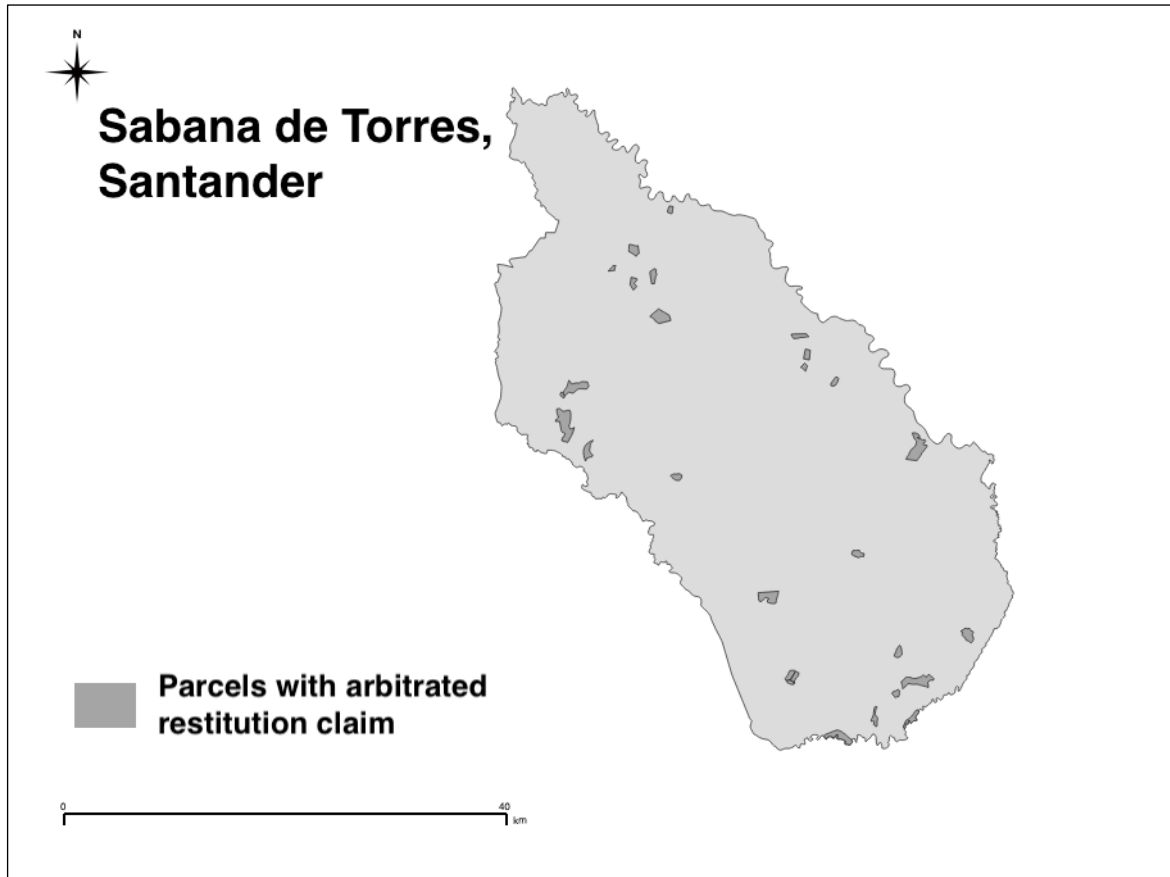
As of December 2018, Land Restitution Courts and Tribunals had proffered thirty-five rulings concerning thirty-nine properties in Sabana de Torres. Restitution magistrates recognized land claimants’ restitution rights in twenty-five cases, and denied them in thirteen cases. The total area of properties successfully claimed for restitution is 1481 Ha.⁵⁹ To date, judges and magistrates have ordered restitution rights to the following in Sabana de Torres:

Houses/Urban Lots	0
Private Rural Parcels	12
Agrarian Reform Parcels	19
Denied Claims	17
Totals	48

Table 3.3 Sabana de Torres property restitution orders: May 2013—Feb 2019

⁵⁹ See Forjando Futuros Statistics Portal: <http://siff.eaconsultores.com.co/Datos/Index>

Map 3.2 shows the location of individual parcels claimed for restitution throughout Sabana de Torres, based on available georeferenced data contained within Land Restitution Tribunal court cases.



Map 3.2 Arbitrated Restitution Cases Sabana de Torres, Santander, 2013-2019. **Note:** This map does not show the specific ruling Land Restitution Court and Tribunal judges and magistrates reached regarding each parcel. (I provide further detail on the diversity of Land Restitution Tribunal rulings in Part II).

San Alberto, Cesar

Just north of Rionegro, San Alberto (Cesar province) has been the site of intensive agro-industrial palm oil production since the 1960s, most notably through the INDUPALMA company. Since its foundation in 1963, members of San Alberto's palm-oil workers' union (Sintraindupalma) have been brutalized by military and paramilitary forces who accuse them of

harboring guerrilla connections. Alongside union members, *campesinos* participating in agrarian reform movements in the large cattle-estates surrounding San Alberto have also been prime paramilitary targets for their supposed collaboration with guerrillas.⁶⁰

In the late 1980s and early 1990s, the Colombian Institute of Agrarian Reform (INCORA) appropriated a series of large, private ranches in San Alberto and distributed the land to dozens of landless farmers who had occupied each farmstead. This redistributive land titling was done under the auspices of Colombia's Law 135 of 1961, which authorized INCORA to purchase vacant or otherwise "underutilized" private land and transfer usufruct occupation rights landless *campesinos*. In San Alberto, the ANUC (*National Association of Peasants Users*) helped landless farmers occupy these large estates. Through such occupations, *campesinos*' demanded the land be re-titled to them under the redistributive auspices of agrarian reform Law 135 of 1961.

Within the overall context of supporting land reform in San Alberto, the ANUC also supported the leftist Patriotic Union and M-19 Democratic Alliance political parties. The political support of these parties in turn increased suspicion of guerrilla cooperation.⁶¹ The four estates with current land restitution claims that were occupied by and then later titled to landless farmers through INCORA in San Alberto were: *La Carolina/El Tesoro* (a 648.8 Ha estate re-titled to thirty nine occupying families November 17, 1989); *Los Cedros* (a 675.4 Ha estate re-titled to thirty one families on July 17 1992.); *Tokio/La Paz* (a 669.8 Ha estate retitled to 26 families on December 30, 1992); and *7 de Agosto* (a 175.9 Ha estate retitled to 17 families on December 3, 1991). Each family received usufruct occupancy rights to a land parcel of typically between 16 and 19 hectares.

⁶⁰ Court Case: San Alberto, May 21, 2015:18

⁶¹ Court Case: San Alberto, September 28, 2016: 15

Prior to these agrarian reform procedures, San Alberto had already endured a long guerrilla presence. The “Camilo Torres” front of the ELN as well as the FARC’s 20th Front (also present in Sabana de Torres) were present in San Alberto since at least 1980 and were responsible for widespread kidnapping, extortion and theft.⁶² San Alberto police reports indicate a substantial guerrilla presence until approximately 1997 including the ELN, FARC as well as the smaller EPL (*Ejercito de Liberación Popular*).

The occupation and subsequent agrarian reform redistribution of these estates in the late 1980s and early 1990s coincided with the emergence of several paramilitary organizations in San Alberto. Rodolfo Rivera Stapper, a prominent landowner, Conservative party member and first mayor of the nearby town of San Martín, Cesar formed the initial paramilitary “self-defense” group in San Alberto in 1988. He trained and directed his forces from his massive “Riverandia” farmstead outside of San Alberto until 1994, when he was assassinated by the FARC. In 1992, another prominent landowner named Roberto Prada Gamarra founded a second paramilitary organization in San Alberto with approximately twenty-five armed members. This group was colloquially referred to as “*Los Masetos*”, “*Los Caretapadas*” or “*Los Magnificos*”. Simultaneously, Luis Ofrego Ovalle formed a third paramilitary unit in the nearby town of Ocaña, Norte de Santander.

These latter paramilitary armies were eventually subsumed under the command of Juan Francisco Prada Márquez (alias “Juancho Prada”) who had formed his own “self-defense” unit in nearby San Martín, Cesar in 1992. By 1995, Juancho Prada’s “United Self Defense Forces of Southern Cesar” dominated not only San Alberto, but a range of nearby municipalities in southern Cesar including San Martín, Gamarra and Pelaya. In 1996, Juancho Prada entered into a

⁶² Court Case: San Alberto, January 12, 2016: 1

formal alliance with Camilo Morantes' paramilitary forces operating in the contiguous neighboring municipalities of Sabana de Torres and Rionegro, Santander. Together, Camilo Morantes and Juancho Prada formed the "United Self Defense Forces of Santander and Southern Cesar" (AUSAC) in 1996.

As noted, Morantes was assassinated in 1999 by the AUC. His faction of the United Self Defense Forces of Santander and Southern Cesar (AUSAC) was then subsumed under the *Bloque Central Bolívar* front of the national AUC paramilitary organization. With this split, Juancho's Prada's forces formally incorporated with the *Bloque Norte* (Northern Block) of the AUC under the command of alias "Jorge 40". Juancho Prada's forces, in turn, became the "Hector Julio Peinado Becerra" front of the AUC's *Bloque Norte*. When the *Bloque Norte* demobilized in 2006 under the auspices of the 2005 Justice and Peace Law, Juancho Prada submitted to the mandatory 8-year reduced prison sentence in exchange for his testimony and cooperation with Justice and Peace Tribunals.

Because of this, the Bureau of Land Restitution and Land Restitution Tribunals have access to extensive testimony in which Juancho Prada and his associates explain paramilitary operations throughout San Alberto. Land restitution court-case documents therefore make recurring references to a number of paramilitary testimonies concerning the farmsteads which INCORA had appropriated and re-titled on behalf of landless *campesinos*. On April 22nd, 1995, Prada's paramilitary forces committed a massacre the Tokio farmstead in which five people were summarily executed.

As Roberto Prada Delgado, Jr. (Roberto Prada Gamarra's son) explained with respect to the events during his testimony under the Justice and Peace Law:

I heard that the guerrillas had taken this land, camouflaging themselves amongst the *campesinos*. The people we killed were guerrilla spokesman. You

always hear the same story: the campesinos receive the land [from INCORA], sell it, then they go invade another farm. It's a business.⁶³

His testimony adheres to the well-hewn paramilitary line that whoever they killed or displaced from San Alberto was a guerrilla collaborator and thus a legitimate military target. This, according to paramilitary testimony, was especially true with respect people displaced from the Tokio, La Carolina, Los Cedros, and 7 de Agosto farmsteads given that guerrillas were behind INCORA's titling of these lands to *campesinos*. With respect to paramilitary-induced displacement in Los Cedros, Roberto Prada continues:

All I know is that it was my father's policy to take out whoever was invading land. This was because the guerrilla used them as dummies to invade land, then sell it, as if it were a business.

Overall, he concluded that:

All of the displacement that took place was against people who were invading property... I don't know if they had land titles, all I know is that they were invaders (*invasores*).⁶⁴

To date, the vast majority of land restitution claims in San Alberto are from agrarian reform participants who paramilitary forces threatened due to their supposed guerrilla collaboration. Members of the palm-oil workers' union (who typically lived in houses in the urban center) suffered similar repression, although the Bureau of Land Restitution has only begun processing restitution claims for these dispossessed urban houses.⁶⁵ Between 1985 and 2006 (by which time the Bloque Norte of the AUC had demobilized), an estimated 7,109 people were displaced from San Alberto (see Chart 3.3).

⁶³ Court Case: San Alberto April 14, 2015: 18

⁶⁴ Court Case: San Alberto April 14, 2015: 19-20

⁶⁵ During fieldwork in San Alberto, I interviewed ten home owners with pending restitution claims against their houses located within the urban confines (*casco urbano*) of San Alberto. As of April 2018, the Land Restitution Tribunal has only resolved one of these cases. Therefore, the overall impact of *urban* restitution cases remains largely to be seen.

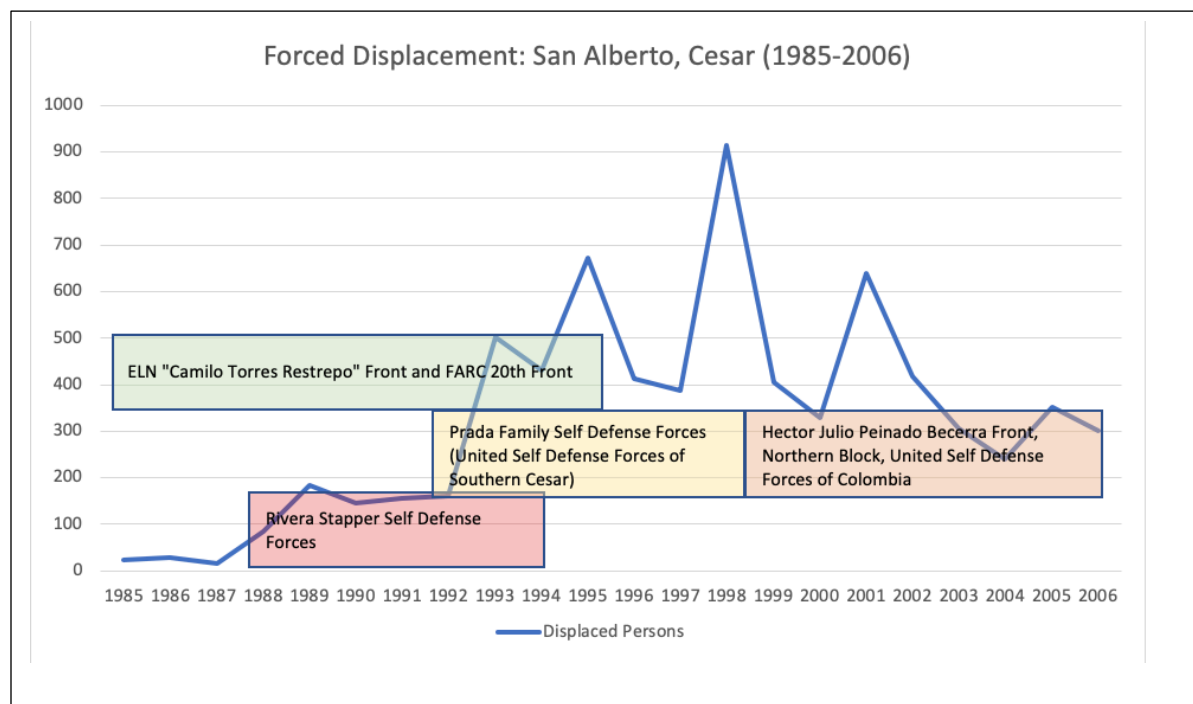


Chart 3.3 Forced Displacement and Dominant Armed Groups, San Alberto, Cesar
Source: Unidad de Víctimas: “Número de Personas por Municipio y Año de Ocurrencia”
<https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

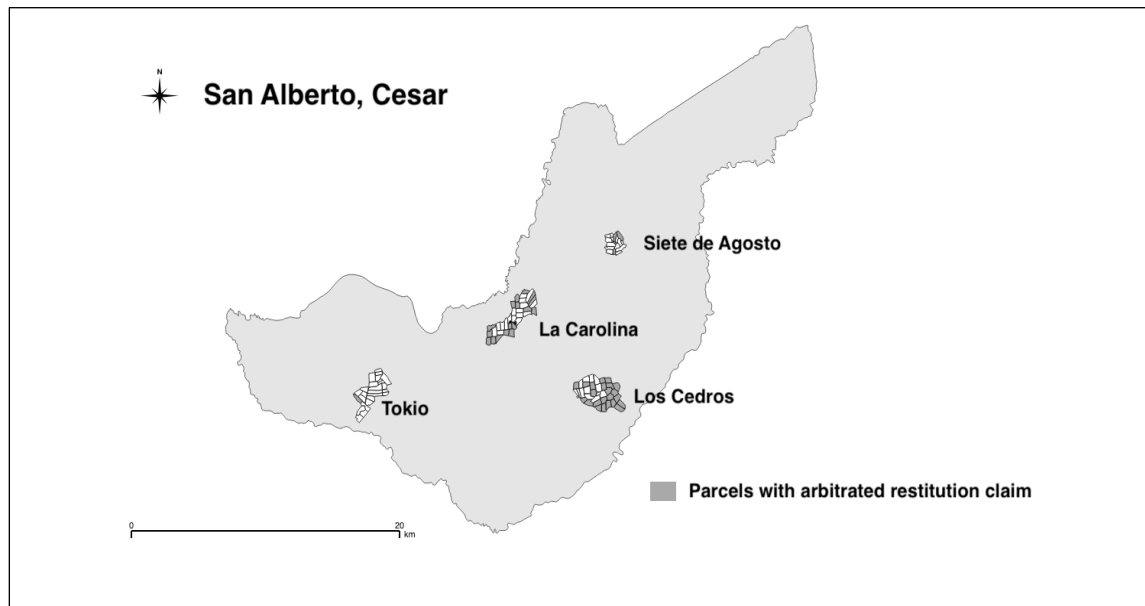
To date, Land Restitution Courts and Tribunals have proffered thirty-three rulings concerning fifty-four properties in San Alberto. Restitution magistrates recognized land claimants’ restitution rights in thirty-three cases, and denied them in twenty-one cases. The total area of properties successfully claimed for restitution is 413 Ha.⁶⁶ To date, judges and magistrates have ordered restitution rights to the following in San Alberto:

Houses/Urban Lots	2
Private Rural Parcels	1
Agrarian Reform Parcels	32
Denied Claims	24
Totals	59

Table 3.4 San Alberto property restitution orders: May 2013—January 2019

⁶⁶ See Forjando Futuros Statistics Portal: <http://siff.eaconsultores.com.co/Datos/Index>

The following map shows the location of individual parcels claimed for restitution throughout the *Tokio*, *La Carolina*, *Los Cedros*, and *Siete de Agosto* estates San Alberto, based on available georeferenced data contained within Land Restitution Tribunal court cases. As can be seen, each estate was sub-divided into smaller parcels through agrarian reform initiatives. These sub-divided parcels are the current plots claimed for restitution.



Map 3.3 Arbitrated Restitution Cases (San Alberto, Cesar, 2013-2019). **Note:** This map does not show the specific ruling Land Restitution Court and Tribunal judges and magistrates reached regarding each parcel. (I provide further detail on the diversity of Land Restitution Tribunal rulings in Part II).

Conclusion

The narratives and figures above—culled exclusively from land restitution court documents—elaborately detail guerrilla and paramilitary presence in each municipality and the quantitative scope of human rights violations they committed related to forced displacement. Yet this historical record also contains a number of telling silences, especially concerning the agrarian dynamics highlighted in the previous chapter. For instance, there is no meaningful treatment of why landless *campesino* families were occupying land in San Alberto in the first

place. In this context, *El Gran Paro del Nordeste* of 1987 and the *Marcha Campesina* of 1988, which helped channel *campesino* demands for land and state services are entirely absent from Land Restitution Tribunal documents. The bloody force through which INDUPALMA usurped land for its agro-industrial operations beginning in the 1960s is likewise never mentioned. The neoliberal opening of Colombia's economy in the early 1990s and the economic devastation it wreaked upon the Magdalena Medio's peasantry is also absent from the historical record contained in restitution court documents.

The guerrillas' political organization efforts and agrarian reform platform, as well as the extent to which paramilitaries came to dominate municipal and state governments, are also largely occluded from this account. Beyond generic mention of armed actors' interest in extortion, narco-trafficking, or "anti-subversive" activity, there is furthermore little explanation of their strategic and political rationale for specifically occupying certain municipalities in the Magdalena Medio. Like many governmental narratives of conflict in Colombia, they recognize "guerrillas and paramilitaries but no one outside the circle of criminality" (Tate 2007: 241).

This is not to imply that such aspects are inconsequential to the Bureau of Land Restitution—and if the Bureau's "Context Analysis Documents" are ever made public, we may find they contain substantial information on these points. Yet why are these political dimensions buried and occluded from the historical analysis made available through the Land Restitution Tribunal's court case documents? In some instances, these occlusions obey the precise cut of the law. That is, the *El Gran Paro del Nordeste* of 1987 and the *Marcha Campesina* of 1988, as well as INDUPALMA's usurpation of land in the 1960s all fall before the Victims Law's 1991 cut-off date. As far as determining judicial restitution rights, they are irrelevant.

All of the specific elements of agrarian restructuring and the political economy of land are, furthermore, extraneous to the strict judicial project of assigning responsibility for human rights violations and attendant reparation rights. “Like all forms of legal documentation” anthropologist Winifred Tate writes, “human rights reporting *does not address the issue of why violence happens* but accountability for specific acts: who committed them” (2007: 301 emphasis added). Such are what Tate calls the “information politics” surrounding human rights investigation and reporting. They are a form of investigative and reporting parameters that tend toward the “truth” of what happened, but do so as the cost of deploying a narrow, depoliticized focus on identifying victims and perpetrators instead of illuminating the larger structural contexts in which violence takes place (Bilsky 2017:182).

Winifred Tate’s seminal ethnography of human rights activism in Colombia details the evolutionary changes in talking about, documenting and reporting violence that accompanied the rise of professional human rights work in the 1990s. Particularly, reporting and documenting human rights violations required community leaders, activists, NGO employees and lawyers to “learn to tell the story” in a manner consistent with the narrative dictates of international human rights law. Contextual factors concerning economic restructuring and political corruption, so central to budding human rights activists’ perceptions of violence in the 1990s, “had no place in the linear human rights narrative focused on individual assassinations” that legal, professional human rights reporting came to demand (Tate 2007: 141-142). The “public transcript” (Scott 1992; Taussig 1999) that such human rights reporting made available about Colombia may have provided precise, streamlined, and verifiable accounts of violence. Yet, accountability for violence took precedent over the labyrinthine question of *why*.

The historical record of forced displacement in the Magdalena Medio that can be gleaned from the land restitution processes' official sources "tells the story" in a similar manner to the human rights reporting that Tate outlines above: land restitution legal documents focus on a clearly defined victim, suffering a clearly defined human rights violation, at the hands of a neatly bounded perpetrator. However, the narratives highlighted above for Rionegro, Sabana de Torres and San Alberto only partially illuminate the thicketed morass in which violence actually transpired. The messy effects of neoliberal restructuring that deeply affected these towns only serve to muddy the clear narrative that judicial responsibility for human rights violations demands.

I do not argue that the publicly available land restitution court-case documents are meant to serve as sociologically sensitive investigations into the root causes, political contradictions and other gray areas of conflict in Colombia (although the Context Analysis Documents certainly claim to address such topics). The Land Restitution Court and Tribunals' objective is to determine the particular "truth" of discrete cases of forced displacement in order to determine victims' rights to reparations and, relatedly, hold victimizers accountable. To take this procedure to task for not providing a complete, nuanced narrative of violence in Colombia would be to demand that the court perform a function beyond its design. However, the land restitution court cases (besides the Bureau of Land Restitution's annual accountability reports and intermittent press releases) are some of the only publicly available documents concerning the internal workings of the land restitution process. And they are certainly the only ones through which judicial officials' consideration of historical patterns of violence are accessible. For scholars and activists alike, the court case transcripts that the Land Restitution Tribunal produces at the conclusion of each restitution proceeding are *the* most fundamental set of documents for gaining

insight. These documents are, bar none, the land restitution processes’ defining “public transcript”.

Furthermore, they illuminate the juridical litmus test through which individual land restitution claims are arbitrated and subsequently materially performed on the ground. The stakes of this arbitration are certainly high. It not only determines rights to recuperate abandoned or stolen land, but also decides the fate of the current owners of land claimed for restitution. Importantly, it invalidates the oppositional historical-political narrative that many land restitution opponents level against the Victims Law.

In Part II (Chapters IV, V and VI) I pivot to the construction of that oppositional historical narrative. The emergence of virulent opposition to the land restitution process obeys the fact that many current landowners throughout Rionegro, Sabana de Torres and San Alberto have faced arduous restitution claims against their property. As I detail, they resoundingly denounce the Victims’ Law itself as a victimizing piece of legislation that treats the current owners of property claimed for restitution as would-be criminal usurpers of land. There is no doubt that the Victims’ Law holds current landowners to exceptionally high “good faith with due diligence” standards (which I detail in Chapter IV) to prove the legitimacy of their landholdings. In the following introduction to Part II, I illuminate precisely why—given entrenched patterns of violent land theft—the Victims’ Law presupposes that current landowners may have directly or indirectly made recourse to violence in order to obtain their property. The subsequent chapters then detail how these presuppositions are mediated in judicial settings (Chapter IV); how they channel contentious debates on localized histories of armed conflict (Chapter V); and how fraught restitution proceedings texture and re-configure rural landscapes. Whereas Part I of this dissertation has sought to elucidate the enframing practices through which the Victims’ Law

renders forced displacement as a tightly bound judicial exhibit, Part II details that exhibit's limited efficacy in recreating existent rural relations within its own image.

PART II: FORCED DISPLACEMENT AT THE LEGAL CRUX

Introduction

The 2011 Victims' and Land Restitution Law comes in the wake of more than a decade of legislative and judicial concern with forced displacement in Colombia. This period has seen a conceptual evolution of the very notion of "forced displacement" as a juridical human rights concern. In broad terms, this evolution recasts forced displacement as the potential direct outcome of violent processes of land accumulation, as opposed to a mere "accidental" side-effect of armed conflict. This reconceptualization of forced displacement underpins why the Victims' Law holds the current owners of land claimed for restitution to exceptionally high legal standards in order to prove the legitimacy of their property rights. That is, the Victims' Law was drafted with the full acknowledgement that land claimed for restitution may very well have been stolen and fraudulently re-titled. Restitution, then, would entail far more than facilitating a displaced conflict victim's return to an abandoned plot of land. In many instances, restitution rather requires complex and contentious processes of weighing displaced claimants' restitution rights against current owners' property claims. In Part II of this dissertation, I detail how those processes have unfolded in Sabana de Torres, Rionegro and San Alberto, and to what effect. Whereas in the last section I sought to describe how the Victims' Law renders forced displacement as a judicial exhibit, in this section I draw precise attention to how the current owners of ostensibly abandoned or stolen land are brought into that exhibit. The Victims' Law, I argue, was preferentially designed to confront sustained processes of violent "land grabbing"—and encounters serious complications when current land owners do not readily fall within that particular scope.

In this Introduction to Part II, I therefore detail how notions of “forced displacement” and “land grabbing” became melded as juridically-related categories. Specifically, in 2005 the Inter-American Court of Human Rights recognized that land was not simply ‘abandoned’ in the wake of forced displacement, but often times sutured into large-scale capital interests (such as extensive cattle ranching, agro-industrial ranching, and mining). In this year, the Inter-American Court of Human Rights ruled that forced displacement in Colombia’s Pacific lowlands was no mere collateral damage of armed conflict, but rather an intentional paramilitary strategy to procure land for agro-industrial oil palm projects. This recognition sanctioned a shift in the judicial conceptualization of forced displacement in Colombia: no longer was forced displacement a “side-effect” of armed conflict, but rather a specific strategy to violently accumulate land for capitalist development.

The implications of this shift are readily apparent in the Victims’ Law. Specifically, the Victims’ Law includes strict “good faith with due diligence” (*buena fe exenta de culpa*) standards (Articles 88, 91 and 98) that require the current owners of land claimed for restitution to prove they: 1) bought land using transparently legal means, and; 2) that they took outwardly verifiable steps to investigate and ensure that the land acquisition was free of any irregularities. Importantly, significant amounts of land accumulated through direct violence often nonetheless bear formal title in an attempt to ensuring its “legal” participation in markets. The purposes of the Victim Law’s good faith with due diligence provisions are thus clear: they are meant to ensure that land stolen due to armed conflict can be returned to its displaced owner or occupant *even if* the current owners have legal title to the land--especially when such “legal” title is in the hands of powerful economic interests who obtained the property through classic land grabbing maneuvers. In what follows, I trace the legislative and judicial developments concerning forced

displacement and its association with coercive land usurpation in Colombia. This tracing illuminates how the Victims' Law was designed to restitute once stolen or abandoned property, even when that property is currently "legally" owned. In this sense, the Victims' Law has the detection, clarification and ultimate reversal of land grabbing practices as one of its central prerogatives.

In Sabana de Torres, Rionegro and San Alberto, the application of "good faith with due diligence" standards has been the source of significant controversy. In dozens of instances, land owners unable to prove they bought their land in "good faith with due diligence" have been evicted from their property, typically without any form of compensation. The ensuing backlash against these evictions vaulted Sabana de Torres, Rionegro and San Alberto into the center of national discussions concerning land restitution. In this introduction, I aim to show the juridical evolution of approaches to forced displacement in Colombia in order to ground the particular controversies enveloping the land restitution program in these municipalities and beyond.

Section I: *Land Grabbing as a Human Rights Violation*

Forced displacement is stitched into the very fabric of Colombia's armed conflict. Partisan violence between the Conservative and Liberal parties in the 1940s and 50s was responsible for uprooting an estimated two million people, many of whom were expelled to peripheral, agricultural frontiers (Roldan 2003, quoted in Rodriguez Garavito and Rodriguez Franco 2010: 67). Today these "errant multitudes" (Restrepo 2003) displaced during the middle of the twentieth century would be easily recognizable as "internally displaced persons"—people forced from their homes who, unlike refugees, do not cross international borders.

At the onset of the 1990s, however, the Colombian government's official policy tone toward forced displacement was one of denial. "The government ignored the crisis either because

it saw forced migration as an indistinguishable part of the process of colonization and internal migration” writes political scientist Gabriel Cardona-Fox, “or because it perceived it as a consequence of violence for which it repeatedly denied responsibility” (Cardona-Fox 2019: 95). While a range of primarily left-leaning human rights and political organizations had long denounced the violent uprooting of rural populations due to armed conflict, by the early 1990s the highest levels of Colombian government portrayed migration and forced displacement as discursively indistinguishable.

Nonetheless, over the coming years the Colombian state’s stance began to shift toward what Cardona-Fox calls a “rhetorical commitment” to the protection of internally displaced persons. This commitment emerged in 1992 when president Cesar Gaviria became the first president in Colombian history to officially recognize internal displacement through Presidential Decree 281, which created an *ad hoc* \$1.5 million-dollar emergency fund for conflict victims. The Gaviria administration’s 1992 official recognition of forced displacement as a humanitarian concern came amid increasing pressure from both domestic non-governmental organizations and regional human rights bodies. In that year, Colombian activists, academics and journalists founded CODHES (*Consultancy for Human Rights and Displacement*), a prominent think tank that began publishing damning reports on the staggering quantitative dimension of forced displacement in order to hold governmental offices accountable. Also, in 1992 the Inter-American Human Rights Institute (IIDH) founded the Permanent Consultation on Internal Displacement in the Americas (CPEDIA) to primarily monitor displacement in Central American countries emerging from decades of conflict. A CPEDIA delegation visited Colombia in 1992 and issued a confidential report on the horrific situation transpiring throughout the country, thus

firmly placing forced displacement in Colombia within a burgeoning regional human rights focus.

In light of continued domestic and international attention to the problem, newly elected president Ernesto Samper (1994-1998) officially recognized state responsibility to address forced displacement during a nationally broadcast speech commemorating Colombia's Human Rights Day celebration on September 9th, 1994. In 1994, the UN Representative to the Secretary General on Internal Displacement, Francis Deng, visited Colombia in order to help craft an initial policy response to the problem. International pressure continued. By 1995 the Inter-American Commission of Human Rights had issued 11 pronouncements of Colombian governmental violations of human rights norms, prompting the Commission to conduct an in-country evaluation of forced displacement in 1996. That same year, the UN's Office of the High Commissioner of Human Rights (OHCHR) set up a permanent office in Bogotá in order to monitor governmental response to continued human rights abuses in the country. Pressure to address forced displacement stemmed from domestic sources as well. In particular in 1995, CODHES and the Catholic Church published a joint-report entitled *Human Rights: Persons Displaced by Conflict in Colombia*, which suggested as much as 2% of Colombia's population had been displaced due to conflict between 1985 and 1995. With the traditionally conservative—and exceptionally influential—Catholic Church's recognition of the link between conflict and forced displacement, the reality could no longer be denied. And it is largely within this context of the twin pressures from prominent domestic organizations and regional and international human rights bodies that the Samper Administration pressed for the passage of Law 387 of 1997, which

recognized internally displaced Colombians as rights bearing subjects with concrete demands for protection and redress from the state.⁶⁷

Not insignificantly, Law 387 officially recognized an internally displaced population even before the United Nations promulgated the 1998 Guiding Principles on Internal Displacement. (Rodriguez Garavito and Rodriguez Franco 2010: 76). This formal recognition of internally displaced people as rights-bearing subjects came as Colombia's major cities were increasingly inundated with displaced rural populations violently driven from the countryside. Specifically, Law 387 came at time in which massive rural exoduses emanated from lowland regions in Chocó, Antioquia and the Caribbean plains, where the pan-national AUC paramilitary organization coalesced and expanded in 1997. As Jacobo Grajales writes, during this period "the growth of internal displacement became undeniable. Standing at every street-corner, peasant families were the living proof of its magnitude" (2015: 551).

Law 387 of 1997 recognized that displaced people had a right to humanitarian aid and to return to their area of origin. It also stated that Colombians had the right to not be internally displaced in the first place. Furthermore, Law 387 called for "adopting the necessary measures to facilitate the voluntary return of displaced populations to their area of origin" (Law 387/97 Article 10.6). However, this stipulation did not result in a land restitution program through which displaced populations could recuperate property abandoned or sold due to conflict. Law 387 did, however, require the Colombian state to create a register of land parcels affected by conflict, and specifically called on the Colombian Institute of Rural Development to create a land bank from which to offer parcels to displaced individuals and communities (Law 387/97 Article 19.1).

⁶⁷ For a detailed timeline of the events leading up to the passage of Law 387 of 1997, see Cardona-Fox (2019): 80-81

Although the Colombian state formally recognized internally displaced people in 1997 as a rights-bearing population, it did not acknowledge the intentional theft of land as a driving cause of displacement. When UN Special Rapporteur on Internal Displacement Francis M. Deng visited Colombia in 1994, he noted that the Colombian government lacked any sort of statistical or institutional framework for addressing forced displacement. Governmental officials dismissed forced displacement as simply the result of economic rural-to-urban migration or the effect of natural disasters (Rodriguez Garavito and Rodriguez Franco 2010: 70-71). At the highest policy levels, the very notion of “forced displacement” was only vaguely construed as a specific result of armed conflict. As political scientist and agrarian scholar Jacobo Grajales comments, in the time leading up to Law 387’s passage in 1997 “[i]nternal displacement was defined as the product of an accidental cause, thus closing the door to the establishment of particular responsibilities and/or the procurement of specific rights” (2015:551). This situation was ameliorated to the extent that Law 387 at least recognized forced displacement as a direct outcome of armed conflict and that displaced populations had certain rights to redress. Even with passage Law 387, however, forced displacement was construed as the accidental or inevitable collateral damage of armed conflict as opposed to a direct outcome of coercive usurpation of land.

Accidental or not, however, the magnitude of forced displacement continued to grow well after the passage of Law 387 of 1997, and the efficacy of the law’s humanitarian and social service provisions for displaced populations was extremely limited (Rodriguez Garavito and Rodriguez Franco 2010: 76-78). Between 2000 and 2003, levels of forced displacement reached unprecedented heights, with over 760,000 people displaced in 2002 alone (see Chart II.I). This period coincided with a number of factors including: the breakdown of the 1998-2000 San

Vicente de Caguán Peace talks between the Colombian government and the FARC; the election of hard-line conservative president Álvaro Uribe Vélez; the political, economic and military consolidation of the AUC paramilitary organization; and the implementation of the Clinton administration's "Plan Colombia" anti-narcotics/terrorism program in Colombia. Cumulatively, these factors brought the dimensions of Colombia's armed conflict to an unheralded apogee, producing stratospheric levels of forced displacement.

In light of governmental inability to uphold Law 387 of 1997, coupled with increasingly massive waves of forced displacement in the early 2000s, the Colombian Constitutional Court emitted its landmark T-025 ruling in 2004. This ruling held that the magnitude of forced displacement and the anemic governmental response constituted an "unconstitutional state affairs". Forced displacement took on new juridical life as itself a flagrant violation of the Colombian Constitution. Constitutional Court ruling T-025 of 2004 was thus a dramatic rebuke of the Colombian state's inability to uphold constitutional protections afforded to Colombian society writ large.

Shortly after the Colombian Constitutional Court's 2004 T-025 ruling, a 2005 Inter-American Court of Human Rights ruling helped usher in a conceptual paradigm shift concerning the causes of forced displacement in Colombia. In particular, the Inter-American Court recognized "land-grabbing" —in the form of forceful appropriation of land for agro-industrial purposes—as the key cause of displacement of afro-descendent populations in the Lower Atrato region. In February 1997, the Colombian military launched "Operation Genesis" in the region—an intense bombing campaign against the FARC's 57th front. This operation unfolded with cooperation from the Elmer Cardenas Bloc of the United Self Defense Forces of Colombia (AUC) paramilitary group (Baquero Melo 2015: 41). In this "counter-insurgent" process,

thousands of Afro-descendent Colombians were violently uprooted, many from lands to which they had received collective titles as part of Law 70 of 1993 which recognized Afro-descendent land rights. Over the coming years, as these displaced communities attempted to return, they found that their lands were covered in seemingly unending rows of industrial-grade African oil palm plants (Ballvé 2009, 2013; Grajales 2011, 2013, 2015; Thomson 2014).

In 2003, an Inter-American Human Rights Commission found that two companies managing newly established palm-oil plantations in the Lower Atrato Region (Urapalma and Asoprobená) were directly connected to the AUC paramilitary organization. Based on the Commission's findings, the Inter-American Court of Human Rights subsequently ruled in 2005 that "land-grabbing" (*acaparamineto de tierras*) was central to the logic of displacing Afro-descendent populations from the Lower Atrato region of the Chocó department. That is, the Court recognized forced displacement not as a collateral side effect of conflict in which vulnerable communities simply abandon land to escape violence. Rather, the Court concluded that forcing populations off their land was a central intention—as opposed to a simple byproduct—of the military-paramilitary incursion in the Lower Atrato region. Besides attempting to clear guerrilla groups from the region, the paramilitaries and their business associates "grabbed" Afro-descendent populations' land in order to re-appropriate it for agro-industrial African oil palm production. The 2005 Inter-American Court of Human Rights' recognition of land grabbing as a driver of forced displacement subsequently "judicialized" land-grabbing as a specific form of human rights violation (Grajales 2015: 551). This ruling framed forced displacement not only as a direct consequence of armed conflict, but as a constitutive element of paramilitary armies' violent appropriation of land for agro-industrial expansion.

In light of the Colombian Constitutional Court and the Inter-American Court's rulings, a number of domestic organizations such as the Inspector General's office and the Colombian Institute of Rural Development (INCODER) were called to study the issue. This led to increasing acknowledgement of the connection between forced displacement, land grabbing and agro-business. In 2006 The Inspector General's Office went so far as to declare that "land grabbing, dispossession and plundering [were] part of a 'counter agrarian reform' mostly perpetrated by paramilitary groups in alliance with corporate actors" (Inspector General of Colombia 2006, quoted in Grajales 2016: 1306).

This focus on armed conflict and land theft was also sutured into Law 975 of 2005 ("The Justice and Peace Law"), under which the Álvaro Uribe Vélez administration created a demobilization program for paramilitary forces. Importantly, due to Ruling T-025 of 2004, forced displacement was specifically included in Law 975 as a penal violation for which paramilitary forces would have to account in order to receive demobilization benefits (Rodriguez Garavito and Rodrigues Franco 2010: 103). Law 975 stipulated that paramilitary forces would have to hand over any illegally obtained assets (including stolen land) in order to receive demobilization benefits. The land parcels would then be placed in a Victims' Reparation Fund in order to be restituted to conflict victims (Law 975 of 2005 Articles 10, 11 and 54). This was a highly problematic model because it made land restitution contingent on the willingness of the paramilitaries to put their land assets in the Fund in the first place. It also required would-be land restitution recipients to summarily prove that they had been robbed of the property in question. All told, in over a decade only a few dozen land parcels have been restituted through Law 975 auspices (Restrepo and Bernal 2014: 40). Despite these limitations, Law 975 of 2005 nonetheless

further sanctioned judicial precedent of conceptualizing forced displacement in terms of coercive land theft as opposed to the simple collateral damage of armed conflict.

In the coming years, Colombian institutions were increasingly willing to recognize the co-constitutive nature of forced displacement and land grabbing. In these instances, the links between paramilitary violence and governmental collusion to steal land from *campesino* communities and “legally” re-title it to paramilitary associates became even more apparent. In 2010, Colombia’s Ministry of Agriculture ordered an extensive review of 149 “emblematic” cases of forced displacement nationwide. Across these, the Ministry found that local governmental INCORA/INCODER offices (those charged with overseeing agrarian reform programs) had actively participated with paramilitary organizations to extend legal title over lands they had coercively usurped. In the same vein, the Colombian Supreme Court ruled in 2011 that INCORA/INCODER offices colluded with the Northern Block of the AUC paramilitary organization to retro-actively extend legal title to 36 parcels they had forced *campesino* communities to abandon in Chivolo, Magdalena (Verdad Abeirta 2011; Grajales 2016: 1304-1305). Together, the Ministry of Agriculture internal review and Supreme Court ruling in 2010-2011 cemented the links between forced displacement, land grabbing, and paramilitary capture of governmental agricultural offices to cloak coercive land seizure in a legal gloss.



Chart Part II.I. Forced Displacement and Judicial Response **Data Source:** Registro Único de Víctimas, Unidad de Víctimas [Accessed March 2019]: <https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

Since the Inter-American Court of Human Rights's 2005 ruling, the notion of “land-grab-induced displacement” (Thomson 2014) has become a central heuristic for academic investigations of forced displacement in Colombia (Ballvé 2012; Grajales 2013, 2015, 2016 Gutiérrez-Sanin and Vargas 2017; Vargas and Uribe 2017). “Land-grab-induced displacement” recognizes that land is not a neutral background on which conflict takes place. Rather, violently appropriating land for varying economic purposes (particularly related to agro-industry and mining) in many instances ought to be viewed a central objective of conflict and the attendant waves of forced displacement it produces. “Displacement, frequently treated as the ‘collateral damage’ of war and climate change, or an unfortunate sacrifice necessitated by ‘development’” agrarian scholar Frances Thomson writes, “may often be better understood as part of the political economy of land” (2014:42). Per this rendering, people are not necessarily displaced from their

land as a mere side-effect of war, but are rather intentionally driven off so that such land may be re-appropriated by powerful economic interests.

Beyond African oil palm, an array of production schemes in Colombia have been associated with paramilitary land grabs, whether in the form of “legal” ventures such as cattle grazing (Gutiérrez-Sanin and Vargas 2017), or illicit activities such as coca production or laundering of narco-profits through speculative land accumulation (Richani 2012; McSweeney et al., 2017). Even eco-tourism via the creation of prominent national parks within Colombia has relied on paramilitary displacement of rural populations who do not meet green tourism’s particular aesthetics (Ojeda 2012). Massive, multi-national coal mining operations in Colombia’s La Guajira and Cesar provinces have also been accused of utilizing paramilitary force to displace peasant communities to open the land for gold and coal extraction (Vargas Valencia 2013; Verdad Abierta 2014b).

Whether related to palm oil, cattle, mining or ecotourism, such land grabs typically operate via a “coercive coalition” (which in Colombia has been typified by paramilitary forces that expel people from land via violent means). A subsequent “accumulating coalition” then appropriates the land for economic purposes (Vargas and Uribe 2017: 750).⁶⁸ The link between so-called “coercive” and “accumulating” coalitions underpins a larger truth about Colombia’s enduring armed conflict, especially with respect to the paramilitary armies. As the case of Colombia’s Lower Atrato in Chocó particularly shows, military-paramilitary operations were

⁶⁸ In some instances, the “coercive” and “accumulating” coalitions are comprised of the same people. This is especially true for prominent cattle ranchers throughout Colombia who directly formed, financed and led paramilitary armies not only as a means of protecting themselves from guerrilla kidnapping but also to expand their land holdings (Gutiérrez-Sanin and Vargas 2017). At other times, the “coercive” and “accumulating” coalitions may be only tangentially interlinked. Such was the case of Tibú, Norte de Santander in which AUC paramilitary commander “Salvatore Mancuso’s” horrific incursion into the Catatumbo region resulted in the massive dispossession of land that would subsequently be appropriated by palm oil companies who bore no direct relationship to Mancuso’s paramilitary forces (Vargas and Uribe 2017).

often part of a larger guise to fundamentally alter the political economy of land. In this sense, the military-paramilitary nexus in Colombia's armed conflict has been integral to the expansion of large-scale capital enterprises (Hristov 2010; Moreno and Zamora 2012). As Thomson (2011) succinctly concludes, "[the] experience of capitalist development in Colombia has been violent and produced poverty" (321). Whereas Paul Collier has famously argued that "civil war is development in reverse" (Collier et al 2003: 1), internal displacement in Colombia stands as a visceral proof that violence is not necessarily the reverse of capitalist development but rather its intimate partner. Nazih Richani tersely summarizes this conjuncture of violence and capital: "In Colombia an individual can alternate roles: that is, one can start as drug trafficker and end up as an agro-industrialist farming African palm and owning another parcel for cattle ranching used for speculation and to shelter capital gains" (2012: 69).

Section II: *Land Grabbing and "Legal Dispossession"*

However, creating the conditions for the expansion of agro-industrial capitalism in Colombia has relied upon far more than merely coercively dispossessing rural populations of their land. Legal techniques have also played a prominent role in facilitating violent land transfer. Whereas forced displacement is often a first step towards appropriating land in Colombia, "it does not suffice to occupy a plot; the profitability of land grabbing requires the institutional recognition of property rights over those spurious holdings" (Grajales 2015: 546). Accordingly, such land grabbing is accompanied by a specific set of legal maneuvers designed to cover up the violent origins by which the land was appropriated and to therefore ensure its "clean" participation in markets. The violent appropriation of land in Colombia has thus often been precipitated through schema of "legal dispossession" (Peña-Huertas et al 2017). Legal dispossession encompasses the fact that armed actors (particularly paramilitaries) used

sophisticated legal means to both occlude the violence inherent in coercive land transfer, as well as to weaken and corrupt public institutions in order to administratively deprive people of their land title or occupancy rights.

Peña-Huertas et al (2017) portray legal dispossession in Colombia through a two-part typology. They refer to the first facet as “dispossession through legal transaction”, which involves land transfer between two private parties. While the land transfer may have a legitimate gloss (i.e. having a notarized public deed and being recorded in public land registries), legal documents pertaining to the land omit the fact that the land seller may have sold either against his or her will (‘vitiating consent’) and/or sold for an extremely low price (*laesio enormis*). Selling under duress for radically devalued prices was very common in areas throughout Colombia where paramilitaries sought to establish territorial control. Colombia lacks a centralized, reliable land market authority to determine the market-price of land, and determining land’s “fair price” is certainly hazardous in times of war (Peña-Huertas et al 2017: 764). Yet dozens of land restitution cases contain grinding testimony from internally displaced persons who tell of selling their land for bare minimums. One displaced land claimant from Sabana de Torres, Santander recounts that a paramilitary front man told her that if she and her husband did not like the price he was offering for their land, they could “go negotiate by the river”—a not so subtle reference to the place where paramilitaries disposed of their victims’ bodies.⁶⁹ Despite these elements of coercion, such land transactions were often duly notarized and registered, thus offering a patina of legality to cover the underlying violence responsible for the land transfer.

A second major facet of legal dispossession refers to land transactions occurring between private parties and the state. Such “administrative dispossession” stems from the fact that many

⁶⁹ See Sabana de Torres Case: Feb 25 2014

state land-regulating agencies, especially the Colombian Institute of Agrarian Reform (INCORA) created via agrarian reform Law 135 of 1961 and reconfigured as the Colombian Institute of Rural Development (INCODER) in 2003, were co-opted by paramilitary organizations and their political allies in many towns throughout Colombia. In particular, public land titled to farmers via Colombia's agrarian reform legislation can only be subsequently transferred with the consent of the INCORA or INCODER agrarian reform offices. Within this context, corrupt officials were able to by-pass land transfer oversights contemplated within agrarian law, revoke title against the current occupiers' will (at times, without them even knowing) and subsequently transfer the land and title to a third party (Peña- Huertas et al 2017: 762-767). The forceful displacement of the landowner or occupier could thus be hidden in a legal and administrative labyrinth.

These facets of "legal dispossession" (dispossession through legal transaction and administrative dispossession) were instrumental to both occlude the violent coercion of land, and to ensure that land could be subsequently sold, transferred and used while maintaining an outward appearance of legitimacy. The outward legitimacy of paramilitary-backed land grabs was at times so impeccable that two palm-oil organizations with direct paramilitary connections in southern Bolívar province (Corpoagrosur and Gradesa) were even able to successfully apply for hundreds of thousands of dollars of USAID financing from the United States government (Ballvé 2009). That political and financial interests were able to bend legal processes to their will ought to come as no surprise: "The law often comes down on the side of bandit capital" Comaroff and Comaroff write, "[e]specially when it dons the mask of respectable business" (2007: 144).

Given the intimate connection between forced displacement and land grabbing, the 2011 Victims' Law was designed in-part to lasso the bandit capital donning the mask of respectable business. In that respect, the Victims' Law has shown concrete results. To date, over thirty-five businesses throughout Colombia have been unable to prove they bought land claimed for restitution in "good faith with due diligence". In effect, Land Restitution Tribunals ruled that these companies (ranging from banks, investment funds, transnational mining corporations, and agro-industrial conglomerates) either directly cooperated with armed groups to acquire land, or knowingly took advantage of the chaos and insecurity of armed conflict in order to obtain land at a reduced cost. As of 2019, these companies have been ordered to return an estimated 53,000 hectares of land to previously displaced owners and occupants (Forjando Futuros 2019).

To be sure, there are numerous difficulties land claimants face in effectively returning to such land (which I detail in chapter VI). But I point to these "respectable business" cases because in many ways they signal the idealized unfolding of the Victims' Law. That is, through the land restitution program, the simultaneously violent and fraudulent means through which powerful business interests accumulated land are ostensibly reversed. In many instances, these businesses' paramilitary links are beyond question, and the nullification of their land rights stands as a concrete instance of undoing ill-gotten fruits of war. That such land may be returned to innocent *campesino*, Afro-descent or indigenous conflict victims only heightens the moral imperative the Victims' Law set out to complete.

But if the story ended there I would not have written this dissertation. Despite the logistical challenges involved, there is little moral or legal wrangling required to revoke patently criminal business enterprises' land rights, especially in light of Colombia's undeniable history of paramilitary-induced land grabbing. Yet when the current owners of land claimed for restitution

do not fit this paramilitary-profile, and when their lands have not been subsumed within the same processes of paramilitary land grabbing, then the equation concerning violence and criminality changes. How that equation changes, and to what effect, is the subject of the remaining chapters.

Section III: *Land Grabbing at the Legal Crux*

Paramilitary violence across Sabana de Torres, Rionegro and San Alberto was, as in countless other municipalities in Colombia, rampant. These armed groups were likewise responsible for incredible levels of forced displacement. But how did forced displacement specifically take place and, just as importantly, what happened to the land? A classic land grabbing analytic would point to the expansion of agro-industrial or mining enterprises on the land. Another common explanation is that paramilitary forces would place their loyal “front men” (*testaferros*) on the land, who would essentially occupy the property on their behalf. Indeed, this practice of “planting people” (*sembrando gente*) is a paramilitary agricultural practice *par excellence*.

There is certainly evidence (as I explain in the following chapter) that such practices took place in Sabana de Torres, Rionegro and San Alberto. Forced displacement in these municipalities was often selective—that is, in many cases paramilitary forces targeted specific individuals instead of unleashing wholesale barrages against entire communities all at once. As scholars of Colombia’s armed conflict note, a substantial portion of displaced people did not flee collectively, but rather in a much more individual, piece-meal fashion. What this suggests is that “most people fled because they were singled out as guerilla collaborators and forced to leave, or as a result of individual household decisions, rather than a consequences of sweeping expropriation operations” (Gómez, Sanchez-Ayala and Vargas 2015:268). In turn, paramilitary forces could then place their individual *testaferro* front men on the land. These patterns can make

forced displacement difficult to detect because, as Gómez, Sanchez-Ayala and Vargas continue, “land may have changed hands but not the use it was given... the aggregate level of such changes would be imperceptible both in in terms of scale and use—like a musical chairs game” (2015:268).

It is this game of musical chairs, as I will demonstrate in the following chapters, that the Victims’ Law was less than perfectly designed to play. Not least because of the fact that many current landowners, according to Land Restitution Tribunals, cannot be considered paramilitary *testaferros* who were complicit in the illicit usurpation of land. Or, even if a loyal paramilitary *testaferro* occupied a piece of property in the early 1990s, that property may have been sold and re-sold multiple times over the ensuing decades. As such, the current owner may have had no presence in the region during the worst vestiges of forced displacement. Yet in all cases it is the current owner of the property who is called to account in front of Land Restitution Tribunals.

As a concluding remark, therefore, I would like to highlight the Land Restitution Tribunal’s specific framing of forced displacement concerning a restitution case on San Alberto’s *Los Cedros* estate. The magistrates comment:

The paramilitaries’ objectives were to displace the “invaders” who had received land parcels and who the paramilitaries linked to guerrilla groups. [Displacement occurred] without the paramilitaries’ prime objective *necessarily* being the occupation of the real estate, which could come into the hands of other people who were also potential extortion targets of the very same paramilitary groups.⁷⁰ (emphasis added).

The implications of this characterization are simple yet far-reaching. Paramilitaries did not necessarily directly appropriate the land from which they displaced their victims, nor did they necessarily place their *testaferros* upon it. Land may have indeed passed from a conflict victim to a new owner who would also suffer paramilitary violence.

⁷⁰ See San Alberto Case Dec 18 2015: 19

In Chapter IV, I dissect the complex legalities concerning whether or not current land owners in Sabana de Torres, Rionegro and San Alberto did in fact buy land in “good faith with due diligence”. A substantial portion of landowners have been unable to prove so, even though they claim to have bought their land through the most transparent legal means possible. The inability to prove “good faith with due diligence” is nonetheless potential grounds for eviction without compensation, which has in turn fostered massive backlash against the Victims’ Law. This backlash has indeed led to some legal modifications to the land restitution program. Nevertheless, the Victims Law’s political opponents have seized upon the controversy to roundly denounce the program through the same stigmatizing discourses that have traditionally motivated Colombia’s exceptionally violent agrarian counter-reform.

In Chapter V, I detail how that backlash unfolds on the terrain of history and collective memory. Current landowners largely claim that the Bureau of Land Restitution and the Land Restitution Tribunals have an incomplete and (perhaps intentionally) skewed historical understanding of past violence. It is only through this (deliberate) misunderstanding of the history of armed conflict in the region, land restitution opponents claim, that innocent, hardworking people could be so egregiously evicted from their land. This chapter highlights the contested means of knowledge production concerning armed conflict that arise in the course of land restitution proceedings.

In Chapter VI, I contend with the material consequences of land restitution. Specifically, I analyze the current agricultural uses (or lack thereof) to which restituted land parcels in Sabana de Torres, Rionegro and San Alberto are dedicated. During my fieldwork in 2017, a small handful of restituted land claimants, all of whom lived in Sabana de Torres, had returned to their land to manage it full-time. The Bureau of Land Restitution highlights these instances as

testaments to the intertwined human rights protection and agrarian revival the restitution program is designed to procure. However, many restituted plots currently lie in a state of abandon, often overgrown with weeds and surrounded by downed barbed-wire fences. While they may have a newly validated title in light of the restitution process, these plots do not display the idealized modes of agrarian management the Bureau of Land Restitution envisions. For many local rural development officials, these plots reflect the Bureau's lack of technical capacity and understanding of the exigencies of rural life. For land restitution opponents, however, the decrepit state in which these parcels now lie reflects the equally decrepit moral character of the land claimants themselves. They see such abandoned parcels as harbingers of the agricultural ruin the land restitution program is designed to foment. Cumulatively, these sharply divergent perceptions of the "restituted landscape" point to both the material fractures of the program's implementation, as well as to the indeterminate and contested perceptions of state intervention into agrarian relations that the program makes possible.

CHAPTER IV: IN GOOD FAITH

Introduction

On June 5th, 2017 the gavel fell hard against Sulima Navarro Quintero. That day, Land Restitution Tribunal magistrates nullified her title and ownership over a small house in the rural hamlet of San Rafael de Lebrija in Rionegro, Santander. They also recommended Quintero be criminally investigated for her potential paramilitary connections. The Tribunal determined that the previous owner of the house had sold the property under extreme duress in 1992 to alias 'Camilo Morantes', the infamous paramilitary leader who began establishing his territorial control in the region that same year. The man who sold his house to Morantes explained in the Land Restitution Tribunal that, “in 1992 two men arrived at my house and told me that *el patrón* [Morantes] needed my house, that he would pay me 500,000 pesos [less than \$2000 USD in 1992]. As you know, I had to say yes to the paramilitaries out of fear.”

The house was then titled to Sulima Navarro Quintero, who was Camilo Morantes' “intimate partner” (*compañera sentimental*) at the time. After Morantes' death in 1999, Quintero kept the title. The displaced claimant refused to return to the house even after Morantes' death: “I didn't do anything because the house still belonged to the paramilitaries,” he told the Land Restitution Tribunal magistrates. “Especially with the forced disappearance of my nephews and the death of my sister, I was terrified. I therefore never went back there”.⁷¹

Because the title deed to the house was in Sulima Navarro Quintero's name, she was summoned to defend the property in the Land Restitution Tribunal when the displaced owner sought restitution in 2015. The magistrates ruled that Sulima Navarro Quintero's property rights were illegitimate due to the coercive nature of the sale of the house in 1992. Since Quintero was

⁷¹ Court Case: Rionegro June 5 2017: 18-19

Morantes' "sentimental partner", the magistrates also referred Quintero's case to the attorney general's office (*fiscalía*) for potential criminal investigation given her direct paramilitary associations. At the time of writing, it is unclear if the investigation has commenced. However, records show that Quintero immediately filed a counter-suit in the Colombian Supreme Court against the land restitution magistrates for nullifying her ownership of the house.⁷² The outcome of that case is pending.

Sulima Navarro Quintero's case reveals common patterns—and sharp divergences—in the land restitution process in the Magdalena Medio. The vast majority of restitution cases in the Magdalena Medio concern a property that, like Quintero's, is currently owned. Restitution claims over abandoned parcels without competing ownership claims are relatively rare. Of the 123 individual properties over which the Land Restitution Court and Tribunal have arbitrated cases in Sabana de Torres, Rionegro and San Alberto to date, only fourteen parcels (roughly 11%) were abandoned (i.e. unowned/occupied) when the restitution petition was brought forth. In the vast majority of cases, the parcel claimed for restitution has a formal owner.

Quintero's case is unique in that it was referred to the attorney general's office for potential criminal investigation. She was the intimate partner of a paramilitary commander. Through that relationship, a stolen house—used as a paramilitary base of operations—was titled in her name. That made her case one of a very small handful of instances in the Magdalena Medio in which Land Restitution Magistrates suspected the current owner of bearing any direct or indirect links to the armed groups responsible for forcefully appropriating the property in question⁷³. Similarly, in 135 cases nationally (approximately three percent of the total number of

⁷² <http://www.cortesuprema.gov.co/corte/wp-content/uploads/not/civil17/acta%20de%20reparto%200127%20de%2024%20de%20julio%20de%202017.pdf>

⁷³ See Cases: Rionegro December 14, 2015; August 22, 2017; December 18, 2017

resolved cases), Land Restitution magistrates requested that prosecutors investigate current landowners for potential criminal wrongdoing (Forjando Futuros & Universidad de Antioquia, 2018).⁷⁴

Three percent may be an overall low number, and in several instances the Land Restitution Tribunal has been critiqued for *not* requesting criminal investigations of the current property owner (Verdad Abierta 2018d). From the outset, therefore, I wish to reiterate that just because the Land Restitution Tribunal does not recommend that criminal investigations be brought against a current landowner, this cannot be taken as a blanket testimony to their innocence. Not all current landowners are entirely innocent, and legal fraud and violence certainly did play a role in the sale and transfer of the land. Of the 96 cases arbitrated in Sabana de Torres, Rionegro, and San Alberto seventeen (nearly 18%) contain orders from land restitution magistrates demanding the prosecutors' office to conduct criminal investigation.⁷⁵ In some instances, the land restitution magistrates explicitly call for the current landowner to face criminal investigation; in others, the magistrates recommend charges be brought against an intermediary land buyer, governmental INCORA officials who may have approved fraudulent land transfers, or other specific individuals whose potential criminal conduct may have facilitated the abandonment or forced sale of the land in question.

Nonetheless, as this chapter illustrates, the potential criminal culpability of current landowners cannot be assumed. This is a challenge to which the Victims' Law has had to

⁷⁴ However, the Land Restitution Courts and Tribunals are themselves not penal institutions: they may make recommendations for charges, but may not order that such charges be brought. At best, as former Bureau of Land Restitution Director Ricardo Sabogal states, the land restitution sentences "offer important clues about land theft and its methodologies. They should be closely studied by the Truth Commission in order to clarify systematic processes of land theft during conflict" (Molano 2018).

⁷⁵ The following cases which include suggested criminal prosecution against identified armed actor, governmental official, and/or current or former landowner. Rionegro: May 20 2015; Jun 5 2015; Dec 14 2015; Jun 5 2017; Jun 7 2017; Aug 22 2017; Sabana de Torres: Jul 30 2013; Aug 28 2013; Jan 22 2014; Mar 31 2014; Jul 9 2014; Aug 24 2016 ; Dec 5 2017; San Alberto: Apr 1 2016; Aug 3 2016; Nov 22 2017; Dec 12 2017 (See Annex A)

continually adjust throughout its implementation. The land restitution process in the Magdalena Medio has therefore been beset by an onerous dilemma: how to recognize conflict victims' rights to recuperate abandoned or stolen land when that land is currently owned by someone that restitution magistrates deem to bear no direct or indirect responsibility for forced displacement?

I grapple with that question in this chapter, focusing on the Victims' Law's legal standards pertaining to the property rights of so-called second occupiers (*segundos ocupantes*) — people who own or occupy land claimed for restitution, are deemed by Land Restitution magistrates to bear no responsibility for violent displacement, and are yet unable to meet the Victims' Law's strict legal standards of “good faith with due diligence” (*buena fe exenta de culpa*) to prove the legitimacy of their property ownership. “Second occupier” is a legal designation within the land restitution program designed to recognize property owners who do not have links to armed groups yet who are still unable to prove they bought land in “good faith with due diligence.” Importantly, as I will later address, the “second occupier” legal subject was not included within the original text of the Victims' Law in 2011, and only gained official juridical recognition from the Colombian Constitutional Court in 2016. In many ways, the *ad-hoc* insertion of the “second occupier” legal subject reflects the unexpected realities of contemporary land tenancy patterns that the land restitution program confronted in places such as Sabana de Torres, Rionegro, and San Alberto.

In Section I, I reiterate the central analytic importance afforded to “land grabbing” in understanding the violent usurpation of land in Colombia. In Section II, I detail how land grabbing legacies inform the Victims' Law's “good faith with due diligence” legal presuppositions, and how Land Restitution Magistrates parse the difference between “good faith” and “good faith with due diligence” land-buying practices. The difference between these two

terms determines whether current owners of displaced land claimants' parcels receive compensation measures for their relinquished property or not. In Sections III and IV, I then detail the controversy concerning these decisions, the political and legal challenges brought against the Victims' Law, and how such challenges have been managed. Finally, I draw conclusions concerning the limits of land grabbing as an analytic measure of displacement in Colombia, land restitution's precarious capacity to address structural causes of land concentration, and the ambiguous role of legal regimes in promoting post-conflict peace.

Section I: *Adjudicating 'Legal Dispossession'*

The term "land grabbing" evades precise definition but tends to describe recent, massive, and capital-intensive national and transnational investments in land for food security, biofuel production, and climate change mitigation projects (Borras Jr. et al., 2011). Land-grabbing initiatives within this so called "global land rush" often involve private control of extensive tracts of land (which may or may not displace those currently living on the land), massive quantities of capital investment (regardless of how large the tracts of land in question may be), and the investing parties' crisis-driven imperative to ensure adequate access to food, fuel, or climate change mitigation strategies (Borras Jr. et al., 2012). At times, these processes are framed as forms of accumulation by dispossession, given their use of coercive, extra-economic means to render land as a market asset (Levien 2012).

This chapter acknowledges systematic and coercive land grabbing as integral to conflict and forced displacement in Colombia, but urges caution in relying on land grabbing as an overarching meta-narrative for explaining the forced abandonment or sale of land (Gómez, Sanchez-Ayala and Vargas 2015). My focus here on "land grabbing" echoes calls to investigate these practices as extensions of prior legacies of violent land usurpation that cannot be neatly

cordoned off from larger historical contexts (Edelman and León 2013; Mollett 2016). I also reiterate calls to illuminate everyday forms of dispossession (*despojo cotidiano*) (Ojeda et al. 2015), whereby people's livelihoods and access to land are made vulnerable by processes that a direct focus on violent land grabbing potentially misses. A more refined focus on the multiple ways in which forced displacement and attendant patterns of forced abandonment and sale of land occur during conflict—what Gómez, Sanchez-Ayala and Vargas (2015) refer to as “micro-processes” —is essential for properly calibrating legal restitution mechanisms to address forced displacement.

Nonetheless, land grabbing serves as a central analytical tool for investigating conflict in Colombia, and rightfully so. Critical human geography and agrarian scholarship clearly demonstrates that forced displacement in Colombia is not necessarily a mere side effect of conflict, but an intentional practice of clearing people from land to appropriate it for agro-industry, mining, and ecotourism (Asher 2009; Grajales, 2011, 2013, 2016; Thomson, 2011; Ballvé, 2012, 2013; Ojeda, 2012; Gutiérrez-Sanin & Vargas, 2017; Hurtado et al., 2017; Vargas & Uribe, 2017). In 2005, the Inter-American Court of Human Rights recognized land grabbing for industrial palm oil development as a key facet of paramilitary groups' forced displacement of Afro-descendent populations in Colombia's Lower Atrato region, thus juridically framing land grabs as human rights violations (Grajales, 2015). Armed groups responsible for such “land-grab-induced displacement” (Thomson, 2014) typically used sophisticated maneuvers such as title manipulation, extortion, and wholesale co-option of government land registries to give coercive land seizure a legal gloss so that land could function as a legitimate market asset. Interest in land among the paramilitaries and narco-bourgeoisie as a strategic and financial asset has propelled massive land purchases to launder profits through an array of cattle and agro-

industrial front businesses (Richani, 2012; McSweeney et al., 2017). These practices of “legal dispossession” (Peña-Huertas et al., 2017) create what might be called a “counterfeit culture of legality” (Comaroff & Comaroff, 2007: 146) through which legal processes are manipulated to obscure violent practices.

To date, Land Restitution magistrates have found over thirty- five businesses, ranging from banks, industrial oil palm plantations, banana estates, gold mines, and petroleum companies in possession of presumably abandoned or stolen land, despite having “legal” title to the property. As of the end of January 2019, Land Restitution Tribunals had arbitrated cases concerning a total of 158 properties owned by various businesses. Of those, only 6 properties (3.8%) were deemed to have been bought “in good faith with due diligence” (Forjando Futuros 2019). This standard has therefore been used to reverse businesses’ land purchases that either relied on direct violence or took advantage of the sellers’ vulnerability to obtain the property. For example, in January 2018 the Land Restitution Tribunal ordered restitution rights to a 127- hectare plot in the banana-producing zone of the Magdalena department once occupied by forty- nine families whom paramilitary forces displaced in 1996. In a classic land-grabbing maneuver, the land was then titled to Las Franciscas S.A.S. (a Dole subsidiary). Through the good faith with due diligence provision, magistrates effectively nullified the title documents used to legitimize the company’s ownership (Verdad Abierta 2018d).

The Victims’ Law contains juridical tools designed to puncture the legal artifices used to perpetrate these violent, industrial-scale land grabs. However, the unfolding of the Victims Law’s land restitution process has proven that not all land sold or abandoned due to conflict was appropriated via violent land grabs. Furthermore, many landowners summoned as defendants in Land Restitution Tribunals did not obtain their land through either direct or indirect means of

violence. As such, both *campesino* organizations as well as opposition political parties have launched sustained political and legal actions against the land restitution program. These challenges assert that small and medium landowners are unjustly held to the same exacting legal standards under the Victims' Law as paramilitary-backed industrial enterprises. Because they are often unable to meet these standards, these smaller landowners may face revocation of their land title and eviction. Thus, a conundrum: Those who currently own formerly stolen or abandoned land do not necessarily bear responsibility for violent displacement. Yet, because they face eviction from their land with only precarious compensation rights, they potentially bear towering responsibility for providing redress.

In Sabana de Torres, Rionegro and San Alberto, the restitution claims arbitrated in Land Restitution Tribunals have not concerned land holders such as oil palm plantations or mining firms, but rather what Colombia's national *Augustín Codazzi* Geographic Institute refers to as "small" (fewer than fifty hectares) or "medium" (fewer than 200 hectares) plots (IGAC 2012). Court documents show that the average size of parcels claimed for restitution are sixty-two square hectares in Sabana de Torres and twenty-nine square hectares in Rionegro. Plots claimed for restitution in San Alberto consist almost entirely of even smaller twelve to sixteen-square-hectare parcels provisioned through agrarian reform retitling programs. Only a small number of cases arbitrated thus far involve parcels larger than one hundred hectares. At 305 hectares, the *El Bambú* estate in Sabana de Torres is a stark outlier.⁷⁶ As I will show, the Victims' Law's critics and detractors point to the relatively small size of the plots claimed for restitution to highlight the current owners' precarious position and lack of culpability.

⁷⁶ See Case: Sabana de Torres May 31, 2017. The current owners did not prove good faith with due diligence but received compensation per ruling CC-330/16.

The extent to which those who currently own or occupy land presumably stolen or abandoned due to conflict do not fit typical paramilitary profiles was made viscerally clear when the very first restitution petition was launched in Sabana de Torres. This claim, brought in 2012, resulted in a massive protest by more than 700 destitute families living on the long-abandoned *La Palestina* ranch. The previous owner of the property sought to reclaim the ranch through the restitution program, which would have potentially entailed evicting the hundreds of people currently occupying the land (Vanguardia Liberal 2012). Although the 2012 *La Palestina* case was dropped under unclear circumstances, it showed in stark terms that the people living on land abandoned due to conflict were not necessarily those responsible for previous violence.

After the 2012 *La Palestina* case, controversy continued to escalate throughout the Magdalena Medio because a substantial portion of current landowners forced to defend their property against a restitution claim were not powerful, violent, and legally sophisticated landowners, nor paramilitary or guerrilla front men (*testaferros*). These are people typically classified as “small” and “medium” landowners who obtained their property through any number of mechanisms, including: family inheritance, private sale, municipal auctions, as well as purchase from governmental INCORA offices. None of these procedures in and of themselves are necessarily “legal” nor “illegal”. Per the Victims’ Law, the “legality” of each specific case is established if in fact the owner bought the land in “good faith with due diligence”.

Two important details are necessary to mention at this point: 1) not buying land in “good faith with due diligence” does not imply one resorted to criminal activity to obtain land (this proposition rests, as I explain below, on the difference between mere “good faith” and “good faith with due diligence”) and ; 2) at the Victims Law’s outset, landowners only able to prove

“good faith” as opposed to “good faith with due diligence” were typically evicted from their property without any form of compensation.

Arbitrating these distinctions with respect to current landowners’ differential “good faith” and “good faith with due diligence” practices, as the following section will show, presented the land restitution process with steep legal and political challenges. While the Bureau of Land Restitution and the Colombian Constitutional Court have taken specific measures to resolve these legal complications, the political mobilization these complications fomented has continued to seek to delegitimize the overall land restitution program.

Section II: *Good Faith vs. Good Faith with Due Diligence*

The Victims’ Law stipulates that current owners of a parcel claimed for restitution must show that they acquired the land in “good faith with due diligence” to be eligible for compensation if their land is returned to its previously displaced owner or occupant (Article 88). The good faith with due diligence legal standard was intentionally included within the Victims’ Law to address the complex, quasilegal means that armed groups in Colombia used to legitimize the violent usurpation of land. This provision seeks to ensure that people with direct connections to paramilitary or guerrilla organizations are not able to tacitly legalize lands obtained due to conflict. It also is designed to detect instances in which people without direct connections to armed groups knowingly took advantage of the seller’s vulnerability to pay a lower price. The aim is to relieve pressure on vulnerable, displaced land claimants by placing the burden of proof for the validity of the land transaction squarely on those who now own the property (Bolívar et al. 2017).

Good faith with due diligence provisions thus intend to ensure that current landowners: 1) prove beyond doubt that they did not use either coercive means and/or legal fraud to obtain their

land; and 2) not be able to receive compensation for lands they unduly obtained, if that land is restored to displaced claimants (Sánchez 2016). In 2016, the Colombian Constitutional Court recognized that armed actors violently seized land, yet, “through a seemingly endless number of ways were able to give such acts of usurpation and dispossession an appearance of legality” (C-330/16 §90). The Constitutional Court therefore deemed the good faith with due diligence standard was necessary to puncture the legal artifices constructed to legitimize coercive land transfers.

Land restitution magistrates typically hold that good faith with due diligence, as opposed to simple good faith, requires a current landowner to demonstrate that he or she not only bought the land under the belief that the land transfer was legal and consensual (i.e. done in good faith), but that he or she actively investigated the history of the parcel to ensure the land transfer was free of any irregularities (good faith with due diligence). Good faith with due diligence therefore requires land buyers to be *subjectively* under the impression that they are buying land via legal avenues and to also *objectively* demonstrate that they took outwardly verifiable steps to ensure the legitimacy of the transaction. Magistrates further hold that a land buyer may have exercised good faith with due diligence if any diligent and prudent person would have committed the same error, given the impossibility of detecting irregularities concerning the transfer of the land in question.⁷⁷ (see Bolívar et al. 2017).

Given these formal legal parameters, what do such land-buying actions look like in practice? When I posed this question to the director of the Barrancabermeja, Santander, Bureau of Land Restitution office in 2015, he explained to me that buying land in simple good faith is normal. “Normally, you offer me a piece of land. The land and the price look

⁷⁷ See Case: Sabana de Torres September 2, 2014: 30.

reasonable and I buy it. But good faith with due diligence means I go beyond (*más allá*) what is normal.”⁷⁸ He explained that this might include finding out if the person selling land was doing so because an armed group recently killed one of his family members. Three baseline good faith practices serve as prerequisites for good faith with due diligence land purchases. Specifically, magistrates require that land the buyer: 1) paid a fair price for the property (determined through a formulaic analysis by the Augustín Codazzi Geographic Institute); 2) did not use coercive tactics or knowingly take advantage of the land seller’s vulnerability; and 3) did not belong to an illegal armed group.

These three good faith parameters, however, have several qualifying and often overlapping conditions required to constitute good faith with due diligence. Key among them is the current landowner’s status as a conflict victim. When the current landowner is officially registered as a conflict victim, land restitution magistrates may consider land bought in simple good faith as meeting the good faith with due diligence requirements. This maneuver obeys the Victims’ Law’s intention to promote “national reconciliation” and “stable peace” (Victims’ Law Articles 9 and 11). Referring to a property in Rionegro that a displaced conflict victim from Bolivar Department purchased several years after its original owner was displaced, the magistrate court wrote in its ruling that “We don’t do any favors for peace and reconciliation by protecting one conflict victim while completely disfavoring another” (Case: Rionegro 30 November 2015, p. 47). However, rulings involving a victim as defendant are rare across my field sites, with only four such cases arbitrated to date.⁷⁹ In general, the prime reason for recognizing current landowners’ good faith with due diligence status is the

⁷⁸ Interview Barrancabermeja August 1, 2015

⁷⁹ See Case: Rionegro November 30, 2015:47. Other cases where current owners’ status as conflict victim qualified them for good faith with due diligence protections are: San Alberto February 16, 2016; San Alberto June 26, 2018; Rionegro December 14, 2015.

magistrates' conclusion that it was impossible for them to know that a previous owner lost possession of the property due to conflict-related violence.

This determination is often made when the displaced person claiming the land offers testimony to the tribunal that they did not disclose to the buyer why they were selling. Representative of these instances is a land claimant in Sabana de Torres who told a prospective land buyer that he wished to sell the property because his cheese production business was faltering. In reality, he had received death threats from paramilitary groups but explained to the restitution magistrates, "We couldn't say what really happened to us, otherwise no one would buy the land. Also, we were scared to give that kind of information. If someone asked you how the land was, you just said that it was all okay."⁸⁰ What is critical is that the prospective land buyer sought to determine if there was an irregularity motivating the land sale (by asking the seller and/or neighbors), and received incomplete or misleading information.⁸¹ Witness testimony from the land claimant and neighbors in front of the Land Restitution Tribunal is central to making these decisions concerning land buyers' efforts to determine the motivation of the sale.

Yet current owners must typically also prove they consulted proper formal channels as well. In practice, this means proving that they performed a title evaluation before buying the land. A proper title evaluation consists of going beyond simply examining the current title document (*matricula inmobiliaria*), but of also soliciting the liberty and tradition certificate (*certificado de liberated y tradición*) from the public notary office. This document lists all past

⁸⁰ See Case: Sabana de Torres September 2, 2014:33.

⁸¹ Cases in which land restitution magistrates recognized that a prospective land buyer's attempts to determine the motivation for the sale were obstructed by misleading information are: Sabana de Torres September 2, 2014; San Alberto June 26, 2018; San Alberto November 30, 2015; San Alberto February 11, 2014; San Alberto November 22, 2017; Rionegro November 30, 2015; Rionegro May 20, 2015; Rionegro September 23, 2015; Rionegro January 27, 2016.

owners of the parcel, when they sold, to whom, and for what price. Importantly, if any conflict-related violence has been reported on the land, the certificate will contain a seal from the Central Registry of Abandoned Parcels and Territories and, in theory, alert potential buyers to irregularities. But many displaced land claimants never registered their parcels with the Central Registry of Abandoned Parcels and Territories out of fear, or did so only many years after abandoning the land. Therefore, land restitution magistrates may confer good faith with due diligence recognition on landowners who prove they conducted a title evaluation of the parcel in question, yet, because of a lack of information in the liberty and tradition certificate could not have known about violent episodes occurring on that particular parcel.

In the vast majority of good faith with due diligence rulings, the current owner is a second, third, or even fourth buyer in a chain of transactions, meaning they were potentially living in a different region when the person was displaced, and purchased the land years after the displacement occurred. In fact, very rarely do restitution magistrates in the Magdalena Medio confer good faith with due diligence rights on first-in-line buyers. One of the few examples involves a plot in San Alberto in which the displaced woman's son was still temporarily living on the land at the time of purchase, thus giving the buyer the impression that all was in proper order.⁸² Nonetheless, the fact that a current owner was spatially and temporally removed from violence does by itself not constitute good faith with due diligence; they must still prove they took outwardly verifiable actions (such as a land title evaluation) to review the validity of the land sale. Failing to prove these measures is grounds for denial of good faith with due diligence recognition.

⁸² See Case: San Alberto February 11, 2014.

San Alberto, Cesar, was dominated by the same armed groups as neighboring Sabana de Torres and Rionegro, but its land restitution claims follow a modified set of good faith with due diligence criteria. This is because most land plots claimed for restitution are small parcels carved out from larger estates by the *Instituto Colombiano de la Reforma Agraria* (Colombian Institute for Agrarian Reform, INCORA) in the late 1980s and early 1990s and retitled to landless campesinos. Per agrarian reform legislation, INCORA offices had to validate any subsequent transfer of these parcels. These transfers rose precipitously in the mid-1990s as many beneficiaries of agrarian reform fled San Alberto due to paramilitary accusations of guerrilla collaboration. As these farmers abandoned their plots, they often sold to neighbors, friends, or other residents of San Alberto. However, they were obliged to do so under the supervision of INCORA governmental officials, who mediated and approved the land transfers. Many landowners in San Alberto who bought land under the supervision of INCORA offices currently are defendants in restitution cases.

Significantly, however, land restitution magistrates often hold that simply buying land under the supervision of INCORA offices does not constitute good faith with due diligence in and of itself. This determination is due to a number of factors. First, INCORA offices were notoriously corrupt and often infiltrated by the paramilitaries' political allies. As one displaced land claimant from San Alberto testified, he requested permission from INCORA offices to sell his land, but told them that he wished to sell for personal reasons rather than because he received paramilitary deaths threats. "I didn't tell them [INCORA officials] the real reasons, because the paramilitaries have connections with everyone--the mayor, the authorities. So out of fear for my life I said I was selling for personal reasons."⁸³

⁸³ See Case: San Alberto November 30, 2015: 135

Furthermore, given the overwhelming violence in San Alberto during this period, coupled with the intimate knowledge neighbors had of their fellow land occupants, restitution magistrates have consistently denied good faith with due diligence recognition to current landowners because the dimensions of the conflict were so widespread as to constitute an undeniable fact (*hecho notorio*). The Victims' Law therefore codifies the "presumption that people who transferred property in an area of generalized violence did so because of the violence" (Attanasio and Sánchez 2012: 36). Accordingly, this climate of generalized violence allows the Victims' Law to dictate that land buyers should have known what was transpiring and that the person may have been selling due to extreme duress and vulnerability.⁸⁴(Bolívar et al. 2017). Potential irregularities in the land sale are thus assumed *a priori* and current landowners therefore must show they took prudent "good faith with due diligence" actions to investigate potential irregularities concerning the property in question.

Therefore, although many current property owners in San Alberto bought land in good faith directly from displaced claimants, with oversight from INCORA offices, they must still prove they took additional diligent and prudent means to verify that they did not take advantage of the sellers' vulnerability and that the land sale stemmed from legitimate circumstances, or that it was impossible for them to know otherwise. The Land Restitution Tribunals' rulings of good faith with due diligence are comparatively rare. Of the 135 *occupied* properties upon which land restitution magistrates have arbitrated in the field sites as of February 2019, in 79 instances (approximately 58%) the displaced land claimants restitution rights were upheld (in 56 instances, or 42%, they were denied). Of those 79 properties, the current owners were able to prove they bought the land in good faith with due diligence (GFDD) in 32 instances (41%). (See Table 4.1)

⁸⁴ For a representative example, see Case: San Alberto December 14, 2015: 27.

Municipality	Recognized GFDD	Denied GFDD
Sabana de Torres	4 properties	15 properties
Rionegro	13 Properties	6 properties
San Alberto	15 properties	14 properties
Totals	32 properties	35 properties

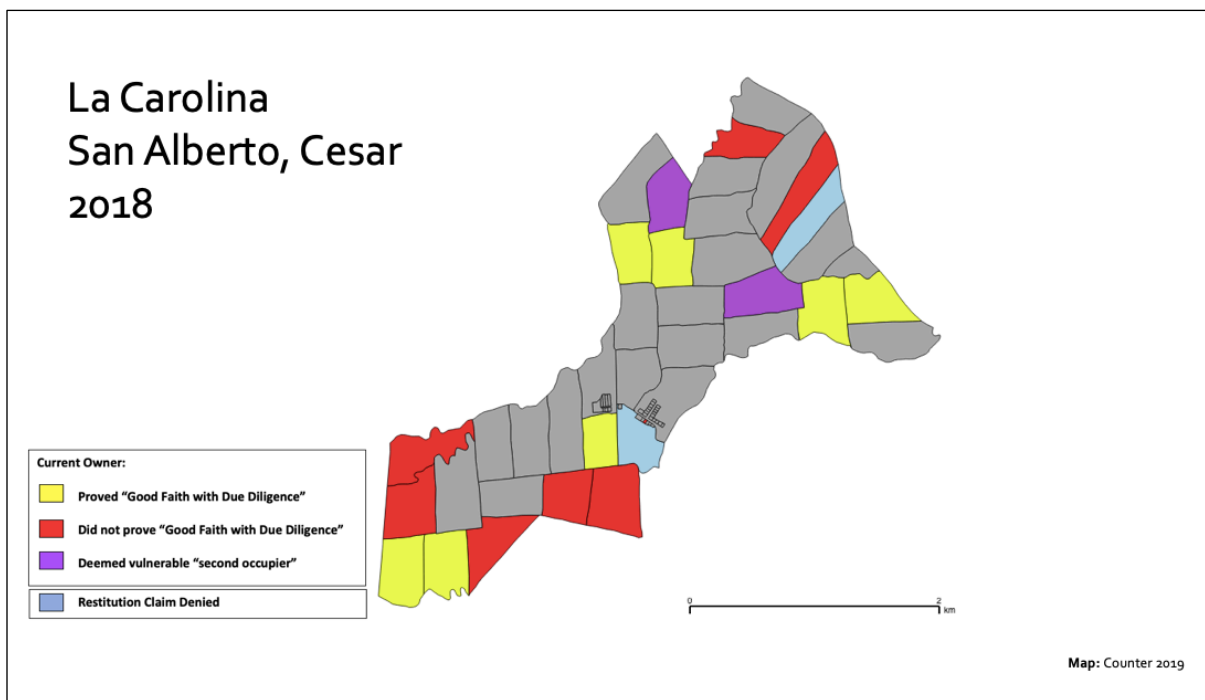
Table 4.1: Restitution Tribunal Good Faith with Due Diligence (GFDD) Rulings* (May 2013 to March 2019) *Excludes cases in which land claimants’ petitions were unopposed (15 properties), in which magistrates denied land claimants’ restitution petition (56 properties), or in which the current owner was deemed a vulnerable “second occupier” (12 properties).

The relatively stringent application of the good faith with due diligence standard—whereby less than half of current land owners can prove they obtained their property in a fully legitimate way per the Victims Law’s mandates—has thus fomented the perception that it is a largely impossible standard to meet and therefore strips innocent landowners of their property rights.⁸⁵

To date, the Victims’ Law has produced a patchwork of “post-restitution” property titles throughout Sabana de Torres, Rionegro, and San Alberto. This patchwork is particularly prominent in San Alberto, where restitution claims on the *Tokio*, *La Carolina*, *Los Cedros* and *Siete de Agosto* estates have been launched over dozens of parcels. Within these estates, Land Restitution Tribunal magistrates have handed down a diverse array of rulings. Some current owners have proven “good faith with due diligence”, whereas their neighbors have not. In some instances, land claimants’ petitions were denied (thus leaving current owners with their property titles in-tact, on top of the substantial legal bills they assumed defending the property). As following maps of *La Carolina* (Map 4.1) and *Los Cedros* (Map 4.2) show, land restitution claims have resulted in a diverse mixture of rulings. In some cases, land owners were able to prove “good faith with due diligence”. For most of those unable to prove this, however, evictions

⁸⁵ In cases arbitrated before and during my field work (2013-2017), landowners were only able to prove “good faith with due diligence” in approximately 32% of cases. Since 2017, there has been a steady increase in instances in which magistrates are willing to recognize current landowners’ “good faith with due diligence” or afford them “second occupier” recognition.

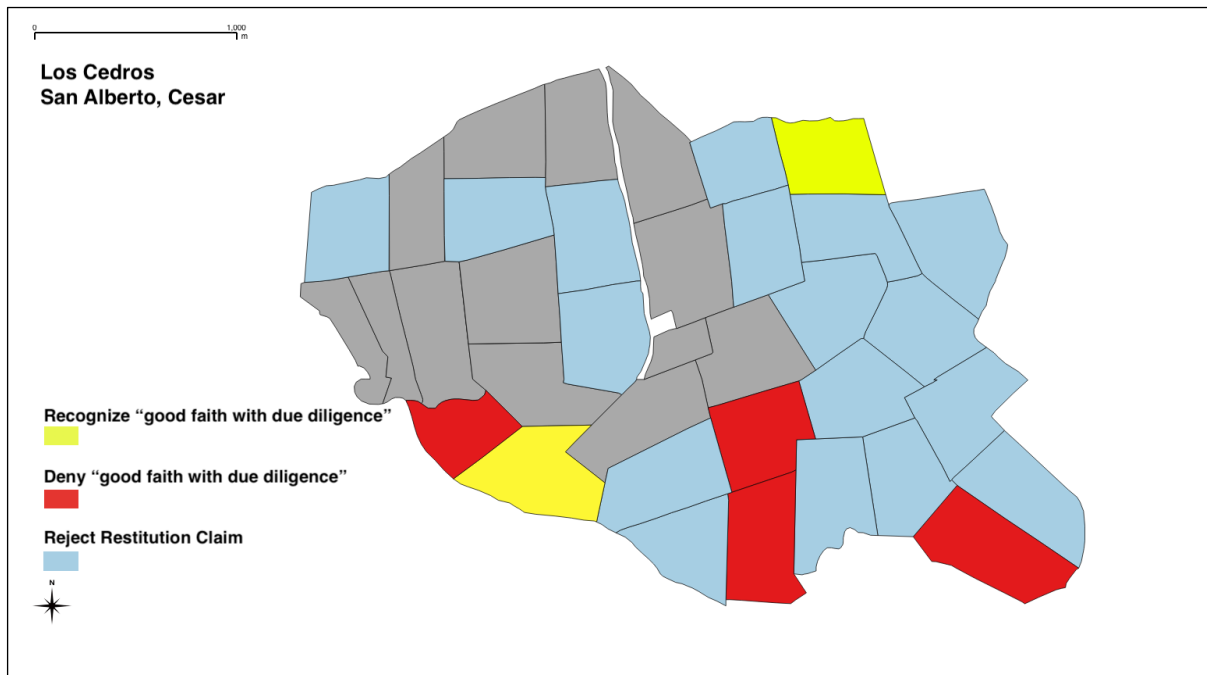
were pending or had already taken place. Added to this potent mixture were the significant number of restitution claims the Land Restitution Tribunal denied. In many of these cases, restitution magistrates recognize land claimants as conflict victims, but concluded that armed conflict was not the direct reason (*nexo causal*) for which they abandoned their land. For current landowners, however, these rejections of restitution petitions only further cemented the perception that land claimants were fraudulently petitioning land rights to which they had no legitimate claims.



Map 4.1 Land Restitution Tribunal Rulings, *La Carolina*, San Alberto, Cesar 2014-2018

Each red parcel has entailed the eviction (or pending eviction) of the current landowner. It is these evictions have that drawn centrally political attention to the Victims Law. The fallout from this situation resulted in a constitutional challenge to the Victims' Law in 2015, as well as a virulent political campaign to demonize the land restitution process as a communist plot intentionally designed to destroy private property rights. While these maps therefore denote a

new legal arrangement of property rights, they only begin to point to the legal and political controversies this rearrangement has produced.



Map 4.2 Land Restitution Tribunal Rulings, *Los Cedros*, San Alberto, Cesar 2014-2018

Section III: *Second Occupiers Stigmatization*

For many landowners, the consequence of failing to prove good faith with due diligence was revocation of their title and eviction. As the controversy stemming from these evictions grew, the term “second occupier” —current landowners who acquired their land in good faith but not good faith with due diligence--dominated land restitution conversations (Verdad Abierta 2015). Importantly, the juridical figure of a “second occupier” is entirely absent from the Victims’ Law. The director of the Barrancabermeja, Santander Bureau of Land Restitution office explained to me that the issue of second occupiers had been especially difficult in the Magdalena Medio region because the Victims’ Law “did not adequately perceive that those who currently

own land for agriculture or cattle could be adversely affected by the restitution process. When the legislature passed the Victims' Law, they did not perceive this problem."⁸⁶

Managing second occupiers' opposition to the Victims' Law quickly became one of the most "politically sensitive frictions" concerning land restitution (Meertens 2015: 360). In 2015, the director of the Bucaramanga, Santander, Bureau of Land Restitution office told me that second occupier issues had been his office's greatest difficulty. "Our main challenge is this: act without causing harm. That is, to not harm anyone via the restitution process. To not harm the people who currently live on the parcels [claimed for restitution]. We have to take care of them, also."⁸⁷

To address the legislative gap concerning second occupiers, the Bureau of Land Restitution implemented a series of programs beginning in 2014 to provide some compensation to landowners who were unable to meet the Victims' Law's exacting good faith with due diligence standards.⁸⁸ Nonetheless, these programs were not legally binding, given that the Victims' Law made no specific mention of second occupiers as juridical figures. Accordingly, Land Restitution magistrates, following the strict letter of the Victims' Law, rarely ordered any form of compensation for landowners evicted from their property to satisfy restitution claims. All told, the Bureau of Land Restitution's *ad hoc* second occupier compensation measures were largely unable to stem the rising ire directed at the Victims' Law. The Victims' Law's political enemies seized upon the eviction of small landowners to demonize the land restitution process.

In April 2016, several massive rallies were held throughout the Magdalena Medio to unequivocally condemn the Victims' Law. Felix Lafaurie, president of the Federación

⁸⁶ Interview, Barrancabermeja, August 1, 2015

⁸⁷ Interview, Bucaramanga, July 25, 2015

⁸⁸ The Bureau of Land Restitution internal accords are No.18/2014; No. 21/2015 and No. 29/2016.

Colombiana de Ganaderos (Colombian Federation of Cattle Ranchers, FEDEGAN), told crowds of gathered farmers and ranchers, “Land restitution is nothing but the first step for certain armed actors to establish territorial control because they believe they can take back what was theirs in the countryside” (El Espectador 2016). This was an unmistakable reference to the FARC and ELN guerrillas, whom Lafaurie accused of using the restitution process to retake land. Lafaurie’s wife, far-right *Centro Democrático* (now) Senator Maria Fernanda Cabal, leveled stinging attacks against the Victims’ Law in front of Congress and the news media, consistently claiming that land restitution is a *castrochavista* (Castro/Chavez) communist-in-spired plot to destroy private property and to redistribute land to the now-demobilized FARC guerrillas. She has openly accused displaced land claimants of being guerrilla members and sympathizers (El Espectador 2015).

In 2015, Cabal held a congressional hearing to denounce the Victims’ Law as a “tool of dispossession causing injustice, fear, and hopelessness for thousands of rural families who trusted state institutions when they first bought their land” (Congreso de Colombia 2015: 14). During the hearing, she showed videos of two prominent cases from 2014 in Sabana de Torres. In both cases, the landowners were evicted from their properties so they could be restored to previously displaced owners. In the first video, a woman chained herself to her house on a small land parcel she had inherited years before, adamantly refusing the Bureau of Land Restitution officials’ request to proceed with the eviction. The chains were a futile attempt to stop the eviction, which was backed up by dozens of fully armed police officers and soldiers who formed a strategic perimeter around the house.

The second video showed Bureau of Land Restitution officials arriving at the small,

rural house of an elderly man to explain that his property was being restored to the family who fled more than ten years before. The frail man could barely hold back tears of rage as he explained that he had only bought the land a few years ago, after saving everything he could for decades. The dozens of soldiers and police surrounding the house ensured that the man's scant possessions were loaded into the moving truck without incident. Meanwhile, he desperately explained that he was neither a guerrilla nor a paramilitary and that he could not understand why the state was robbing him so disgracefully.

These two instances from Sabana de Torres quickly became the most visible political wedges against the Victims' Law, giving the evicted landowners folk-celebrity status among the law's political enemies.⁸⁹ In both cases, the landowners were not found to have illicitly obtained their land (the woman inherited it from her father and the elderly man bought it over a decade after the original owners had been displaced). Yet both were evicted without compensation because they did not prove they obtained the land in good faith with due diligence. After showing the eviction videos, Senator Cabal concluded, "I believe this is sufficiently illustrative to show what is happening in all of the regions where the Bureau of Land Restitution operates" (Congreso de Colombia 2015: 14).

Cabal's narrative of land restitution as an attempt to destroy private property and reestablish guerrilla territorial control enjoys substantial political capital, especially among landowners defending their property against claims in the Land Restitution Tribunal. In interviews with land restitution defendants, dozens explained that they had first suffered extortion from the guerrillas, only to later be brutalized by paramilitary armies. After the guerrillas and paramilitaries, the land restitution process, they said, was the "third plague" that

⁸⁹ Cabal's hearing: <https://www.youtube.com/watch?v=F2gkCdagcYg>. The Bureau of Land Restitution retroactively offered compensation measures to the mentioned defendants.

had come to steal their land. This time, however, the state was the thief. “At least with the guerrillas and the paramilitaries you could negotiate a little” a man defending his land in San Alberto, Cesar, in the Land Restitution Tribunal told me, “but when the state comes to take your land you really have no choice”.⁹⁰ Like many, he repeated Senator Cabal’s standard talking point that the displaced person claiming his land was almost certainly a guerrilla front man.

Senator Cabal and other members of the rightwing *Centro Democrático* party (which reclaimed the presidency in 2018 and maintains a strong congressional delegation) consistently characterize the Santos administrations’ passage of the 2011 Victims’ Law and ratification of the 2016 Havana Peace Accords with the FARC as intertwined facets of governmental capitulation to resurgent guerrilla demands. Innocent “second occupiers” are then cast as the newest victims of recurring patterns of guerrilla land theft.

These claims highlight the extent to which the conversation concerning the Victims’ Law has disintegrated around the topic of second occupiers, smothered by an “ideological smokescreen” meant to protect large landowners who perceive land restitution as a potential threat to their territorial holdings (Lopera 2016: 24). Senator Cabal’s rousing defense of “small” and “medium” *campesinos* who she decries as innocent victims *of* the Victims’ Law has given her a populist springboard from which to continually demonize the land restitution program as a “governmental farce” meant to unduly return land to guerrilla forces at the expense of humble, honest and hardworking *campesino* families (Vanguardia Liberal 2018). These invectives are hardly unique to the Colombian context. Large landowners’ anxiety over agrarian reform projects throughout Latin American have often been channeled through readily provided narratives stemming from militarized discourses concerning “guerrillas, revolutionary Marxists,

⁹⁰ Interview, Bucaramanga, October 18, 2017

and internal war” that, writes Florencia Mallon, pivot on “extravagant versions of leftist conspiracy” (2005: 97).

Taken at face value, Senator Cabal’s crusade to stop the land restitution program could indeed be an attempt to prevent innocent, relatively precarious landowners from losing property and being cast into dire poverty. After all, the looming threat of property loss and financial stress that land restitution defendants face is very real. That Senator Cabal and other members of the *Centro Democrático* received direct financial support from an array of industrial banana, oil palm and cattle corporations with pending restitution claims against their dubiously obtained landholdings, however, suggests that Cabal’s crusade is in fact meant to protect large landowners from the restitution process. Senator Cabal’s 2018 election campaign, for example, received over 30 million Colombian pesos (\$9,600 USD) from Bananeras de Urabá S. A and Asociación de Bananeros de Colombia, two industrial banana producers with pending restitution claims against their land holdings.

Situations like these, according to Gerardo Vega (executive director of Forjando Futuros, a Colombian NGO that provides legal assistance to displaced land claimants in the restitution process) demonstrate that Cabal’s true intentions are to “legalize the past thirty years of land theft and to serve the landowning interests that stole 6.5 million hectares of land during armed conflict” (Orozco Tascón 2019). If that is indeed the case, the small landowners from Sabana de Torres and San Alberto whose plight Cabal has denounced serve as a useful diversions with two intertwined political purposes. First, they serve as conduits through which the *Centro Democrático*’s (highly effective) guerrilla conspiracies are continually reproduced. Second, challenges to the Victims’ Law that may benefit these small and medium landowners will almost certainly benefit industrial landowners as well.

For the moment, I mainly wish to reiterate the extent to which Senator Cabal's anti-restitution platform has saturated local discourse concerning the Victims' Law in Sabana de Torres, Rionegro and San Alberto. Notions of guerilla takeover through the restitution process helped give rise to grassroots political organizations in the Magdalena Medio, most prominently the Colombian Association of Victims' of Land Restitution (referred to by its unwieldy Spanish acronym 'ASOCOLVIRT'). Julio Cesar González, a retired army officer who bought two parcels in San Alberto's *Tokio* estate in the mid-1990s from governmental INCORA offices, founded the organization with other landowners from Sabana de Torres, San Alberto and Rionegro in order to protest the restitution claims being launched their properties. ASOCOLVIRT members were diverse in their backgrounds—some had inherited land from families stretching back generations in the region, while many others were relative new comers who had purchased their properties anywhere as recently as 2010. They dedicated their lands to relatively stable portfolio of activities, predominantly pasture for dairy cows or palm oil production.

According to Gonzalez, the landowners associated with ASOCOLVIRT are not enemies of the land restitution project itself, just its legal flaws (*vacios jurídicos*) that take land away from people who bought it legally in order to retribute it to people who do not deserve it. His widely shared diagnosis of why land claimants typically didn't deserve the land was exceptionally clear. As he explained in a nationally circulated interview after forming ASOCOLVIRT in 2014:

The *Tokio* estate belonged to Pedro Del Aristizábal; *La Carolina* to the Guerrero family. *Los Cedros* belonged to another family whose name I can't remember. [These ranches] were *invaded*, and these invasions were backed by illegal armed groups like the ELN and EPL. At that time, the mayors and politicians had guerilla connections so they helped them take over the land.⁹¹

He reiterated that certainly in some cases there were people who deserved their land back, but that “the state can’t simply take away some upstanding person’s property to compensate someone else and therefore create even more victims.”⁹² This was especially poignant for González, whose wife and father-in-law had both been kidnapped and held hostage for several months by guerilla forces in the early 1990s. He had lived through the worst vestiges of Colombia’s armed conflict, and now faced down the prospect of losing his land to a process designed to usher in a ‘post-conflict’ peace.

I sat down with Julio in his Bucaramanga home in 2017. After leading several protests against the Victims’ Law in San Alberto, he had retreated from ASOCOLVIRT’s leadership due to legal concerns. Nonetheless, he had successfully proven that a land claimant’s petition for one of his properties in San Alberto was based on fraudulent evidence, although his neighboring land parcel was still under a pending restitution claim. He shared his personal opinion with me that it was “the *left*, from Havana, Cuba, who designed this law”. It was not just Castro’s legacy to which he was referring, but the 2016 Havana Peace Accords between the state and FARC in 2016 (signed a full five years *after* the Victims Law’s passage) that tinged land restitution as a leftist conspiracy.

The rightwing discourse that González and other ASOCOLVIRT members consistently espoused (with the continued avowal of their political patron Maria Fernanda Cabal) had garnered them a reputation as associates of the so-called “anti-restitution armies” undergirded by paramilitary interests. “We are not criminals, although that is what the government presents us to the international community as” he explained. “When in reality, we are just hardworking, honest *campesinos* who would be in jail by now if we actually belonged to an ‘anti-restitution army’”⁹³

⁹² Quoted in Verdad Abierta (2014a)

⁹³ Interview, Bucaramanga, July 18, 2017

His framing encapsulated the contradictory position into which many land restitution opponents in the Magdalena Medio are cast: they are not members of the ultra-powerful and (violent) paramilitary-industrial-complex responsible for the most egregious land theft in Colombia. Yet their far-right rhetoric often discursively places them in the same camp, leading to accusations of their being *testaferros*, or paramilitary strawmen who currently occupy once stolen land.

However, Land Restitution Tribunal investigations in Sabana, San Alberto and Rionegro rarely uncover evidence to substantiate these *testaferro* accusations. Yet while most landowners with whom I spoke (many associated with ASOCOLVIRT) expressed sympathy for the overall *idea* of restituting land to conflict victims—some were conflict victims themselves—they still adhered to stigmatizing narratives that cast current land claimants as guerrilla pawns. Amidst this all, then, they firmly supported oppositional political candidates largely from Colombia's hard-right *Centro Democrático* party who promised to reign in the land restitution process. Yet as the following section will show, this fragment of conservative Colombia had no monopoly on angst concerning the Victims' Law.

Section IV: *The Victims Law's Day in Court*

In November 2015, Colombia's Constitutional Court arbitrated a challenge to the Victims' Law's good faith with due diligence provision. By this time, the controversy had reached a fever pitch. Yet it was not the law's traditional enemies from the agrarian elite who launched the legal challenge. Rather, it was the Asociación Nacional de Usuarios Campesinos (National Association of Users of State Agricultural Services, ANUC), the very organization who channeled demands for agrarian redistribution throughout Sabana de Torres, Rionegro and San Alberto.

Formed in 1967, ANUC has been at the vanguard of Colombia's agrarian reform efforts to reduce inequality in land ownership. As a campesino organization, for decades ANUC has pressured the Colombian state to adhere to agrarian reform legislation that allows public and underutilized private land to be appropriated and titled to small-scale farmers (Zamosc 1986). ANUC played a central role, for example, in demanding that INCORA retitle large estates to landless peasants in San Alberto, Cesar. For their efforts to promote redistributive land titling, ANUC members suffered horrific repression in what is widely referred to as Colombia's agrarian counter reform (Albán 2011). ANUC President Luis Alejandro Jiménez Castellanos maintains that, unlike other groups that seek to protect largescale landowners, ANUC challenged the notion of good faith with due diligence to protect Colombia's small campesino producers. He explains that across several regions of Colombia:

[T]he former Colombian Institute of Agrarian Reform (INCORA) divided tracts of land and titled them to various members of ANUC. Later, these people began to receive threats and had to sell their land in order to leave the area. *They negotiated the land sale with other ANUC members, who were their friends and associates*, and when the Victims' Law appeared they thought they could reclaim the restitution of their land... However, *the law clearly maintained that land sold due to threats in areas where there was conflict was presumably stolen*. (quoted in Flórez 2016: 1, emphasis added).

As Jiménez notes, the land buyer may have been a close friend, family member, or associate of the campesino receiving threats. People facing violence often sold their land to acquaintances to have a financial buffer as they fled. Such are the subtle, intimate forms of everyday dispossession (*despojo cotidiano*) often unrecognized in the context of violent displacement (Ojeda et al., 2015). As many land restitution cases throughout the Magdalena Medio have shown, the armed groups who instigated forced displacement

in many instances did not appropriate the land in question. ANUC plaintiffs maintained that good faith with due diligence, while meant to counteract the widespread legal dispossession of land, nonetheless:

[I]mposes a disproportionate burden of proof upon a significant number of families or individuals who, although they bear no direct relation to the victimizing acts resulting in the dispossession or abandonment of land, and who are also in vulnerable situations, do not have the capacity to prove good faith with due diligence. (C-330/16 § 8)

Nonetheless, the court affirmed the constitutionality of good faith with due diligence in June 2016, reiterating that the legal standard was necessary to prosecute the legal maneuvers used to occlude coercive land transactions (see ruling CC-330/16). However, the court only affirmed the term's "conditional constitutionality" (C-330/16 § 120). That is, the court inserted new stipulations requiring Land Restitution magistrates to consider the socioeconomic profile of restitution defendants. Should these landowners be considered socio-economically vulnerable, the magistrates ought to consider proof of simple good faith, as opposed to good faith with due diligence, sufficient grounds for ordering certain compensation measures. The court qualified such vulnerable populations as:

[C]onstituted by second occupiers (people who live on land parcels claimed for restitution or who derive their basic sustenance from such parcels), who are in a vulnerable condition and bear no relation (either direct or indirect) with the dispossession or forced abandonment of the land. (C-330/16 § 120)

This ruling established that those who currently own or occupy once forcefully dispossessed land are not necessarily responsible, either directly or indirectly, for the violence that caused a previous owner or occupant to flee and/or sell the land. The court recognized that current landowners or occupants may be as poor and as marginalized as the conflict victims seeking to recover the land. When the defendant is deemed vulnerable, the Land Restitution magistrates may therefore order attenuated compensation measures for their land, even if they can only prove

they bought the land in simple good faith. Magistrates' rulings in the Magdalena Medio certainly reflect this trend, as the vast majority of landowners able to prove only good faith in cases after 2016 have nonetheless received some kind of compensation, ranging from monetary payouts to equivalent land parcels in other areas.⁹⁴ Nonetheless, the highly politicized debate concerning the law's capacity to redress, or potentially condone, forced displacement continues.

Conclusion

A strictly political and economic focus on land grabbing as a recent practice of largescale land acquisition risks ignoring historical perspectives, thus overlooking how previous cycles of land transfer make present-day land grabs possible in the first place. A properly historical perspective for understanding land grabs requires attention to their continuity with prior forms of dispossession, as well as their relationship to everyday forms of smaller-scale land usurpation (Edelman & León 2013; Ojeda et al. 2015; Mollett 2016). In turn, restitution responses to land-grab-induced displacement must be cognizant of situated, historical, and everyday practices of land transfer in the midst of conflict, lest a blanket legal remedy homogenize those who currently own or occupy previously dispossessed land. Colombia's Victims' Law has incorporated this lesson in an *ad hoc* fashion, unfortunately giving land restitution's enemies fodder to further stigmatize the process. As Thomson (2014: 48) notes, in Colombia it is difficult to "ascertain the proportion of those displaced as an unintended consequence of the conflict compared to those deliberately uprooted by groups with interests in the land."

The land restitution process has wrestled mightily with this difficulty, only to find that legal precepts designed to prosecute industrial-scale land grabs cannot be homogeneously

⁹⁴ Representative cases include: Sabana de Torres November 28, 2016; May 31, 2017; February 23, 2017; and June 27, 2017.

applied. Certainly, the Victims Law's good faith with due diligence legal standard plays an important role in reversing certain instances of violent land grabbing and associated patterns of land concentration. Yet this chapter has shown that these paramilitary-backed land grabbing maneuvers "may only be part of the story" (Gómez, Sanchez-Ayala and Vargas 2015: 271) of forced displacement in Colombia. It is a story into which the Victims' Law has uneasily incorporated the so-called "second occupiers" who came to own land in a manner that a classic land grabbing focus is unable to account for.

This difference between corporations and small-scale "second occupier" farmers with respect to good faith with due diligence raises important questions concerning land concentration and the land restitution program's positioning concerning the political economy of land in Colombia. Colombian agrarian reform initiatives have a woeful record of reducing drastically high patterns of concentrated land ownership (Faget et al. 2017). Land restitution, while not a form of redistributive land reform in the strictest sense, nonetheless takes aim at the people and practices responsible for some of the most violent and egregious processes of land concentration. Applying good faith with due diligence legal standards is central to the investigation and potential reversal of those trends.

Yet which current owners of dispossessed land will bear the brunt of eviction, and which will be able to maintain their landholdings? At present, the record is mixed. This chapter has shown that the restitution process at times pits relatively equally positioned land claimants and owners against one another in the Land Restitution Tribunals. And while there are some stark cases of the restitution process appropriating land from paramilitary-backed corporate interests, there are grave concerns about the efficacy of the process in being able to fully confront the

massive, industrial-scale land grabs that have taken place throughout Colombia (Amnesty International 2014; McKay 2018; Coronado 2019).

Finally, legal land regimes in Colombia, as in other conflict/post-conflict contexts, may potentially resolve or exacerbate tension (Unruh 2012). The violence implicit in law, therefore, ought to be sensitively approached. Paramilitaries and their political allies utilized an array of techniques of legal dispossession to legitimize forced land transfers. However, many people have experienced the Victims' Law's provisions to combat legal dispossession as acutely violent. To watch one's household possessions be placed into a moving truck under the vigilant eye of the heavily armed police and soldiers who provide security during land restitution eviction processes is to undeniably experience an attenuated form of state-sanctioned (i.e. legal) violence, even when the evicted landowner receives compensation for their property. The violence of eviction reflects the paradoxes through which the violence of past dispossession is alleviated in the present. As this chapter's glimpse into forced displacement show, law and legal mechanisms-- whether used to facilitate or rectify dispossession-- do not stand at a critical distance from violence. Perhaps, then, the most pressing question is the extent to which law and violence may be distanced, if at all.

Although the Bureau of Land Restitution and Land Restitution Tribunals have attempted to mend controversy, especially through greater recognition of second occupier compensation benefits in light of the 2016 Constitutional Court Ruling, this does not mean that tension has been resolved. As the next chapter shows, the sense of ire that current landowners direct at the Victims' Law is not just predicated upon the potential loss of their property. It is mobilized through a historical narrative of conflict in which agrarian reform initiatives are stigmatized as guerrilla enterprises. While there is much to dispute concerning the veracity of this claim, it

shows in stark terms how the Victims Law’s compensation measures are only able to partially address the sense of frustration and mistrust that the land restitution program has met thus far.

That is, opposition to the Victims’ Law is not just about the law itself—what rights, protections and compensations “the law” does and does not offer to current landowners—but about the whole field of governmental intervention into property relations that the land restitution process makes possible in the first place. While the Bureau of Land Restitution and the Land Restitution Tribunals have the judicial and military power to summon land restitution opponents to court and to make very real material claims upon their property, these coercive valences are far from sufficient for promoting the consensual acceptance of the Victims Law’s scope, goals, and historical rendering of armed conflict.

CHAPTER V: AGRARIAN ANTIPODES

“We maintain that the conflict is fundamentally socio-economic and political and essentially a dispute over the primary means of production: THE LAND.”⁹⁵

—Joint statement from leaders of the National Association of Campesino Users Sincelejo Line (ANUC Línea Sincelejo), Bogotá, 1984

“Land was *not* the center of conflict in San Alberto. Many people sold the land voluntarily, then they wasted the money, and now they are claiming land restitution rights as victims.”

—Julio Cesar González, founder of Colombian Association of Victims of Land Restitution (ASOCOLVIRT), Magdalena Medio, 2014

Introduction

The statements above illustrate diametrically opposed poles concerning the relationship between land and conflict in the Magdalena Medio. One attributes the loss of land to structural questions of political and economic violence, while the other focuses directly on individual action and responsibility. These two broad conceptions are underpinned by fundamentally opposed historical narratives of violent forced displacement. The former perspective maintains that forced displacement was a systematic process through which paramilitary and military forces—guided not only by counter-insurgent aims but also deep economic interest in landownership—coercively usurped *campesino* land holdings throughout the Magdalena Medio. Contrarily, the latter position posits that the violent usurpation of land was *not* central to conflict dynamics in the region. Instead, this framing proposes that those who now claim land for restitution lost it due to their supposed guerrilla connections and concordant inability to manage agrarian production. If someone lost their land, this line of reasoning goes, it was because they did something to deserve it.

⁹⁵ Quoted in Van Ischott 2015: 90.

The land restitution process brings these antagonistic historical perceptions of land and conflict into exceptionally sharp relief. The land restitution program therefore must negotiate and wrestle with competing understandings of past conflict dynamics. Whereas land restitution aims to address past violence through contemporary interventions over land, the question of *which* version of the past the land process brings into the present carries undeniably high stakes. More fully understanding land restitution's dissonant tone throughout the Magdalena Medio therefore requires attention to how the process instigates, channels and attempts to resolve starkly different perceptions of the history of forced displacement.

By their very function, magistrates in Land Restitution Tribunals must give an incisive account of what is an oftentimes murkily—and certainly contentiously—understood history of conflict. Through the promise to provide contemporary redress for historical legacies of forced displacement, land restitution programs must broach fraught questions of “the place of memory in the present” (Fay and James 2009: 19). It is therefore vital to ask *whose* memory and perception of the past does land restitution validate, whose does it sideline, and with what effect?

In the Magdalena Medio, opposition to the land restitution process is directed just as much toward the historical narrative of displacement upon which the land restitution program is predicated as it is toward the program's interventions into current property relations. Land restitution is both a fraught field of contention over contemporary property relations as well as over the legally codified historical narrative of forced displacement used to justify governmental intervention into those property relations. Given this unresolved tension, I argue in this chapter that the strict judicial nature of the land restitution process affords questionable promise of reconciliation over the past.

To substantiate this argument, I detail key protagonists' disparate historical accounts of

forced displacement in the Magdalena Medio. I frame these divergent accounts, pace Raymond Williams (1977), as *alternative selective traditions* (Nugent and Alonso 1994) that illuminate the history and goals of Colombian agrarian reform efforts in starkly different lights. One *selective* tradition posits agrarian reform efforts as necessary steps to address endemic issues of landlessness and poverty for *campesino* populations, while the other demonizes agrarian reform efforts as guises for guerrilla territorial control. “What is said to have happened” in the past (Trouillot 1995) is highly divergent, and this divergence indelibly informs the symbolic and material efficacy of the land restitution program.

As I showed in Chapter III, the Victims Law works to enframe forced displacement within a relatively streamlined historical account of violence and forced displacement in order to provide individual restitution rights. Bureau of Land Restitution and Land Restitution Tribunal largely place land restitution opponents’ oppositional historical narrative of armed conflict in the region on the enframed “outside” of historical accounts of land and armed conflict. Although this oppositional narrative enjoys no formal recognition within Land Restitution Tribunals, it nonetheless motivates substantial resentment toward the Victims’ Law and poses significant challenges for the implementation of the land restitution program. This chapter address the roots and effects of that narrative which the Victims’ Law works to enframe “outside” the juridical history of agrarian relations in the Magdalena Medio.

In Section I, I give a brief overview of agrarian reform efforts in the Magdalena Medio and highlight traditions of oppositional stigmatization against such efforts. I focus on the ANUC-UR, the *campesino* organization that led agrarian reform efforts in the late 1980s and early 1990s. Many of the parcels that the ANUC-UR helped landless *campesino* families occupy now form the central focus of the land restitution process in the Magdalena Medio. From ANUC’s

perspective, occupations of large estates were necessary to “recover” idle and possibly stolen *latifundista* properties in order to ensure *campesino* access to land and livelihood. I specifically, detail how ANUC-UR envisioned the goals and methods of agrarian reform, and how they have managed the violent “agrarian counter-reform” (Álban 2011) that landed elites in Colombia have unleashed against agrarian reform participants.

In Section II, I draw on fieldwork with land restitution opponents in Sabana de Torres and San Alberto to highlight their oppositional historical narratives and their sense of having been victimized by the land restitution process. Namely, I detail current landowners’ contrasting accounts of the history of conflict and forced displacement in the region, which denounces agrarian reform efforts as guerrilla territorial projects. Agrarian reform beneficiaries who lost land and now claim it through the restitution program, per this alternative history, are thus widely stigmatized as guerilla sympathizers.

In Section III, I extend these observations to detail how current property owners position themselves as both moral and legitimate arbiters of historical knowledge of conflict in the Magdalena Medio in contradistinction to the Bureau of Land Restitution and the Land Restitution Tribunals. Whereas the Victims Law’s enframing work aims to establish a constitutive “inside” and “outside” of Colombia’s armed conflict (and position certain subjects as the valid observers of that conflict’s history), this work is indeterminate and incomplete. The Victims Law may substantiate an “official” historical framing of armed conflict, but this framing must contend with deeply entrenched perspectives that denounce land restitution as just the latest in a long series of morally dubious governmental interventions into agrarian property relations. Finally, I conclude this chapter with brief remarks on the land restitution program’s fraught capacity to “know territory” in a readily agreed upon manner.

Section I: *Agrarian Reform in the Magdalena Medio*

Opposed historical framings of land and conflict in the Magdalena Medio can be portrayed as *alternative selective traditions* of understanding agrarian relations in Colombia. A *selective tradition* constitutes “an intentionally selective version of a shaping past and a preshaped present” that, Raymond Williams writes, “is then powerfully operative in the process of social and cultural definition and identification” (1977:115). The meaning the political proponents of land restitution assign to a restituted plot is often vastly different from the meaning many local landowners assign to the very same “clod of earth” (Verdery 1994). This divergence of meaning is constituted through radically different *selective traditions* through which (per Williams) the “shaping past” of Colombian agrarian interventions, their goals, and their participants is presented.

The tension between *alternative selective traditions* signifies that the social and political relations the restitution process establishes carry highly divergent meanings. The *selective tradition* through which a state seeks to (re)affirm its legitimacy through restituting land confronts steep opposition, especially from alternative framings of what constitute legitimate ownership and land use schema (Nugent and Alonso 1994). In the Magdalena Medio, what land restitution proponents frame as state-sanctioned measures to address egregious legacies of human rights violations through restituting land rights is portrayed by restitution opponents as the newest instantiation in a long tradition of state sanctioned land theft.

As global and historical processes, agrarian reform initiatives pivot of any number of state prerogatives, ranging from post-World War II concerns with managing rural poverty; Cold War anxieties about quelling potentially of revolutionary peasant unrest; and more recent World Bank, IMF and USAID “market-led agrarian reform efforts” to promote more efficient (peasant)

exploitation of land (Courville and Patel 2006). Sutured to these varying concerns of agrarian political economy are agrarian reform programs' capacity to qualify the identity—oftentimes in terms of political citizenship, ethnicity and/or race—of those claiming or receiving land. This capacity is expressed through framings of who properly counts as a subject of land rights and what obligations, duties and (restrictions of) rights come with such designation.

These facets of identity are parsed through varying logics. Emblematic 20th century agrarian redistribution projects in Mexico and Peru, for example, often hinged on calculated processes of 'peasantization' whereby those who received land were expected to relinquish claims to indigenous identity (as well as their historical narrative of dispossession which motivated their land claims) and to assume roles within a class-based *campesinado* loyal to state agrarian production goals (Nuijten and Lorenzo 2009; Tiejde 2009). Likewise, agrarian reform initiatives under Chile's Allende administration enrolled Mapuche communities' desire for restitution of usurped lands within new left, class-based political mobilization for agrarian redistribution that "closed the more specific option of ethnic restitution, that is, restitution to the Mapuche as a people" (Mallon 2005:4). More recently, in Latin America's "territorial turn" state governments appropriate the power to define which populations are deserving of territorial rights due to specific forms of "ethnic" difference, re-inscribing state power to mediate modes of ethnic or racial identity through provisioning land rights (NgWeno 2007; Bryan 2012; Mollett 2013).

Molding the identity of the proper recipient of land is predicated upon placing those subjects in a particular *selective tradition* of framing agrarian relations. Early 20th century Mexican agrarian reform initiatives, for example, aimed to cast land recipients (*ejidatarios*) as popular and loyal subjects of the post-revolutionary political project. Of course, such state practices of territorial and identity formation through agrarian interventions are incomplete and

fraught, and many would be *ejiditarios* balked at the demands for political identification that they perceived the post-revolutionary Mexican state as placing upon them through agrarian reform initiatives (Nugent and Alonso 1994).

Against this broad background, the rancorous and contradictory *selective traditions* through which Colombian agrarian interventions have been historically refracted comes as no surprise. Numerous Colombian administrations have undertaken agrarian reform initiatives, ostensibly to address endemic levels of land concentration but to also more cast agrarian reform participants as fully-fledged state subjects (Zamosc 1986). Nonetheless, agrarian reform efforts have a particularly ambiguous status within Colombian history. This is not just because they have a paltry record of achieving their officially stated land allocation goals, but also because they have been cast by landed elites as a threat to private property. With the emergence of the FARC, ELN and other groups in the 1960s, these threats to private property were further framed as a nefarious facet of guerrilla revolutionary activity. Such stigmatization is no mere rhetoric given that this framing has been used to justify horrific episodes of rural violence. The debates concerning Colombia's current land restitution project must in turn be understood in this light. For whereas the framers of the Victims' and Land Restitution Law sought to portray the Colombian state as amending intertwined concerns of rural poverty and human rights violations, the main currents of political opposition portray land restitution within a well-trod *selective tradition* of deep stigmatization of agrarian restructuring initiatives.

Significant agrarian reforms laws in 1936 (Law 200), 1961 (Law 135), and 1994 (Law 165) have distributed an estimated 23 million hectares of land (roughly the size the entire United Kingdom) to small-scale *campesino* producers (Faguet et al 2017:2). Nonetheless, most of this redistributed land has been de-facto public land as opposed to privately held property, meaning

that Colombia's agrarian reform efforts have consistently failed to reduce the country's extreme patterns of land concentration (LeGrand 1986; Mondragón 2006; McKay 2017). Citing data from the Colombian state's Rural Agricultural Planning Unit, the UN's Food and Agriculture Administration estimates that a full 82% of productive land is owned by a 10% sliver of the population (FAO 2017). Even though Colombia's first agrarian reform law (Law 200 of 1936) allowed small-scale *campesinos* to claim property rights over certain tracts of private land on Colombia's agricultural frontier, agrarian elites rendered the law toothless and even inserted provisions in the law that tacitly justified previous large-scale grabs of public land (Uribe 2009:93). In the legislative run up to Law 200's passage in 1936, landed elites, in an ominous foreshadowing of the stigmatization that agrarian reform efforts would suffer in the coming decades, largely condemned the bill as a rebellious "infiltration of socialist theories into the highest spheres of the governing party" (Le Grand 1986:48).

The implementation of Colombia's first 1936 agrarian reform initiative was greatly disrupted with the eruption of *La Violencia* between the ruling Conservative and newly subordinate Liberal parties in 1946. *La Violencia's* effects on agrarian relations were distinct throughout the country: in some regions traditional landlords were able to expand their landholdings at the expense of displaced peasants, while many of these displaced peasants were forced to open even more remote regions of Colombia's agrarian frontier. Suffice it to say that *La Violencia* severely dampened any agrarian reform initiatives.

It wasn't until 1961, in the wake of the Cuban revolution and with pressure from the United States' *Alliance for Progress* that the Colombian government would undertake another limited agrarian reform initiative. In 1961, Liberal President Alberto Lleras Camargo responded to political elite concerns about revolutionary sentiment amongst Colombia's peasantry

brutalized during *La Violencia* civil war. Congress therefore passed Law 135 of 1961, which created the National Colombian Institute for Agrarian Reform (INCORA) and offered an array of support services to *campesinos*, as well as renewed governmental power to appropriate private land and redistribute it to landless peasants. Importantly, Law 135 revived a provision stricken from Law 200 of 1936 that private land must complete its “social function”, i.e. be put to productive use and not lie dormant in order to avoid expropriation. Over the next few years, Law 135 facilitated modest appropriations and distribution of land along Colombia’s Atlantic Coast and eastern plains, in addition to over 160,000 hectares expropriated from the Shell Condor Oil Company and titled to landless peasants in the Magdalena Medio’s oil producing region in 1967 (Zamosc 1986: 42-43).

As a further means of enrolling farmers within state management of agrarian production, Liberal president Carlos Lleras Restrepo created the Asociación Nacional de Usuarios Campesinos (ANUC) through presidential decree 755 of 1967. ANUC was designed as an official, state-sanctioned organization to channel, coordinate and manage peasant access to state agricultural services and agrarian reform programs. In many ways, the creation of ANUC aimed to interpellate Colombia’s peasantry as rural citizen subjects whose needs and desires could be best addressed through official, governmental ministries and programs. Hundreds of thousands of peasants successfully became ANUC members in its initial years. Through their participation in the organization they not only lobbied for agricultural support services but also conducted occupations of large estates in order to demand redistributive titling per state agrarian reform law. It is precisely through these occupations of land deemed to be not completing its “social function” that ANUC would draw praise as both a school of radical citizenship and scorn as a threat to traditional *latifundia* estates.

The stakes of such land occupations were considerably raised with the election of Conservative president Misael Pastrana in 1970, who largely lacked his Liberal predecessors' agrarian reform sympathies. Partially due to frustration with the slow pace of agrarian retitling, ANUC initiated 645 land occupations in 1971 alone, concentrating on large cattle estates on the Atlantic coast. These land occupations represented an unprecedented depth and size of *campesino* mobilization and in turn drew quick and decisive state condemnation. In particular, an alliance of political, industrial and landed elites met in the town of Chicoral, Tolima in 1972 in order to coordinate a conservative, reactionary, and united front against peasant mobilization for land reform (Richani 2012: 57-58). The resulting "Chicoral Pact" officially ushered in Colombia's so-called "agrarian counter-reform", which resulted in legislative changes that significantly restricted the criteria by which land could be eligible for appropriation and redistribution, heavily increased the amount of monetary compensation owed to appropriated landlords, severely cut INCORA's budget, and put additional state resources behind the expansion of industrial agriculture (Zamosc 1986: 98).

The Chicoral Pact's anti-agrarian reform initiatives drove a wedge between loyalist factions of the ANUC that still wanted to operate through governmental channels and more radical branches who defended the importance of direct land occupations. The resulting split between the loyalist "Armenia line" and radical (yet much larger) "Sincelejo line" severely weakened ANUC. This was compounded by the fact that the Chicoral Pact opened up even more forms of violent repression against *campesinos* occupying land. Heavy repression from police, military and landlords' private goons (known as *pájaros*) resulted in detentions, torture and assassinations of peasants participating in land occupations. ANUC's land occupations were resoundingly denounced by political and economic elites as threatening forms of "agrarian

communism”, with one prominent Conservative senator declaring the necessity to “save the country from the dreadful consequences of a red revolution in the countryside” (quoted in Zamosc 1986: 98). The emergence of the ELN and FARC in the mid-1960s only heightened elite fear of *campesino* revolutionary violence.

Agrarian and political elites increasingly labeled ANUC members as guerrilla sympathizers and auxiliaries, thus subjecting them to even more horrific repression from military and paramilitary forces. Nonetheless, ANUC’s agrarian reform initiatives did not come to a complete halt. In the Magdalena Medio specifically, the Sincelejo line of the ANUC played a particularly prominent role in organizing land occupations to demand agrarian re-titling (Van Isschot 2015: 62-63). ANUC played a central role in organizing land re-distribution efforts in the current land restitution epicenters in the Magdalena Medio. Due largely to ANUC organizing, INCORA specifically appropriated and retitled approximately 12,600 hectares in Sabana de Torres, 6,800 hectares in Rionegro, and 2,900 hectares in San Alberto between 1962 and 1996. (See Annex B for complete list of properties INCORA redistributed throughout these municipalities).

The vast majority of these redistributions to landless *campesinos* took place between 1988 and 1992. The augmented peasant demand for land stemmed from a number of interrelated factors. The nascent paramilitary project in the Magdalena Medio had reached horrific dimensions by the late 1980s. Recurrent massacres pushed thousands of people from rural areas, many of whom desperately relocated in the city of Barrancabermeja’s impoverished eastern neighborhoods or looked for available rural land elsewhere throughout the region. *Campesinos’* lands were of particular interest to narco-paramilitary groups emanating from Puerto Boyacá in the southern stretches of the Magdalena Medio who sought to root out guerrilla organizations

and to launder their significant profits through massive investment in land (Medina 2011; Moreno y Zamora 2012; Van Ischott 2015: 89-90). ANUC played a prominent role in highlighting and denouncing paramilitary violence and in assisting displaced *campesinos* with regaining access to land. Secondly, neoliberal reforms in the early 1990s opened Colombia's agrarian sector to international competition, with particularly devastating consequences for small-scale producers of rice, corn, cotton and sorghum in the Magdalena Medio. Economic instability, coupled with paramilitary violence, made small-scale landownership increasingly precarious (Salinas 2008:8). Organizations such as the ANUC therefore continued to push for redistributive land reform for landless *campesino* families.

According to Angel Tolosa, a famed human rights defender in the Magdalena Medio and the president of ANUC-UR at the time:

The ANUC's *modus operandi* was to locate land that was left vacant and unused, that wasn't completing its social function. Why? Because we knew that the *modus operandi* of the large landowners in Colombia has always been to have large extensions of land, and to only pay taxes on one parcel. The rest of their land is public land (*tierra baldía*) that they unduly rob from the state. So our strategy was to enter the land and pressure INCORA to title the land to those who would work it."

From the ANUC's perspective, these land occupations were properly called "recuperations" (most precisely translated as 'recoveries') because they hinged on taking back public land that large landowners had illegally usurped and now kept in an unproductive, neo-feudal state. At the conclusion of my fieldwork in 2017, I sat down with former ANUC-UR president Tolosa in his Bogotá office at the Colombian Commission of Jurists, where he explained to me how this process unfolded on *La Carolina*, *Los Cedros*, *Tokio*, and *7 de Agosto* estates in San Alberto:

A small part of these estates was cattle pasture, but the majority was either weeds or forest. So the *campesinos* would enter where the land was not being exploited, where it was not completing its social function. They entered the land in

order to work it, to plant plantains, yucca, corn. Crops that can rapidly produce so that the campesinos could more quickly obtain possession rights.

He explained that the dozens of *campesino* families who took part in these *recuperaciones* were comprised of people from the southern Cesar, Norte de Santander and Santander departments who lacked land and “had the need to root themselves in a tranquil place as they fled violence, hunger or lack of employment.” The organized families would prepare crops and mobile housing that they could immediately set up once they had arrived on the land. The aim was to root themselves on the land long enough to claim de-facto possession rights over it per Law 135’s parameters. Not surprisingly, this was an arduous process. Tolosa continued that “Many, many times the police would throw us off the land. But we would always return. In the end, it was an endurance battle until we could win possession rights.” As detailed in Chapter II, the ANUC-UR successfully petitioned for redistributive land reform over *La Carolina, Los Cedros, Tokio* and *7 de Agosto* estates in San Alberto between 1989 and 1992.

During the same time frame, INCORA appropriated and retitled well over a dozen estates in neighboring Sabana de Torres and Rionegro (see Annex B). Almost immediately, paramilitary forces targeted people who received land through these agrarian reform programs. Varying paramilitary units justified their actions on claims that ANUC-UR was a political affiliate of the ELN, EPL, and FARC guerrillas. As one prominent paramilitary member of Juancho Prada’s forces in San Alberto put it during his hearing in the Justice and Peace Tribunal:

I heard that the guerrillas had taken this land, camouflaging themselves amongst the campesinos. The people we killed were guerrilla spokesman. You always hear the same story: the campesinos receive the land [from INCORA], sell it, then they go invade another farm. It’s a business. ⁹⁶

⁹⁶ Court Case: San Alberto April 14, 2015: 18

Amidst this paramilitary onslaught of San Alberto, several paradigmatic instances of violence stand out. After the successful retitling of the *La Carolina* estate, Isidoro Angulo (vice president of ANUC-UR at the time) was assassinated by Rivera Stapper's paramilitary forces on October 24th, 1990 as he rode his bicycle *en route* to La Carolina (CNMH 2019: 132). The assassination of the ANUC-UR vice president signaled the impending violence to which agrarian reform participants would be subject. Four years later, on October 13th, 1994 the murder of Lucas Alirio Sepulveda, Luis Villegas Donado, and José Cayento Sepúlveda on a plot in *La Carolina* shook San Alberto as the first paramilitary massacre directly perpetrated against agrarian reform participants. In Land Restitution Tribunal testimony, many current land claimants refer to the Sepulveda brothers' massacre as suffusing San Alberto with a generalized climate of terror which thus prompted them to return their land to INCORA or simply abandon it.⁹⁷

Stemming from this violence, many agrarian reform participants reverted their land occupancy rights back to INCORA and/or abandoned their land. (Per agrarian reform legislation, plots parceled out through redistribution measures could not be sold; occupants could only revert occupancy rights back to INCORA, who could then sell the parcel). Agrarian reform participants' decision to relinquish their occupancy rights and abandon their land often came in the wake of direct paramilitary threats and/or the torture, assassination or forced disappearance of friends and family members. And it is precisely these agrarian reform recipients who now make up the bulk of restitution claims in the Magdalena Medio. From the dominant paramilitary perspective, however, if agrarian reform participants fled San Alberto it is because they bore guerrilla connections. Honest people, this line of reasoning went, had nothing to fear. During our interview, I recounted to Tolosa that current landowners in Sabana de Torres and San Alberto

⁹⁷ Court Case: San Alberto November 13, 2015 :56

consistently reiterated to me the same story, essentially mirroring the paramilitary testimony given in the Justice and Peace Tribunals: The guerrillas clandestinely used the ANUC-UR and landless *campesinos* as a front to obtain land and territorial control by occupying large estates and demanding redistributive agrarian reform. From Tolosa's fixed gaze I could tell this was a story he was well familiar with. He explained to me that ever since the 1972 "Chicoral Pact" anti-agrarian reform initiative, the defaming of landless *campesinos* as guerrilla pawns has been a consistent strategy used to condone horrific violence. "The base of the paramilitary strategy is to destroy *campesino* resistance" he said. "It's fundamentally a violent process of accumulating capital under the pretext of fighting guerrillas." Turning his attention specifically to the land recuperations ANUC-UR led throughout the Magdalena Medio, Tolosa further explained to me that:

The ANUC-UR and the *campesinos*' actual support came from the Popular Worker and Campesino Alliance (Alianza Obrero Campesino y Popular). It's a workers' movement that fundamentally supported the *campesinos*. In the Magdalena Medio particularly, it was the oil workers' union from Barrancabermeja (Union Sindicato Obrero) as well as the palm oil workers' union from southern Cesar (ASINTRAINDUPALMA). They helped with infrastructure, transportation, medical care, food. They would even come to the land occupations. *This* was the *campesinos*' true support base. Not the guerrilla.

The stigmatization of peasant collective action as clandestine guerrilla mobilization during this time was particularly palpable in mainstream news coverage. *El Tiempo* (Colombia's most prominent newspaper) consistently portrayed peasant and worker strikes/marches as conduits through which guerrilla forces sought to continue their armed struggle against the state. The extent to which *campesino* movements were cast as mere smokescreens for guerrilla revolutionary violence is clearly seen in *El Tiempo*'s reporting on peasant mobilization in the Magdalena Medio. In 1992, several thousand farmers occupied Sabana de Torres' central square to protest the turmoil wrought by Colombia's recent neoliberal reforms, which had devastated rice, cotton and subsistence production in the Magdalena Medio (Prada 2006:190). *El Tiempo*'s

coverage privileged the perspective of the commanding General of Colombia's 5th Brigade, who "recognizes that some of the *campesinos*' demands require urgent attention, but that this movement is driven by the guerrillas' propaganda intentions" (El Tiempo 1992a). Days earlier, a similar newspaper article about the 1992 *campesino* protest in Sabana de Torres concluded that this movement was similar to the 1987 *Paro de Nororient*e "in which 20,000 farmers, *mobilized by the guerrilla*, participated" (El Tiempo 1992b, emphasis added).

On balance, the consistent defamation of *campesino* collective action in the Magdalena Medio has denigrated rural populations as mere vessels for armed groups, unable to make their own political decisions. Furthermore, it serves as a powerful discursive tool to justify state and paramilitary violence against civil society groups more broadly (Prada 2006; Bolívar 2006). Cumulatively, former ANUC president Angel Tolosa's explanation of the ANUC-UR's actions in the Magdalena Medio paints a picture of a landless and brutalized peasantry who demanded their civic rights to land per agrarian reform legislation, only to suffer violent repression and displacement from paramilitary-landlord alliances bent on enacting a voracious agrarian-counter reform. The stigmatization of *campesinos*' as either direct or indirect associates of the guerrillas was central to perpetrating this violence.

The Victims' Law opened important legal avenues for displaced *campesinos* from this epoch to reclaim their stolen or abandoned land. However, that process has encountered numerous difficulties. As I will show in the next section, it is not just that these parcels are currently owned by people who claim to have bought the land for a fair price using legitimate means. It is that these landowners also mobilize a counter-narrative of violent conflict that blames land claimants for their own displacement and tacitly delegitimizes land restitution as a valid means of state regulation of land. Land restitution is similar to prior Colombian land

interventions in that it has had to face withering accusations of being a guerrilla plot to subvert private property and entrench these armed groups' territorial control. These accusations, as I have shown, condone direct violence. In what follows, I turn my attention to the delegitimizing discourse that motivates deep opposition to the Victims' Law in the Magdalena Medio. Although the land restitution program is a relatively recent intervention, I aim to show how the oppositional framework mobilized against it draws on well-established patterns of condemnation of agrarian interventions.

Section II: *A Tough Crowd*

In late July 2016, I attended two Bureau of Land Restitution "current owner workshops" (*talleres actuales ocupantes*) in Sabana de Torres and San Alberto, respectively. In these workshops, Bureau employees from the central offices in Bogotá set out to teach gathered crowds of concerned landowners about the Victims' Law and its protections for landowners facing a restitution claim against their property. The small team of Bureau of Land Restitution officials who travelled to Sabana de Torres and San Alberto to conduct the workshops were accompanied by municipal victims' rights liaisons as well as a Chilean representative of the Organization of American States. At this point during my fieldwork in July 2016, dozens of restitution cases had been handed down against local landowners. Only a select few recognized landowners as having bought their land in "good faith with due diligence." Local landowners thus directed increasing waves of fury at the Bureau of Land Restitution in light of several recent evictions (without compensation) of property owners who were only able to prove they bought their land "good faith" as opposed to "good faith with due diligence".

The Bureau of Land Restitution organized the workshops with current landowners in order to address the "good faith with due diligence" controversy and the related political attacks

increasingly leveled against the Victims' Law. The workshops were thus ventures to articulate the official parameters and goals of the Victims' Law against the political firestorm that had erupted concerning the land restitution process. In the workshops with landowners in Sabana de Torres and the next day in San Alberto, the team of land restitution officials enunciated an officially admissible *mea culpa* with respect to some of the difficulties the Victims' Law had produced. To this effect the leader of the Bureau of Land Restitution team explained to the landowners who had packed into the municipal meeting hall in Sabana de Torres that the original text of the Victims Law "did not contain clear tools" for addressing good faith second occupiers' situations. "As the years have gone by" he continued "we have learned that there were innocent second occupiers who proved they bought their land in good faith, but not the required 'good faith with due diligence.'" He recognized that this had caused hardship for many current landowners in the region, but portrayed the Victims' Law as a novel process that was adapting to new realities encountered over the course of its implementation.

In a certain sense, he lauded the gathered landowners as playing an important pedagogical role, stating that "Sabana de Torres is what showed us the reality concerning second occupiers." (Namely, the reality that not all current owners of once stolen or abandoned property can be linked to armed groups and their political and economic allies). In the end, it is the magistrates in the Land Restitution Tribunal (and not Bureau of Land Restitution Administrative officials) who ultimately decide the fate of current landowners' property rights. This disconnect permitted the Bureau team leader to continually divert blame away from the Bureau itself and towards the magistrates, who he deemed as having interpreted the "good faith with due diligence" clause in a sharply rigid (*tajante*) fashion. Ultimately, this officially permissible *mea culpa* admitted that the Victims' Law had certain shortcomings with respect to addressing

current property owners' land rights, although it left the overall legitimacy of the land restitution process intact.⁹⁸

Of course, the purpose of the workshops was not to focus on the Victims' Law's perceived deficits. Rather, the Bureau of Land Restitution officials organized the meetings to inform concerned landowners about the rights and protections the Victims' Law would afford them during the restitution process. At the beginning of the meeting in the municipal building in Sabana de Torres, the Bureau of Land Restitution team leader addressed himself to the crowd of approximately thirty landowners who were sitting tightly packed in a ring of plastic chairs. He asked each to introduce themselves, but insisted that, "This isn't a meeting. It's a workshop to explain to you all of the necessary information. This isn't the time to explain your case, just kindly tell us who you are."⁹⁹

His request went unheeded. The discontent concerning the Victims' Law was palpable, and landowners associated with the Colombian Association of Victims' of Land Restitution (ASOCOLVIRT) attended in great numbers. Instead of simply stating their names, where they were from, and passively awaiting official explanation of their rights as potential "second occupiers", the people gathered in the sweltering room immediately engaged in their own counter-pedagogical exercise. It was they who would explain to the Bureau of Land Restitution officials what the land restitution process was about, and not the other way around. In turn, each person stood up, stated their name and, typically, the name of the land parcel they lost or felt they were in danger of losing. From there, they launched into a seemingly interminable list of grievances against the land restitution process, directing them at the Bureau team leader as if he were personally responsible.

⁹⁸ Field notes: Sabana de Torres and San Alberto, July 18-19, 2016

⁹⁹ Field Notes: Sabana de Torres, July 18th, 2016

These grievances touched on an array of financial and juridical problems. In most cases, a land restitution claim can take between two to five years to resolve, during which time the current land owner is entirely responsible for all legal fees incurred. These include paying a lawyer, collecting and copying all relevant title and legal documents, as well as paying all of the travel and lodging fees for witnesses to give testimony at Land Restitution Tribunals located in Cartagena or Cúcuta (each of which is several hours by bus away from Sabana de Torres and San Alberto).

While some of the landowners had already lost their parcels, others nervously awaited what would happen as their cases snaked through the Land Restitution Tribunal. Instead of kindly introducing themselves to the Bureau of Land Restitution team, people stood and clamored that they could not get a loan to keep investing in their land while it had a pending restitution claim against it. Likewise, many people told of letting their crops die or worrying if they should keep investing money in maintaining their land if they were just going to lose it anyway. “The oil palm keeps growing, but I have no idea what is going to happen” one man retorted, concluding that “I go to bed every night not knowing who the owner of my land is.” His case, like many others, had been pending for three years at that point.

Others explained that they had quit paying their loans to the banks, stating that it did not make any sense to pay the debt on a piece of property that might be taken away from them in the end. In one case a woman explained how the legal debts from her restitution case forced her to sell her other two land parcels, nearly bringing her family to financial ruin. The notion that the land restitution process was causing “juridical insecurity” (*inseguridad jurídica*) was one of the most commonly leveled critiques, and stemmed from land owners’ concerns that they could not fruitfully invest in their land, or potentially buy land in the future, due to fears about the

consequences of restitution claims. These financial fears were complimented by the significant legal bills that landowners accumulated during the judicial process.

However, landowners' most piercing critiques against the Victims' Law were not directed at these financial aspects, but at the Bureau of Land Restitution and the land claimants themselves. When his turn to introduce himself came, one man stood up and, nearly yelling, stated that "The Bureau of Land Restitution robbed us of our farm! The claimant lied about being displaced and did so with the complicity of the Bureau!" Before he sat down he pointed a finger at the Bureau leader and said "We are the people that you are displacing, and without any compensation!" Several others echoed similar sentiments, at times holding back tears. Almost unable to control the tenor of her voice, the next woman stood and stated: "We don't have anything left anymore, the Bureau of Land Restitution is draining us entirely (*nos está acabando*)." Others framed their grievances in even more militant terms. A heavyset man flew up from his chair with relative ease to declare, "I am a direct victim of the state in this moment" while another woman chimed in that everyone gathered at the meeting was "a victim of this very land restitution law, not of the war!" These sentiments were directly reflected, again, in the name of the organization to which many of those gathered belonged: The Colombian Association of Victims *of* Land Restitution.

The tension in the room reached such heights that the Bureau official (apparently anticipating the discontent) pulled out a CD player and asked those present to accompany him in a relaxing breathing exercise. As meditation music emanated from the speakers, everyone sat in a tense silence and the commotion in the room briefly subsided. Next, the Bureau official thanked the landowners for participating before pivoting to the workshop's next activities. Assembled in

small groups, those present were asked to write answers to the following questions on large pieces of butcher paper:

- 1) What do you know about the Bureau of Land Restitution?
- 2) How do you feel about your participation in the land restitution process?
- 3) What actions or measures have you taken during the process?
- 4) Which people or institutions are important to you when you feel your rights are being violated?
- 5) How can we better communicate with each other?

After about twenty minutes of writing, the groups were invited to share their answers.

The answers to first question, "What do you know about the Bureau of Land Restitution?" tellingly convey the disconnect between the Bureau of Land Restitution and current landowners' understanding of the restitution process. Whereas the Bureau team was looking to gauge participants' understanding of the Bureau's goals and scope of operations with respect to land restitution, they received a list of answers claiming that the Bureau of Land Restitution:

"Violates private property"

"Gives land back to thieves and displaces legitimate owners"

"Was created by fiat"

"Produces a sense of psychological torture and physical instability"

"Is an incredible legal setback for the state and has created a new class of victims"

"Was created to retribute victims??"

The Bureau team expressed a deep sense of discontent at what they saw as the perpetuation of vicious rumors against a valiant human rights program. Nonetheless, they continued on to the next question. The answers to the second question, "How have you felt during your participation in the land restitution process" painted an equally unflattering picture. Landowners' list of grievances written in bold marker on the butcher paper included statements such as:

"We feel our rights have been violated"

"The investigation has not been objective"

"We have been made to feel impotent"

"We have suffered an economic and moral wrong"

"We feel as though we have been treated like criminals"

"We believe the state has abandoned us"

“We feel as though we are a new group of people forcefully displaced by the state”

The last line on the sheet simply read: *“I just feel like another victim.”* After the answers were read aloud in turn, the Bureau team leader acknowledged the participants’ sense of frustration but reiterated that there was an important difference between fact and opinion and that the answers presented generally adhered to the latter.

The final activity of the workshop was to formally introduce the landowners to the “facts” of the rights and protections the Bureau of Land Restitution promises them during the restitution process. Each person received a pamphlet explaining Agreement 029 of 2016, the internal Bureau of Land Restitution accord defining the classification of compensation measures to which “good faith” second occupiers (i.e. those unable to prove “good faith with due diligence”) are entitled. The team leader carefully walked through the provisions of the accord, reading each aloud. Briefly, the accord classifies four rungs of compensation measures depending on the socio-economic status of the property owner:

- 1) “Second occupiers” without other land who live on or derive their subsistence from the parcel in question are entitled to an equivalent land parcel
- 2) “Second occupiers” who occupy or possess (but do not own) other land parcels, yet who live on or derive their subsistence from the parcel in question are entitled to assistance in developing an agricultural “productive project” on their parcels not claimed for restitution
- 3) “Second occupiers” who own other land parcels, yet who live on or derive their subsistence from the parcel in question are entitled to assistance in developing an agricultural “productive project” on their parcels not claimed for restitution
- 4) “Second occupiers” who neither live on nor derive their subsistence from the parcel in question are entitled to compensation not exceeding 50% of the commercial value of the property

After reading the list of guarantees, the Bureau team leader declared that “You only need to be worried if you bought land from a guerrilla or paramilitary”, implying that the landowners had nothing to fear from the restitution process. Yet his trust in the effectiveness of the compensation measures was not shared. Several people stood up, threw the pamphlet on the

ground, (one man simply yelled “This is socialism!”) and stormed out. Evidently, the Bureau’s compensation measures were seen as anything but. In particular, most landowners could still only receive full compensation for their property if they met the “good faith with due diligence” standards. To the landowners, these compensation measures were simply attenuated forms of state robbery.

It was of little surprise the next day in nearby San Alberto that the Bureau team encountered an equally hostile audience. A standing room only crowd in the municipal theater building formed a seemingly impenetrable wall of opposition around the Bureau team and reiterated the same burning grievances heard the day before in Sabana de Torres. When his turn to speak came, Julio César Gonzalez, the founder of ASOCOLVIRT, arose to his feet to explain that he, like most in the room, was not a criminal: “I bought my land from INCORA [the government agrarian reform office]. If I am a thief then the government is too!” Like most in the room, he had a pending restitution claim against his property.

He then launched into the standard critique that had dogged the land restitution process since the beginning in San Alberto: many current landowners bought their parcels with the oversight of the INCORA state agrarian reform office. These were land parcels that had been titled to landless *campesinos* after INCORA appropriated the *Tokio*, *La Carolina*, and *Los Cedros* and *7 de Agosto* haciendas surrounding San Alberto in the early 1990s. Because these parcels were governed by agrarian reform legislation, they could only be later transferred with the expressed permission from state INCORA offices. The assembled landowners had bought many of these parcels in piece-meal fashion, with oversight from INCORA, from the people to whom they were titled under agrarian reform procedures. It was now those same agrarian reform beneficiaries who were claiming restitution rights over those parcels under the Victims’ Law. “If

we can't assume that the land the very state sells us is legitimate," another person interrupted, "how can we trust anything?"

Mr. González, now as the stand-in master of ceremonies, addressed the crowd by articulating the apparent absurdity of buying land from state offices only to be later told by the state that such land buying practices do not constitute "good faith with due diligence" when a restitution claim is levied against the parcel: "It is as if the Catholic Church wanted to annul all of our marriages because on our wedding day our bride didn't present us with her certificate of virginity!" The metaphor required little interpretation: Buying land from governmental offices was surely a testament to the "virginity" of the land sale. If INCORA officials felt the land was fit for sale, then surely the buyers (and current owners) should not be held responsible. In this sense, the Victims' Law retroactively revoked what these landowners claim was a consensual, legal transaction with governmental INCORA offices.

The workshop's apex came a few minutes later when a woman stood up and, instead of politely introducing herself per protocol, stated that "Those who are claiming land restitution, *according to my experience*, are the victimizers who got their land through invasions" (*victimarios por las invasiones*). The crowd promptly erupted in applause. Her use of the term "invasion" (*invasión*) was no accident. Whereas ANUC framed land occupations as means of "recuperating" land, restitution opponents looked upon them as a grotesque process of "invading" private property.

The woman's statement not only indexed the basic parameters of an oppositional historical narrative that conflated agrarian reform beneficiaries with guerrilla forces and their penchant for "invading" land in order to steal it. It reoriented the bounds of knowledge production concerning conflict and forced displacement away from the Bureau of Land

Restitution and toward local landowners. That is, toward the people *who could speak from their experience*. It was a public means of announcing that there was the Bureau of Land Restitution's version of events (created by detached bureaucrats), as well as a localized version stemming from those "who really knew" the history of violence in the Magdalena Medio.

The workshop ended similarly to the one the day before in Sabana de Torres: The Bureau of Land Restitution's foray into the Magdalena Medio to clarify the official version of events was met with stiff opposition. This opposition not only questioned the contemporary interventions into landed property that the land restitution process facilitated, but the historical premise of violent displacement upon which those actions drew discursive justification. In what follows, I detail the broad contours of landowners' oppositional historical narrative, drawing attention to the manner through which they proffer themselves as privileged, "local" and legitimate bearers of historical knowledge in contradistinction to the Bureau of Land Restitution and Land Restitution magistrates charged with implementing the land restitution process.

Section III: *Intimate Enemies*

Oppositional landowners' perspectives on the Bureau of Land Restitution's historical acumen ranged. In interviews, some expressed to me that the Bureau simply did not do a good enough job investigating the history of each individual restitution case, while others saw more malicious intent. As one landowner defending his parcel in the *Tokio* estate in San Alberto against a restitution claim told me: "The Bureau of Land Restitution *knows* the history of San Alberto. It's just that they only want to show what conforms to their leftist bias (*óptica izquierdista*)." The *Tokio* estate has stood as a central reference point for violence in San Alberto ever since the April 1995 paramilitary massacre of six farmers on the property. There was no denying that guerrilla groups had been active in the region for decades. There was similarly no

denying that when the paramilitaries arrived to combat the guerrillas they committed horrific atrocities against the civilian population, oftentimes with direct support from the military. These parameters formed the generally agreed upon coordinates of the history of conflict in San Alberto and the Magdalena Medio writ large. But details beyond these were fraught. As the landowner further explained to me: “I can’t deny that there was a massacre on the *Tokio* estate. No one can. But history told only half way is not history.” He then continued:

In San Alberto, where there were massacres and killings, the people who were there are considered victims today. But back then they were the victimizers! Those people from *Tokio*, from *Los Cedros*, and from *La Carolina*, all of these people entered that land, invaded that land, accompanied by illegal armed groups. ELN, EPL, FARC. Call them whatever you like. They entered with *weapons*, and they took that land from its rightful owners. They threatened them, they threw them out, they killed their employees, they set their tractors on fire. When they entered, they forced the state, a very weak state, to give them possession of the land. Those people who entered with weapons, stole cattle, and kidnapped...those are the supposed “victims” of today.

His statement neatly encapsulated the standard counter-narrative against the Bureau of Land Restitution: Those who were claiming land restitution rights had actually obtained that land through violent “invasions” with the help of guerrilla groups. And that’s why the paramilitaries subsequently threatened and displaced them. For many, this was a historical narrative the Bureau brazenly refused to recognize.

Accordingly, who counts as a legitimate arbiter of historical knowledge informed many of my interviews with property owners affected by the land restitution process. “The Bureau of Land Restitution employees show up, stay in a hotel for a week to do their investigation and then leave” a woman who had lost her parcel to a restitution claim in Sabana de Torres told me. Her obvious implication was that this could only lead to a detached and superficial knowledge of the town. Another rancher in San Alberto fighting a restitution claim against his parcel in the former *Tokio* hacienda expressed a similar sentiment: “The only countryside (*campo*) that the restitution judges know is the country club” he told me as he burned through half a pack of cigarettes during

our interview (he had started smoking again due to the stress of the restitution case). In both instances, restitution officials are cast as distanced from and ultimately uninformed about the reality of rural life in the Magdalena Medio.

In distinction, current landowners in Sabana de Torres and San Alberto took great pains to show me that they, and not the restitution officials, know the *real* history of violence in the region. Many times, they sought to establish these credentials through highlighting personal knowledge about the person making a restitution claim on their property. That is, a significant portion of the people I interviewed claimed to know the person who was making a restitution claim against their property. The manner in which these relationships were established varied considerably. One restitution opponent rented her house in San Alberto from a woman from whom she eventually brought the property in 1997. In 2015, the former landlord then launched a restitution claim over the house, alleging she had sold it under duress in order to flee paramilitary death threats. “Her son *was* killed but that was two years before I bought the house” the current property owner told me. “The woman [claiming the house] is a fraud and I know that she just wants it back because it’s worth more now.” In her opinion, which was widely repeated across my interviews, those who were reclaiming property were doing so partially because its value had increased significantly and they wanted to unduly profit off of the restitution process.

Others had even more close connections with the people who were now demanding restitution rights over their property. In an interview with a married couple in San Alberto who since 2000 had bought five, 16 hectare lots in the former *La Carolina* hacienda, they explained to me that a woman who successfully claimed restitution rights over one of their parcels was at one time a dear friend. “We bought our parcels from people here in San Alberto, and with all of the necessary title and bill of sale documents,” the woman told me as she attempted to hold back

tears. “We even bought one of the lots from a woman who was a good friend of mine.” They were dumbfounded, then, when that same woman demanded the property be restituted, claiming she had been forced to sell due to endemic violence. “We see her around town every once in a while, but she won’t even look at us because she’s so embarrassed of what she did. What a sinning coward!” Both Sabana de Torres and San Alberto have but a couple of dozen city streets, meaning that close encounters such as these are not that uncommon.

Intimate connections such as the ones above abounded. A woman who lost her cattle ranch to a restitution claim in Sabana de Torres worked only a few blocks away from the land claimant’s current office. “In order to take my kids to school I even had to walk by her house”, she told me. “The restitution claim they launched against my ranch was done in bad faith. The whole experience has been so sad and painful, but in my case all I know is that God is eternal and will have justice be done.” *Love thy neighbor...but don't forget her sins* seemed to be her message.

Similar trials of neighborly love surfaced in other interviews as well. “The man trying to take my farm away from me in restitution used to be the same guy who worked as guerrilla spy when I first bought my property” an incensed rancher in San Alberto told me. “Now he’s a pastor in Bucaramanga with enough money to send his son to study in Switzerland! All I can do is pray that I never come across him on the street” he said with a noticeably clinched fist. “The lying old woman who took my land from me,” a former land restitution defendant in Sabana de Torres confided “lives on the other side of town, and I see her disgraceful son go past my house on his motorcycle almost every day. He works at the tire shop up the street.” She then gestured to her sunglasses, which told me come in handy when she needs to avoid eye contact with him.

These small fieldwork observations illustrate the extent to which current landowners feel a sense of righteous indignation that seemingly distanced and disconnected land restitution officials are positioned to arbitrate the truth of the matter. These landowners, by virtue of having bought land and lived in the area for years or decades, claim a form of local knowledge of conflict history that they feel the Victims' Law systematically denies. That current landowners claim personal knowledge of land claimants as morally dubious liars at best and monstrous guerrilla auxiliaries at worst only further inflames oppositional sentiment.

Many landowners also often relied on family anecdotes to establish their legitimacy as bearers of historical knowledge, reiterating that they came from longstanding, respected families in the region who everyone knew were decent people. "My father bought our land fairly before he passed it on to us" one woman told me. "And the reason nothing bad happened to him during the conflict was that he didn't do anything to deserve it." She, against the Bureau of Land Restitution, could not only attest to the impeccable moral character of her father's land buying practices, but also tacitly imply that those who did lose their land suffered such a fate because they brought it upon themselves for collaborating with the guerrillas.

On several occasions in San Alberto, land restitution opponents took me on what they considered testimonial junkets to bolster their case against the Bureau. As I zipped through the tiny streets of San Alberto on the back of the scooter driven by a woman defending her house in the Land Restitution Tribunal, she pointed out dozens of houses she knew were confronting pending restitution claims. She then rattled off the current owners' name and credentials as honest, hardworking people before launching into the standard diatribe about how *everyone knew* the person claiming restitution rights over the property was "lazy" (*un vago*), "shameless" (*un sinvergüenza*) and most likely a former guerrilla sympathizer. It was she who had moved to San

Alberto over 20 years ago, she explained to me, and it was she who started her own small business with the sweat of her brow in order to buy her modest piece of property. How could it be land restitution bureaucrats, and not her, who best knew what had happened in San Alberto? More than anything, she took great pride in demonstrating her detailed, intimate knowledge of the town as she introduced me to a dozen other property owners defending their parcels and houses against restitution cases (almost all of whom expressed the same sense of exasperated indignation, and rattled off precise details about their current legal bills, the tortuous amount of time their case had been pending, and their near certainty that whoever was claiming restitution rights was a vicious liar).

Another rancher spent nearly twelve hours conveying a similar un-ending loop of grievances as we toured his ranch outside of San Alberto upon which a restitution claim was pending. Driving through the endless backroads connecting the pastures and oil palm fields, he kindly stopped to greet fellow motorists as well as neighbors. I was always introduced as the “gringo” who had come to tell the whole world the *real* truth about the land restitution process. After concluding each convivial chat with neighbors he would rhetorically ask me, “If I am the criminal the Bureau accuses me of being, would I really have all these friends around here?” Again, the underlying sentiment was that his intimate positioning in these networks not only spoke to his upright moral character but also validated him as a more authoritative source of local knowledge than the Bureau.

Across my interviews, landowners identified two interrelated means through which they felt Bureau of Land Restitution discredited their narratives. First, when a restitution claim is launched against their property, current property owners are required to hand over to the Bureau of Land Restitution all land titles, bills of sale, and other formal documents detailing their

ownership of the parcel. These include the officially-stamped transfer documents from the INCORA agrarian reform office concerning the land sale. Acquiring all of these documents can be costly in terms of time and money. But the frustration for property owners doesn't stop there. "I should have never given my property documents to the Bureau" a woman in San Alberto told me as she gestured with her hands to show me how large the stack of documents was, "because they are only going to use them as evidence against me!" Many landowners' mistrust of the land restitution process stemmed initially from the shock of finding out that even neatly kept and transparent title documents did not ensure that land was bought in "good faith with due diligence". This shock was augmented by the lingering sense that the Bureau would intentionally misuse documentary evidence against current property owners. "We arrive to the offices and hand over all of the information about our parcel, all of the evidence, and the only thing the Bureau does it look at it to figure out how they can take advantage of us before they send our case to the magistrates" echoed another landowner as he showed me his thick folder of photocopied title documents.

This latter sentiment underpins the second means through which landowners felt that the land restitution process structurally delegitimized their perspectives. Namely, they felt the Bureau of Land Restitution was "both judge and jury" (*juez y parte*). That is, many landowners held the perception that the Bureau of Land Restitution's investigation of individual restitution cases is structured to disproportionately favor the land claimant's version of events over that of the current property owner. This stems from the Victims Law's Article 78, which establishes an inverted burden of proof (*inversión de la carga de la prueba*) on land claimants' behalf. Specifically, a potential land claimant's ability to show proof of prior ownership, possession or occupation of land, coupled with either judicial or simple evidence of dispossession, counts as

summary evidence of displacement and is enough to “invert the burden of proof” onto the current land owner. Simply put: Once the Bureau of Land Restitution accepts a land claimants’ case and brings it in front of the Land Restitution Tribunal, the land claimants’ account is accorded veracity and judicial status as summary evidence; meanwhile, the entirety of the burden of proof is passed on to the current landowner to prove that they exercised “good faith with due diligence” in order to obtain the property in question.

Landowners called in front of the Land Restitution Tribunal scorn this particular measure. “What happens is that whatever the supposed ‘victim’ says is believed, meaning that false claimants can claim a victim status they don’t really have”, as one prominent member of Santander’s cattle ranching union told me over coffee in Bucaramanga. “What this ‘inverted burden of proof’ really means”, another rancher told me, “is that rural property owners’ guilt is assumed beforehand. When the state recognizes the land claimant as a victim, that necessarily means that the current owner is assumed to be a victimizer. Even before the case has started we are losing because we have to prove we aren’t criminals!” Or, as another small-scale palm cultivator who lost her parcel in Sabana de Torres more tersely put it: “the ‘inverted burden of proof’ basically means that whatever you say in your defense does not matter. In my case I think it is a clear violation of due process because none of my evidence was taken into consideration.”

Conclusion

Through the investigative processes highlighted in Chapter III, the Bureau of Land Restitution purports to *know* territory and the conflictive processes through which it has been constituted. These processes, work through various facets of enframing (Mitchell 1991) which conjure abstractions of state space, delimit a recognized “inside” of the history of Colombia’s armed conflict from an outcast “outside”, and position Bureau of Land Restitution officials and

Land Restitution Magistrates as the privileged observers and arbitrators of that history. Against these enframing processes, as this chapter has shown, land restitution proponents decry what they see as the Bureau's feigned or actual historical misunderstanding of what "really happened" in the Magdalena Medio. Given the fraught history of state agrarian interventions of which the land restitution program is a part, the Bureau of Land Restitution and the Land Restitution Tribunals are unable to cement any sort of readily accepted verdict on what really transpired concerning conflict and displacement. Instead, landowners and the Victims Law's political enemies have taken to recycling a well-hewn narrative that frames state agrarian interventions as guerrilla territorial tactics. This recycled narrative casts today's land claimants as yesterday's guerrilla foot soldiers.

Luis Van Isschot, historian of political violence in the Magdalena Medio, states: "As human rights activists have long argued, it is one thing to live in a city or rural area where guerrillas are present, another thing to identify with the goals of a revolutionary movement, and quite another to carry a weapon" (2015:125-126). The dominant anti-land restitution discourse collapses these distinctions, using an alternative historical understanding of conflict to blanket displaced land claimants as dangerous guerilla vectors. The divergent narratives of forced displacement that this chapter addresses show that the restitution process' capacity to resettle displaced populations entails a perilous and incomplete process of resettling on an agreed upon understanding of the past.

The continued discord between oppositional landowners and Bureau officials points to the limited capacity of the restitution process to ameliorate symbolic wounds regarding competing understandings of conflict and why such violence happened occurred in the first place. The effects of this debate between "knowing territory" and "territorial ignorance" (Moore

2005: 256) are not confined, however, to rancorous discussions about what “really happened”. As I will show in the next chapter, restitution opponents not only stigmatize land claimants as morally decrepit, but materially and discursively suture this perceived moral depravity into the landscape itself. Thus, the new socio-spatial relations produced through land restitution are suffused with anxieties over how past legacies of violence may potentially resurge in the future.

CHAPTER VI: THE LIARS' LANDSCAPE?

Landscapes can be deceptive.
Sometimes a landscape seems to be less a setting
for the life of its inhabitants than a curtain behind which
their struggles, achievements and accidents take place.

For those who, with the inhabitants, are behind
the curtain, landmarks are no longer only geographic
but also biographical and personal.

—John Berger, *A Fortunate Man*¹⁰⁰

Introduction

As I have argued throughout this dissertation, the Victims' Law enframes Colombia's armed conflict as a judicial exhibit through which past violence can be investigated, ameliorated and ordered within a judicial system. This judicial exhibit creates a material and symbolic landscape constituted through Land Restitution Tribunal sentences. Through these court sentences, land parcels are sutured into specific narratives of violent displacement and, in certain instances, remade as entities of state human rights commitments and as sites of economic intervention. Yet these plots are far beyond passive "settings" upon which the restitution program manifests. To acknowledge that landscapes can be deceptive and to therefore step behind landscape's curtain, as Berger suggests, is to encounter people whose "struggles, achievements and accidents" make a world far more contradictory and complex than the simple juridical narrative produced through Land Restitution Tribunal proceedings.

In this chapter, then, I attempt to go behind the curtain and attend to the myriad "biographical and personal" facets through which what I call the "restituted landscape" is made. Specifically, I examine the landscapes of restitution produced through land claimants' tenuous capacity to return to the parcels from which they were displaced. I base this discussion on

¹⁰⁰ Berger 1967: 14-15

literatures of landscape to analyze divergent perceptions of how the Magdalena Medio's countryside is symbolically and materially remade in light of the Victims Law's restitution process. I consider official Bureau of Land Restitution portrayals of the restituted landscape alongside interviews and participant observation with municipal rural development officials, land claimants, and land restitution opponents. I keep these perspectives in tension to show how the multiple and competing *selective traditions* addressed in previous chapters are discursively sutured into the present-day material landscape. In this sense, I aim to illuminate the different ways in which restituted parcels are materially impacted, discursively framed and ideologically made sense of within the contentious unfolding of the restitution program.

Briefly, the Bureau of Land Restitution highlights land claimants' successful return to their parcels and the idealized modes of small-sale production through which they are able to transform the rural landscape. The Bureau represents the restituted landscape as a synthesis of the Colombian state's human-rights orientation and conflict victims' noble return to work their land. That is, the Bureau highlights once abandoned rural areas as now permeated by a state presence and its concomitant concern for human rights. Many land claimants who have returned to live on and directly manage their land certainly express a sense of gratitude in being able to do so, but also highlight the tense social relations and stigmatization surrounding their return. For them, the restituted landscape comprises a contradictory mixture of redemption and fear within the context of return. Meanwhile, municipal officials charged with evaluating and maintaining restitution agrarian projects fret over the instances in which land claimants are unable to work their land, thus leaving it abandoned. They see this degradation as a symbol of the restitution program's inability to address both land claimants' particular capacities for rural labor and larger contexts of rural production more generally. Land restitution opponents, in turn, read land

claimants' abandon of their parcels as reflecting the morally decrepit character of the land restitution process itself—a process, they maintain, premised on destroying the very institution of private property.

Their fears of the dissolution of the institution of private property stem from the restitution program's capacity to judicially revoke what landowners claim are legitimate property titles. The *Centro Democrático* political party's virulent campaign against the 2016 Havana Peace Accords between the Colombian government and the FARC further stokes these anxieties about the dissolution of private property. In this context, the land restitution program and the 2016 Havana Peace Accords' pending agrarian reform program are portrayed as intertwined communist guerrilla plots to usurp private agricultural land throughout Colombia. Or, as the *Centro Democrático* became quite fond of saying during 2018 presidential and congressional campaigns: "Turning Colombian into the next Venezuela". Land restitution opponents thus portray the restituted landscape as one stalked by a vicious, leftist state apparatus dedicated to undoing private property relations and replacing with them guerrilla territorial dictates.

Cumulatively, the competing framings of the restituted landscape—as one defined either by productive management or hopeless abandon—show that land restitution is a fraught process of making certain idealized forms of labor of visible, while working to challenge or obscure challenges to this framing. What I aim to show through a focus on landscape, then, is the indeterminacy, fracturing and contradiction that arise in the fraught context of restitution and return. These elements spill over the neatly bounded judicial construal of restitution as a direct process of restoring property rights affected due to armed conflict.

In Section I, I foreground my theoretical framing of landscape. In Section II, I examine Bureau of Land Restitution media materials to illustrate their idealized framing of the Magdalena

Medio's landscape in light of land claimants' dignified return and labor. I complement this focus on displaced victims in Section III by highlighting the ambiguous senses of relief and terror encapsulated by land claimants' return to Sabana de Torres and San Alberto. In Sections IV and V, I pivot to considerations of what happens when land claimants, for myriad reasons, are unable to productively manage restituted land parcels. These abandoned parcels are either discursively erased, taken to reflect land restitution's limited capacity to sustain small-scale agrarian labor, or read as harbingers of the agricultural ruin the process is designed to visit upon the countryside.

Before delving into this analysis, however, a preliminary note on return in the context of restitution is necessary. I make this qualifying note on "return" because determining how many people have returned to their land is an imprecise endeavor. While official Bureau of Land Restitution statistics detail how many plots have an arbitrated restitution claim, they do not offer specific information on whether the claimant has effectively returned to work and/or live on the property. As of December 2018, there were approximately twenty judicial rulings granting return (as opposed to compensation) rights to land in Sabana de Torres¹⁰¹. As my fieldwork drew to a close in late 2017, Sabana's rural development office informed me that only five land claimants subsequently lived on or actively managed their parcels after having their return rights recognized. The remainder had either abandoned or never returned to their land after the restitution ruling.

San Alberto's rural development office did not provide specific information on return, so my estimates are less exact. During fieldwork, I posed this question to Bureau officials and community members, whose estimates suggested between three and five land claimants (out of twenty judicial cases with restitution rewards granting specific return to San Alberto) have

¹⁰¹ Three additional rulings in Sabana favored claimants' restitution rights, but awarded an alternative land plot or monetary compensation.

returned to actively manage land within the municipality.¹⁰² Combined, these tentative observations suggest that approximately one out of every four land claimants in Sabana and San Alberto had returned to live on the specific parcel over which they were granted restitution rights.

Conflict victims' low rates of return are due to several factors, including fear, stigmatization, lack of desire or inability to uproot and move, frayed social networks, and perceived lower economic opportunities in the return area. Based on these factors, some estimates suggest as a few as 14 % of displaced conflict victims favor returning to the land they lost due to conflict throughout Colombia (Arias et al 2014). Nonetheless, the Victims' Law structurally favors return over other restitution options. That is, land claimants are obligated to petition for return of the *specific* parcel they abandoned. Only under certain circumstances, such as environmental degradation or security concerns, may Land Restitution Tribunal magistrates order that land claimants receive an alternative land parcel or monetary compensation.¹⁰³

What counts as a “return”, though, is ambiguous. As I will show throughout this chapter, many land claimants have had their formal title to land parcels officially restored, coupled with technical and financial assistance to re-establish agrarian projects on the land. However, during my fieldwork only a relatively small number of restituted land claimants had “returned” in a more expansive sense of living on or managing their land full time. That they had their land titles returned to them through the restitution process does not necessarily mean they have returned to

¹⁰² Four additional rulings San Alberto favored claimants' restitution rights, but awarded an alternative land plot or monetary compensation.

¹⁰³ This structural focus on return to specific land (as opposed to monetary compensation for land) reflects the Pinheiro Principles' *preferential* focus on return: “in accordance with the *Principles*: 1. Refugees and displaced persons have a preferential right to housing and property restitution as a legal remedy; 2. Any divergence from this should be exceptional and fully justifiable in terms of the relevant law... it is important to reiterate that care must be taken to ensure that compensation should not be seen as a simple alternative to restitution when States are hesitant to accept the return of refugees and displaced persons (Pinheiro Principles Handbook, 2007: 27-28).

live and work on their land. Although a parcel may have newly validated title documents, it may also still lie abandoned. These interrelated facets of return and abandon are subject to multiple interpretations and are the crux for understanding the tumultuous underpinnings of the restituted landscape.

Section I: *Landscape*

“Landscape” is a polyvalent term with its own etymological history and evolution. If there is a certain continuity of landscape’s “old fashioned” definition as a “portion of the earth's surface that can be comprehended at a glance” (Jackson 1986: 6), critical geography has sought to elucidate the material production of that plot of earth and the representational politics of the glance cast upon it. On the latter, landscape has been understood as an ideologically charged “way of seeing the world” (often through art and other media representations) that naturalizes capitalist arrangements of space through the obfuscation of the labor relations that make certain landscape representations possible (Cosgrove 1998). Landscape as an ideological representation has an inherent duplicity to the extent that such representations may serve to manipulate and obscure imbalanced power relations or, contrarily, serve as ‘redemptive’ means of visualizing more just social projects (Daniels 1989). Subsequent scholarship maintains that landscapes are not just discursive but simultaneously material, lived in, and worked upon. “One cannot understand a landscape,” writes Don Mitchell, “independent of how it has been represented.” Yet Mitchell continues: “But neither can one understand a landscape independent of its material form on the ground (and thus independent of how it was made)” (Mitchell 1996:8). Mitchell’s framing elucidates the processes through which certain ideological landscape representations erase the labor presupposed in their creation while also obfuscating the materially precarious conditions of the damned whose exploited labor produces those landscapes in the first place. Even if

landscapes have ideological dimensions, they are also always materially grounded and (re)produced.

Concerning the Colombian context, geographer Diana Ojeda (Ojeda et al 2015; Ojeda 2016) examines landscapes of dispossession (*paisajes del despojo*) in order to illuminate landscape's ideological facets *as well as* the continual erasure of daily life, labor and suffering upon which certain landscapes rest. These landscapes are readily associated with the production of some of Colombia's most iconic landscapes including the magnificent coastal Tayrona National Park or the interminable "green deserts" of monocrop oil palm production. These landscapes—officially represented through state capitalist ideology as the vanguard of "green" tourism and agricultural production—were produced through violent practices of displacement. Beyond these cataclysmic moments of paramilitary-induced placement, however, current residents of these landscapes experience everyday (*cotidiano*) precarity such as tenuous access to resources, reduced capacity to define their livelihood options, and augmented exposure to hazard as they struggle to perform daily routines. Dispossession in this sense does not just refer to the violent theft of land, but the continuing depletion of people's capacity for social reproduction within specific places (Fernandez 2018).

Ojeda's construal of landscapes of dispossession in Colombia directs our attention beyond the initial violent events of forced displacement that are all too often the founding moments necessary for picturesque landscape representations (e.g. Cronon 1995), to reorient our focus toward the sustained, everyday facets of hardship and danger continually experienced by those whose lives and labor make dominant landscape representations possible. Throughout this chapter, therefore, I draw attention to how both land claimants and land restitution opponents'

continued, everyday experiences of struggle inform both ideological perceptions of the restituted landscape as well as these landscapes' material character.

Finally, I wish to draw attention to landscape's ideological capacity for state territorial formation. This capacity, W.J.T Mitchell (1994) writes, pivots on "double role" that landscape as a "cultural medium" plays. First, the medium of landscape aims to "naturalizes a cultural and social construction, representing an artificial world as if it were simply given and inevitable" and second, "it also makes that representation operational by interpellating its beholder in some more or less determinate relation to its givenness as sight and site" (1994:2). These landscape processes are key sites of state formation insofar as they both seek to naturalize state territorial projects and relations to space as "given and inevitable" and, thus, through the medium of landscape, cement a "political relationship between citizen and the state" (Nouzeilles 1999: 42; see also Yeh 2013). In this sense, "landscape" provides an analytical lens through which we can interrogate how those who look upon, labor to produce, and live within landscapes are enveloped in (contested) relationships with "the State" and processes of state territorial production (Brenner and Elden 2009).

Given the above, I approach landscape as an analytical synthesis of several factors. These include material dimensions, especially the physical morphology of restituted land parcels and the materially embedded social relations exercised upon them. I also consider the discursive (and typically divergent) representations assigned to these portions of the earth's surface which, in the present case, draw attention to the political intentions, short-comings and controversies implicated in the restitution program. I do so to illuminate how these varying factors are imbricated in processes of interpellating state subjects in disputed and indeterminate processes of

ideologically naturalizing state relationships to land. As a state project, I maintain, restitution is defined far more by this indeterminacy than by resolution.

Section II: *Dignified Return*

Perhaps the best lens into the Bureau of Land Restitution's official framings of the restituted landscape is offered through the weekly *Tus Tierras, Tus Derechos* film series. As mentioned in Chapter I, these professionally produced 30-minute episodes bring viewers to restituted parcels throughout Colombia in order to offer a glimpse of land claimant's new lives on their land. Across the episodes, Bureau staff accompany restituted land claimants to their parcels in order to bring an "on the ground" glimpse into how the restitution process has improved their lives through the symbolic and material importance of land. Of the over 150 episodes produced to date, two episodes center on Sabana de Torres (episodes number 12 and 104), while San Alberto currently has three (episodes 62, 112, and 127)¹⁰⁴. These episodes show the Bureau of Land Restitution's lauding of a new and revitalized rural landscape as the synthetic product of idealized small-holder production and state institutional human rights commitments.

The *Tus Tierras, Tus Derechos* episodes' opening shots include aerial flyovers of Sabana's and San Alberto's lush, unending green expanses of cattle pasture and oil palm (see Image 6.1 and 6.2)

¹⁰⁴ The Episodes are available at the following links:

Episode 12 (Sabana de Torres) <https://www.youtube.com/watch?v=bROuolLYgng&t=1s>

Episode 104 (Sabana de Torres) <https://www.youtube.com/watch?v=VSyY6coDXuQ&t=4s>

Episode 62 (San Alberto) <https://www.youtube.com/watch?v=7frYtsp0VOW>

Episode 112 (San Alberto) <https://www.youtube.com/watch?v=SXecGpZQcDM>

Episode 127 (San Alberto) <https://www.youtube.com/watch?v=B6YVkJUL5HWO&feature=youtu.be>



Image 6.1 *Tus Tierras, Tus Derechos* drone footage of Sabana de Torres (Episode 104)



Image 6.2 *Tus Tierras, Tus Derechos* drone footage of San Alberto (Episode 62)

There is no commentary on the history or political economy of these land use practices, especially their national association with paramilitary projects. Likewise, there is scant analysis of local conflict dynamics besides generic acknowledgement that non-specified “armed groups” (i.e. guerrillas, paramilitaries) once wreaked havoc in the region. The particular guerrilla and paramilitary fronts are never mentioned by name, nor is there any recognition of state armed

forces' collaboration with paramilitary armies. What *is* seen and acknowledged is a beautiful and verdant landscape that is now all the more productive because honest, innocent and hardworking *campesino* conflict victims have been able to return to the lands they abandoned or were forced to sell. Land claimants are cast as perfectly innocent, apolitical victims who—through the restitution process—return to an equally innocent and apolitical landscape. The narrative arc of these *Tus Tierras, Tus Derechos* episodes typically begins in the Bucaramanga metropolitan area—the large city an approximately 2 to 3-hour bus ride from Sabana and San Alberto where most displaced conflict victims fled. The show's young host is sure to foreground the trope of urban exile, noting that “today, the *campesinos* that settled in [Bucaramanga] have begun to rebuild the lives they abandoned in the countryside.” Because of the restitution process, he concludes, “they were able to leave behind the difficulties of city life and were able to return to the countryside where they have begun to smile once more (*Tus Tierras, Tus Derechos* Episode 104).¹⁰⁵

In each episode, the host accompanies restituted landowners to their parcels, beaming as he partakes in the bucolic delights of drinking locally produced milk or tending to baby chicks. During the host's pastoral romp, the episodes focus on the so-called “productive projects” (*proyectos productivos*) that land claimants maintain on their land. These are small-scale agricultural ventures included as part of claimants' restitution rights. “Productive projects” in Sabana and San Alberto typically consist of dairy, poultry, and rice production. In some cases, restituted land owners also manage several acres of African oil palm, which intervening land owners planted on the plots.

¹⁰⁵ Episode 104: <https://www.youtube.com/watch?v=VSyY6coDXuQ&t=4s>

Amidst video footage of *campesinos*' neatly kept barns and stables (full of healthy cows and chickens), rice paddies, and oil palm fields, land claimants espouse their effusive joy at being able to return to their humble plots (*la tierrita*), free from the stress of the city and having to work for someone else. Picking rice from a paddy on a newly restituted plot in Sabana de Torres, a restituted land claimant recounts to the *Tus Tierras, Tus Derechos* host, "The return [from Bucaramanga to Sabana] has been lovely (*muy lindo*) because it has always been my dream to work land. To work my land (*trabajar en lo mío*) instead of working for a day wage in the city. Thanks to God and to the Bureau of Land Restitution, we have our land back and I'm so happy".¹⁰⁶



Image 6.3 *Tus Tierras, Tus Derechos* Host interview. Host Javier Andrés Escobar (left) working a rice paddy in Sabana de Torres, accompanying the restituted land claimant (Episode 104).

As land claimants perform for the cameras how they harvest rice, cut palm husks, or milk their cows, they express their gratitude on cue to the Bureau of Land Restitution for affording them such an opportunity. The *Tus Tierras, Tus Derechos* episodes foreground these aspects of

¹⁰⁶ Episode 104: <https://www.youtube.com/watch?v=VSyY6coDXuQ&t=4s> (8:00-8:19)

small-scale *campesino* labor to show that restituted land parcels are peacefully and productively managed for the benefit of the country as a whole. “A countryside without violence is a countryside that has so much to offer to the city” as one restituted land claimant from Sabana puts it for the cameras. This newly invented countryside, as one Bureau of Land Restitution official told me, represents the so-called “territories of peace” to which the Victims Law aspires.¹⁰⁷

While land claimants highlight the satisfaction of being able to once more work for *themselves* on their *own* land, the *Tus Tierras*, *Tus Derechos* episodes nevertheless portray these idyllic farmsteads as a mutual production between the noble, day-to-day labor of the restituted *campesinos* and state efforts through the Bureau of Land Restitution that made such a return both possible and sustainable. The episodes make no mention of how the land use changed over the period between land claimants’ displacement and return. And what of the interim owners? For the Bureau of Land Restitution, these restituted landscapes are plucked from a generic past riveted with armed conflict, frozen in time in the intervening years, only to await a prosperous future due to the combined efforts of the Bureau and the restituted *campesinos*.

However, court records show that essentially all of the parcels highlighted in the Sabana and San Alberto episodes of *Tus Tierras*, *Tus Derechos* were owned and/or occupied when the restitution petition was launched. Yet these interim landowners, the labor they put into developing and maintaining the land, and their distress over having to relinquish the land, are entirely absent. The only meaningful work being done on these plots is that which the restituted land claimants—through the Bureau’s valiant support—are able to perform under the stable and dignified conditions of peaceful return.

¹⁰⁷ Interview, Bucaramanga, July 2015

The stark exception is *Tus Tierras, Tus Derechos* episode 62 which focuses exclusively on “second occupiers” in San Alberto who live on parcels with pending restitution claims against them. In this episode, the narrator assures the viewers that the Bureau of Land Restitution has adequate compensation and attention programs for vulnerable “second occupier” *campesinos* who own or occupy land claimed for restitution. Bureau officials are filmed traveling to various parcels throughout San Alberto to explain to the current owners that, even though there is a restitution claim against their plot, they can rest assured that the Bureau will provide them with all necessary assistance to ensure their well-being. Cameras then follow already or soon-to-be second occupiers through their fields and barns as they explain their daily routines caring for their farms to the professionally clad Bureau officials. Importantly, this episode highlights the labor the Bureau does in preparing land for restitution by adequately informing current landowners of their rights and reassuring them that the land restitution process is for the good of everyone (Image 6.4)



Image 6.4 Bureau of Land Restitution “Second occupier” site visit. Bureau officials (center) accompanying “second occupiers” on a visit of their land parcel in San Alberto (Episode 62).

After numerous treks through San Alberto's palm fields and cattle pastures, the episode's host drives the point home for the audience, looking to the camera and stating, "Land restitution *is not* and obstacle to justice. On the contrary, its objective is the well-being of everyone in the community."¹⁰⁸ Even, presumably, for those staring down steep legal fees and potential eviction from their plots.

Thus, the Bureau of Land Restitution's official framing of the restituted landscape is one that pivots on the combined labor of conflict victims and the Colombian state to recuperate, return to, and productively manage land. It is as if the state's human rights commitments are genetically intertwined with the DNA of every dairy cow tranquilly chomping fresh grass. These landscapes are cast as sources of material, emotional and even spiritual well-being for the conflict victims who, after experiencing the hell of war in the countryside and exile in the city, are able to return peacefully to what was theirs. To be sure, as my fieldwork interviews substantiate, there is no reason to doubt many conflict victims' sincere gratitude in being able to return and work the land. But perhaps unsurprisingly, the Bureau's official framing of restituted landscapes overlooks what happens when those projects go awry and how land claimants' feel in the larger social context of localized resentment towards the restitution process. It is to those facets that I now turn.

Section III: *Bittersweet Return*

Across my interviews with land claimants who had returned to their land parcels, almost all expressed a deep sense gratitude at being able to return to their land. They were equally candid with me, however, about the trepidation that accompanied their return. Land claimants' return to their parcels is not a seamless recovery of a piece of property frozen in time after

¹⁰⁸ Episode 62 <https://www.youtube.com/watch?v=7frYtsp0VOw>

displacement, but one that traverses thick local histories rife with contention. For land claimants, the restituted landscape is pocked with memories of both past trauma and contemporary stigmatization that complicate the Bureau's narrative of peaceful transition.

"It is glorious. Our quality of life has improved greatly and with the money from the ranch I can pay my son's university tuition", a restituted land claimant told me as we met near the town center in Sabana de Torres. But she continued: "I rent out my property for cattle ranching because I am terrified to actually live there."¹⁰⁹ Her terror was well founded. After she and her husband were forced to sell their ranch in Sabana's Mata del Plátano sector in 2001 "Julian Bolívar"—the leader of the Bloque Central Bolívar paramilitary unit—appropriated the property as his base of operations. Over the course of fieldwork, I heard many rumors about this particular ranch. As the Bloque Central's central headquarters, it served as the last place to which certain people were "summoned" before learning their fate. The ranch house was given a lavish makeover, complete with a new swimming pool. Narco-profits could throw one hell of a party—at least according to one resident of Sabana de Torres who claims to have visited the ranch. Barrels of cash were rumored to have been buried underneath the swimming pool's concrete floor.

In 2008, two years after "Julian Bolívar" demobilized and began serving an eight-year prison sentence, a prominent cattle-ranching family from Sabana de Torres bought the farmstead. In 2014 Restitution Magistrates ordered the family's eviction for failing to prove they bought the land in good faith with diligence. In an interview with one of the family members, she told me that no one had any idea that the property they were buying was a former paramilitary base.¹¹⁰

I found that proposition rather hard to believe, but I do not suppose I could expect

¹⁰⁹ Interview, Sabana de Torres May 12, 2017. See also case: Sabana de Torres Feb 25 2014

¹¹⁰ Interview, Sabana de Torres, August 2017

someone to admit to me they knowingly bought a ranch with such a stained history. Restitution Magistrates, on the other hand, did not buy their story. They ordered the eviction of the family, without any compensation for the property. While magistrates did not accuse the family of harboring connections with the *Bloque Central Bolívar* paramilitary group, they concluded that their buying of the former paramilitary ranch was not done in good faith with due diligence.¹¹¹ In reaction, the family essentially destroyed the ranch house and all of the cattle infrastructure prior to restitution. The barbed-wire fences were knocked down and the roof tiles of main house torn off. Large holes pocked the now-dilapidated concrete floor of the swimming pool, presumably where would-be treasure hunters were looking for buried paramilitary cash in the meantime.

That “Julian Bolívar” had been released from jail in May 2015 after serving his eight-year sentence only added to the now-restituted land claimant’s fear of potential reprisal violence. In our interview, she expressed her deep sympathy for the family who lost the property without compensation. She thought it was unjust they did not receive anything. They weren’t the ones, after all, who had displaced her. On one occasion she even expressed her dismay in a private meeting with Bureau of Land Restitution’s national director. “He told me not to worry. Since the magistrates ruled in my favor all would be fine.” Yet she feared that the family’s ire at losing the land without compensation would be directed at her. “I was singled out. They said it was *us* who robbed the farm. The woman who lost the farm has *a ton* of money and you know what it means to fight against rich people” she told me in a hushed voice. For her, the beauty of the restituted land parcel and the financial stability it provides is nonetheless tinged with the latent fear of reprisal from past owners.

¹¹¹ See case Sabana de Torres, Feb 25, 2014

Similarly, a man who recuperated a plot in the Rosas Blancas parcellation in Sabana's *Las Lajas* sector coupled the blessing of land restitution with a palpable sense of trepidation. He showed me the spot across the road from his front door where soldiers stationed in Sabana tortured and threatened to kill him in 1994 for being a supposed ELN collaborator. At the beginning of our interview he said "I want to make it clear that I do not have anything against the military" lest those soldiers who nearly killed him over two decades ago come back now to finish the job.¹¹² Since returning to the parcel in 2014, he and his wife have successfully marketed the milk from the seven dairy cows they were provided, and receive monthly payments for the oil palm they sell to a local processing mill. The oil palm was planted by the man who bought the property after the land claimant fled. He died shortly after losing his defense against the restitution claim. Concerning the former landowner, the restituted land claimant explained to me:

We didn't want to cause him any problems, so we petitioned for monetary compensation instead of restitution, but that petition was denied. At first, the neighbors blamed us for his death due to the stress the restitution case caused him. Today they won't even lend me a wheelbarrow.

His parcel, despite the successful dairy and palm oil projects it sustains, is nonetheless haunted by the specters of ruthless soldiers and dead neighbors. These ghosts, of course, do not appear in the *Tus Tierras, Tus Derechos* episode the Bureau of Land Restitution filmed on his property the week prior to our interview.

These land claimants' sense of apprehension did not just stem from the past phantoms of guerrilla, paramilitary, or state forces who lurked in their pastures or under their palm trees. The scorn from intervening property owners who owned the land in the interim and were subsequently evicted due to the restitution process was just as unnerving, if not more so. What makes the above-mentioned claimants unique, however, is not their sense of fear but the fact

¹¹² Interview, Sabana de Torres August 1, 2017. See also case: Sabana de Torres Sep 24 2013

they have actually returned to directly manage their land. As the following section will show, many restituted plots throughout Sabana and San Alberto lie abandoned. The cows are nowhere to be seen, the oil palm trees are dead, and thick weeds choke the pasture. Although land claimants' formal property title has been restored, this does not necessarily mean they have returned to the land. How to read this landscape? Unsurprisingly, these plots make no appearance in the *Tus Tierras, Tus Derechos* episodes or in other official Bureau of Land Restitution material. They are effectively rendered invisible. However, for others these plots project an uncanny presence. But of what? As I will show in the following two sections, these parcels stand as stark reminders of state incompetence for some, and deep-seated state malfeasance for others.

Section IV: *Fields Overgrown*

Sabana's municipal director of rural development is responsible for overseeing and assisting restituted land claimants with managing their "productive projects" on their land after the Bureau of Land Restitution has handed over the plot and provided the necessary start-up funds and inputs. I and Elisa Martín Peré (a research colleague from the Industrial University of Santander) accompanied him on one of his visits to a restituted parcel in Sabana's remote *Caño Eden* sector. On the visit, we were informed that the 70-year-old woman abandoned the plot shortly after recuperating it through the restitution process.¹¹³

To the best of the rural development director's knowledge, she had sold the cows and mule the Bureau and the municipality gave her. The cacao and banana plants she had been provided to grow on her plot were dead, awash in a thick sea of tall grass. "Like most land claimants, she was very old and lost her land over 20 years ago. How did they honestly expect her to come back to live and work in these conditions?" he solemnly asked.¹¹⁴ The reason the

¹¹³ Interview May 2, 2017. See also case: Sabana de Torres Dec 2 2013

¹¹⁴ Fieldnotes, Sabana de Torres, May 2, 2017

Bureau gave her a mule in the first place was because the roads to her plot were in such poor condition that only a 4x4 truck could traverse them. He recounted a now famous story in which Sabana's own military detachment got hopelessly lost in the thick forest trying to locate the plot before it was restituted. For years, this area was held by the FARC's 20th front, who planted innumerable landmines. Was it then any surprise that this elderly woman's piece of land currently lay abandoned?

Later, we sat down with two elderly men in Sabana's municipal building who had also recuperated their parcels through the restitution program years after fleeing paramilitary death threats. With downcast eyes one of the men told us that the crumbling cement house on the property was overgrown with weeds. He rarely visits. The person who bought the surrounding plots in the intervening years had obstructed the road leading to the farmstead, and the municipality was still in legal proceedings to force him to open up passage to the restituted parcel. In the meantime, the Bureau of Land Restitution was therefore unable to begin implementing the "productive project" the man was entitled to as part of his restitution rights.¹¹⁵

The other man sitting at the table, almost 80 years old and nearly deaf, lived in a humble retirement home in Sabana but still travelled to his restituted plot daily with the help of his nephew. The Bureau financed the construction of a chicken coop and provided dozens of chickens for him to raise as part of his "productive project". The technician the Bureau contracted to build the coop incorrectly measured the protective fencing and predators immediately devoured the chickens. The second batch of chickens died because the technicians provided incorrect information on their daily required amount of food. The elderly man visits the

¹¹⁵ See case: Sabana de Torres August 21 2013

restituted parcel daily to cook his lunch in the newly constructed house, and to tend to a few cacao plants he has growing there. The chicken coop, however, lies in ruins.¹¹⁶

In the rural development director's view, these failures were due to the Bureau of Land Restitution's misunderstanding of both the land claimants and the rural conditions in Sabana. He referred to the first aspect as a "social failure" (*falla social*) on the Bureau's behalf because they seemed to be profoundly unaware of how the land claimants' advanced age would almost certainly preclude them from successfully managing most forms of agricultural production.

He then explained what he saw as the Bureau's geographical ignorance: "When they accept a restitution claim, the Bureau sends out a surveyor and an engineer to go out with the police, find the land parcel, record its GPS coordinates and measure its boundaries. But what they *do not do* is any sort of land use analysis." He referred to "land use" in an expansive sense, meaning not just what types of agricultural projects might be exercised on the land, but also what the road conditions were like and how far the parcel was from the municipal center. If most of Sabana's restituted plots were given to elderly people who fled over twenty years ago and were located in isolated, densely forested, or relatively inaccessible corners, was it really any surprise that they remain abandoned and overgrown by weeds?

To be sure, some of the plots claimed for restitution lie in peripheral, abandoned areas. This is especially true for properties in the eastern stretches of Sabana de Torres and Rionegro adjacent to the Perijá mountains that rise up sharply from the planar lowlands. The FARC's 20th Front controlled this peripheral sector even after the paramilitary takeover of Sabana de Torres and Rionegro. The Colombian military was not able to fully drive the FARC's 20th front from the area until 2013 (Vanguardia Liberal 2013). Only in 2017 did the Colombian military consider the

¹¹⁶ See Case: Sabana de Torres May 31 2013

area to be free from land mine contamination.

The majority of the plots claimed for restitution, however, lie in Sabana de Torres, Rionegro and San Alberto's planar lowlands. In San Alberto, for example, most plots lie within a thirty-minute car ride from the town center. These are not peripheral plots, but ones that have been consistently owned and worked, even during the worst vestiges of armed conflict. Thus, it is not necessarily physical distance and isolation that determine whether or not a plot lies abandoned after a successful restitution claim.

“We start the project because the magistrates order it and we of course cannot flee from our responsibility” Sabana's rural development director explained in exasperation at the end of our interview. “But in the end, a lot of money and resources are being lost. When they talk to us about land restitution it is such a drag (*nos da pereza*).” The drag being this: Land Restitution Magistrates could order the municipality to build a new house on the property, fix the roads, and hire technical experts to design agricultural programs without any attention to the logistical difficulties involved therein, nor the limits that land claimants' advanced age placed upon their ability to manage the land. Across my interviews with municipal officials in the rural development and victims' assistance offices (who are charged with overseeing restituted land claimants' well-being), they spoke of their duties to do what the Land Restitution Magistrates ordered on behalf of the victims, but also kept a reserved sense that land restitution was not in any one's best interests. Wouldn't it be better to just give them financial compensation, or buy them a piece of land closer to town? Wouldn't that be the best way to avoid all the thorny “second occupier” problems? From this municipal perspective, the degradation into which many restituted land parcels lapsed largely reflected an unsound combination of land claimants' age and capacity for agricultural work coupled with the Bureau and Tribunal's relative ignorance

about both the physical geography of the land and the technical details associated with successful agricultural management. The abandoned and overgrown plots represented a landscape beyond both land claimants' labor and state institutions' managerial capacity.

The combined sympathy for displaced victims and indignation at state incompetence expressed to me in interviews with municipal officials was largely unshared by the dozens of landowners throughout the region facing restitution claims. For them, the “victims”, the Bureau, and the Land Restitution Tribunal were equally suspect. In their eyes, the restituted land lying dormant or abandoned directly reflected the ruin that land claimants and the state were intentionally visiting upon the countryside. As such, land restitution opponents understood their efforts to contest the restitution process as a necessary bulwark against the dissolution of agricultural life as they knew it.

Section V: *The Liars' Landscape?*

Whereas the Bureau of Land Restitution refers to the act of restituting displaced claimants' parcels as an *entrega* (literally, a *handing over*), land restitution opponents opt for term *desalojo*, or *eviction*. Typically, on the day the Bureau of Land Restitution *hands over* the parcel to a restituted land claimant, they also arrange to have a moving truck to load the current owners' remaining possessions and remove them from the property. For land restitution opponents, this *desalojo* stands as a foundational moment of violence through which the restituted landscape is subsequently produced.

These eviction proceedings, however, do not go unopposed. Throughout Sabana and San Alberto, it has become common practice amongst local restitution opponents to alert one another when they find out the date a parcel will be restituted, and to organize protests in an attempt to block the proceeding. The Colombian Association of Victims of Land Restitution

(ASOCOLVIRT) has a *WhatsApp* chat group designed to alert members about upcoming restitution proceedings. During one of the first attempted restitution proceedings in San Alberto's *La Carolina* sector in May 2016, dozens of people gathered to block the Bureau caravans' access to the plot slated to be handed over to its displaced claimant that day. Their resistance attempts took an ugly turn when state riot police deployed tear gas to disperse their obstruction of the road leading to the parcel. This incident, whose footage restitution opponents widely shared on social media, has since stood as an historic marker of the restitution program's perceived depravity (Images 6.5 and 6.6)¹¹⁷



Image 6.5 Blockage, San Alberto I. Land Restitution opponents blocking Bureau of Land Restitution convoy from reaching San Alberto's *La Carolina* estate. "ASOCOLVIRT" can be seen on the back of a t-shirt at center (May 2016)

¹¹⁷Footage can be seen at <https://www.youtube.com/watch?v=fA35XibyRgk>



Image 6.6 Blockade, San Alberto II. Police using tear gas to disperse restitution opponents' blockage of road to San Alberto's *La Carolina* sector (May 2016)

During fieldwork, I witnessed several of these so called “blockades”, or *bloqueos* in both Sabana and San Alberto. In September 2017, the ASOCOLVIRT *WhatsApp* instant message group (to which I had been graciously invited) was abuzz about an upcoming *eviction* (*desalojo*) in San Alberto. A few days before the actual *handing over/eviction*, I spoke to the landowner whose parcel in the *La Carolina* sector of San Alberto was to be restituted to the displaced land claimant from whom he bought it in 1992. The Restitution Magistrates recognized the current landowner as a good faith “second occupier” who was therefore entitled to an equivalent piece of land in return for relinquishing property rights over their current parcel. Nonetheless, he and other land restitution opponents from San Alberto and Sabana were already busy organizing a blockade for the coming week on the road west of San Alberto leading to *La Carolina*.

I was, per usual, cordially invited as an “international voice” who could tell the world the dirty truth about the land restitution process. In an interview at his family’s small shop in downtown San Alberto I asked him if he felt it was still necessary to obstruct the restitution process

since he had been awarded compensation measures. “Absolutely!” he responded without hesitation, “We have to resist! That’s the only effective remedy.”¹¹⁸ “Remedy to what?” I asked. He then lowered his voice, as was typical when discussing ‘those people’, to tell me: “*La Carolina* ranch was *invaded*. It is a secret to nobody that in those times, the *invasions* were supported by the guerrillas. That is an open secret (*un secreto a voces*) that everyone knows. In 1989, 90, 91, 92, the guerrilla was in charge here.” To block the restitution proceeding was, simply put, to block the return of the guerrillas.

At this point, however, it was widely understood that such protests were largely symbolic. Ever since the *La Carolina* tear gas incident in May 2016, police and military detachments secured the parcel at least a day in advance to ensure the restitution ceremony could proceed. For many opponents, the best-case scenario was that the process would be delayed. This was the case, for example, on a parcel in the Magará sector of Sabana de Torres in April 2017 in which dozens of restitution opponents essentially clogged the entire homestead to prevent the ceremony from taking place (it was rescheduled for some weeks later) (Images 6.7 and 6.8)¹¹⁹.



Photo 6.7 Blockade, Sabana de Torres I. Restitution opponents blocking Bureau of Land Restitution’s access to restituted property, April 2017 (Photo: Author)

¹¹⁸ Interview, San Alberto, September 9th, 2017

¹¹⁹ Field notes, Sabana de Torres, April 24, 2017; see also case Sabana de Torres: Nov 28 2016



Photo 6.8 Blockade, Sabana de Torres II. Local military and police detachments preside over obstructed restitution proceeding, April 2017 (Photo: Author)

This particular *bloqueo*, just as the others ones I had witnessed, was unnerving-- not least due to the strong police and military presence. More disheartening, however, were the tremendous accusations that restitution opponents launched against land claimants, deriding them as “terrorists” who had stolen land in the first place and were now using the restitution process to do it again. One restitution opponent, loudspeaker in hand, bellowed that the “victim” was undoubtedly a guerrilla accomplice and fraud (*estafadora*) who had come to rob the current landowner of her property. The land claimant was an 80-year-old woman who sold the parcel in the early 90s after paramilitary troops summarily executed her two sons behind the ranch house. That morning, I watched her and her family gleefully meet with Bureau of Land Restitution officials in Sabana de Torres’ municipal square before setting off in the caravan that would take her to the small farm she had not seen in over twenty years. A few hours later, the “terrorist” accusations launched against her prevented her and her family from stepping out of the Bureau’s bullet-proof trucks parked outside the property perimeter.

Despite the aggressive nature of the mobilizations against restitution proceedings, current landowners’ remaining furniture and other possessions are typically loaded onto a moving truck and hauled away under the watchful eye of the police and military detachments’ protective

perimeter. Unsurprisingly, this footage doesn't make the cut to be included in the Bureau's promotional materials (Images 6.9 and 6.10). For land restitution opponents, the *bloqueos* and *desalojos* are the initial pivot points through which the violence of the restituted landscape refracts. The supposedly peaceful and productive plots the Bureau highlights are indelibly steeped in teargas and the exhaust from moving trucks.



Photo 6.9 Eviction, San Alberto I. Soldiers position a moving truck to remove evicted landowner's belongings from *La Carolina Plot #36*, September 2017 (Photo: Author)



Photo 6.10 Eviction, San Alberto II. Neighbors load evicted landowner's belonging into a moving truck. *La Carolina Plot #36*, September 2017 (Photo: Author)

However, restitution opponents in Sabana and San Alberto tended to read the restituted landscape as continually violent, even long after the protests have dissipated and the evicted owner has been removed from the property. For them, what land restitution leaves in its wake is not a more reconciliatory countryside, but rather a rural landscape tinged by the twin demons of “agrarian abandonment” (*abandon agropecuario*) and “juridical insecurity” (*inseguridad jurídica*). On the former, restitution opponents see dilapidated restituted land parcels as harbingers of future agricultural ruin and testaments to the deceitful character of the land claimant. Concerning the latter, restitution opponents fear that the very notion of private property itself may dissipate as a result of the land restitution process. This perceived dissolution of private property is rooted in two main factors. The first is quite direct: current landowners claim to have bought their parcels through standard land buying practices at a fair price. That the restitution process could summarily nullify their property rights, they claimed, showed that the very institution of private landownership was under attack. “You look all over Sabana and there are ‘for sale’ signs everywhere” a woman with a pending restitution claim explained to me.¹²⁰ “Why? Because of the ‘juridical insecurity’ (*inseguridad jurídica*) the land restitution process has created.” No one was buying land, she reasoned, because private property was no longer safe from the prying jaws of the restitution program.

The second factor relates to the recently ratified 2016 Havana Peace Accords between the Colombian state and the FARC. The Havana Accords only augmented restitution opponents’ sense of the impending demise of private property. “Point 1” of the peace agreements calls for an “integral agrarian reform” which includes, among other things, the creation of a multi-million

¹²⁰ Fieldnotes, Sabana de Torres, March 2017

hectare “land bank” from which land will be re-distributed throughout Colombia.¹²¹ At a meeting of land restitution opponents in an upscale steakhouse in Bucaramanga, I listened to the director of Fedegasán (the Santander Cattle Ranchers’ Union) assure those gathered that their cattle estates were in great risk of being appropriated to feed this “land bank”.¹²² Through the Victims Law’s land restitution process, he reminded them, they had seen how the state could simply steal their land. The consensus in the room was clear: the land restitution program was just greasing the wheels for the impending wholesale FARC capture of the countryside in light of the 2016 Havana Accords. Unless these concerned cattle ranchers did all they could—not least of which included supporting the rightwing *Centro Democrático* party in upcoming national elections—the very idea of private property would cease to exist. These interlaced anxieties stem from a *selective tradition* rooted in stigmatizing agrarian reform participants as vectors of the larger tide of communist guerrilla takeover of Colombia.

As I detailed in Chapters IV and V, the trope of land claimants as undeserving of land given their guerilla connections is well established and plays a central heuristic role in interpreting current landowners’ tribulations in front of the restitution process. This demonizing trope is continually mobilized to explain the ruination of the agricultural landscape that the restitution process is sure to bring. That is, the program will put land back in the hands of guerilla “narco-terrorists” who, due to their communist inclinations, have no idea how to productively manage land— except for the cultivation of coca.

Whereas Sabana’s director of rural development saw the dilapidated state of some restituted land parcels as evidence of land claimants’ inability to work land due to their age

¹²¹ See Point I *Hacia un Nuevo Campo Colombiano: Reforma Rural Integral* of the Havana Peace Accords: <http://www.altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFinal.pdf>

¹²² Field notes, Bucaramanga, May 14 2017

(coupled with the Bureau's technical ignorance of agrarian management), land restitution opponents interpret such dilapidation in a manner far less sympathetic to the displaced conflict victim. These interpretations are rooted in deep critiques of the agrarian reform measures that redistributed land throughout Sabana and, to a larger extent, San Alberto.

Over coffee with two land restitution opponents from San Alberto, they explained to me why agricultural ruination was to be expected from the land restitution process. "Everything stems from the epoch in which the current land claimants promoted those disturbances (*agitación social*) through the *invasions* of *La Carolina*, *Los Cedros*, and the *Tokio* estates in San Alberto," one of them began. "Those were very productive ranches, but what INCORA did was carve them up into little 16-hectare pieces, without viable productive projects, and put people who had no idea how work the land on them. Later, those people had to abandon or sell the land because they didn't know how to work it."¹²³ The woman seated next to him at the table was still aching from the eviction of her father from his parcel in San Alberto only two weeks before. After recounting the shame of seeing her father evicted from the property, she then continued: "The vast majority of the people who participated in these *invasions* did not possess an agricultural vocation. They faced a reality that simply was not theirs, and in light of these adverse economic conditions, what did they say? 'I am selling the land and leaving'." Honest, hard-working people like her father, she continued, later bought the land fairly and were now being unjustly robbed through the restitution process.

This common portrayal posits agrarian reform participants as uniquely unable to manage agrarian production. After all, they were only able to obtain land through *invading* the productive plots of successful farmers and ranchers, and therefore likely to abandon the land and leave it in

¹²³ Interview, Bucaramanga, October 18, 2017

a state of ruin. If that is what they did over twenty years ago, how could anything different be expected when the plots are restituted to those same people? This framing of present-day land claimants as unsuited for agrarian production rests on even more nefarious perceptions as to *why* they lack such abilities. “All of these *invasions* were nothing more than *recuperations* of land for the Communist party. The ELN, EPL, these guerrilla groups fomented these *invasions* in *La Carolina, Los Cedros, Tokio*...it is all documented. They entered the land, caused a disturbance, placed their people there, and now through land restitution they are trying to come back again” said the man as he defiantly crossed his arms. “Exactly”, chimed in the woman seated next to him. “And these were not peaceful movements. They were very violent.”

I dismissively catalogued their recounting of events as just another espousal of the same story dozens of land restitution opponents had told me over my months of fieldwork: guerrilla pawns (today’s land claimants) invaded land throughout the Magdalena Medio, then deservingly lost it, and now wanted to unjustly claim it again through the restitution process to re-establish guerrilla territorial influence. Yet I slowly began to see a more nuanced connection between this framing and the perceived fear of future agricultural ruin. Land claimants had lost their land either because they didn’t know how to properly manage it and therefore sold it, or because they were routed by paramilitaries given their guerrilla connections. After some time, I realized that for many land restitution opponents, these two facets were intimately connected. Land claimants did not know how to work their land precisely *because* they were guerrilla associates. Over decades, the trope of the depraved Communist *guerrilla* had been constructed in contradistinction to the virtuous, innocent, and hard-working *campesino* or rancher (*finquero*) who, unlike their leftist-leaning counterparts, actually knew how to work land. The *invasions*,

this line of thinking went, were precisely about robbing land from those who productively worked it.

Contrary to the officially stated goals of agrarian reform legislation, these processes were not about creating a more just and productive countryside, but of eviscerating agrarian production by putting land under guerrilla control. Those who obtained the land through agrarian reform measures were not proper *campesinos* who could work, appreciate, and make land productive. They were mere guerrilla pawns enveloped in a project of Communist takeover and ruin. The “ideological smokescreen” blanketing the land restitution process today rests upon this construal of land claimants, and the restitution process writ large, as vectors of communist ruin (Lopera 2016).

A central facet of land restitution opponents’ resistance, therefore, highlights the impending agricultural destitution they believe the restitution process is *designed* to perpetuate. Toward this end, restitution opponents have widely circulated videos and other media materials to visualize what they believe the restituted landscape will actually look like. In one prominent video, a landowner in San Alberto’s *La Carolina* sector leads a camera crew through a verdant field, overgrown with tall grass (Images 6.11 and 6.12). The plot, he explains, was restituted over six months ago but now lies in a state of ruin. He is sure to contrast this plot’s unyieldingly tall grass with the neatly kempt short grasses of the neighboring cattle pastures. He takes special care to point out the downtrodden barbed-wire fence resting limply on the sea of weeds engulfing it. “Supposedly they restituted this land because the claimant needed it to work, but look at it now. They recuperated it simply to harm those of us who *do* work the land.”¹²⁴

¹²⁴ Footage can be viewed at: https://www.youtube.com/watch?v=scRUgEM_w2c



Image 6.11. Downed barbed-wire, San Alberto. Land owner decries the decrepit barbed wire fencing on neighboring restituted land parcel in *La Carolina*, San Alberto. The restituted land claimant, he claims “lacks the *campesino* vocation to work the land” (August 2016)



Image 6.12 Abandoned Field, San Alberto. Weeds overgrowing once presumably pristine cattle pasture on restituted land plot in *La Carolina*, San Alberto (August 2016).

This notion of *abandono agropecuario* traversed various temporal frames. It was used to highlight the ruin visited upon already restituted plots, as well as the desolation that awaited the countryside in the future. One morning I stood on the side of the road with a woman who worked on a plot in *La Carolina* whose owner had recently lost a restitution claim. As we gazed out over

the smooth expanse of green pasture, bordered by tall hedges of oil palm, the woman fretted about how she would surely lose her job once her boss was stripped of his land. “And all this will be gone as well,” she said as she pointed out over the short pasture grass. “It will all be overgrown, it will all be weeds. It will be gone” she stated, placing her hands over her eyes to block the sun’s glare.¹²⁵ It was only a matter of time, she posited, before the claimant who obtained the land through the restitution process would destroy (*acabar*) what the land’s present owner had spent so much time building.

Some weeks earlier, I visited one of the only plots in the nearby *Tokio* estate that did not have a pending restitution claim against it. The large concrete house was clean and breezy, surrounded by equally immaculate cattle and horse stables. “See what happens when you actually work for a living,” the owner told me, drawing an intentional comparison between himself and the “shameless people” (*sin vergüenzas*) claiming restitution rights over the neighboring plots. We had spent that morning on one such plot whose current owner had successfully defended one of his parcels against a restitution claim only to have another launched against his neighboring piece of land. As we traversed the pasture on horseback, he told me about the 90 million pesos (approximately \$30,000 USD) legal debt he racked up defending his land. He pointed to the still well-kept pasture, saying that because of the pending restitution claim he could not afford to keep his own cattle. “I have to rent out my pasture in the meantime to someone else’s cows”, he said.¹²⁶ He then pointed to the irrigation ditch he had built some years earlier. It was back-breaking work, he recounted, and soon it might possibly belong to someone else. His son, only half-jokingly, quipped that descendants of the crocodiles to which the paramilitary leader ‘Camilo Morantes’ infamously fed his victims swam up the ditch from

¹²⁵ Filed notes, San Alberto, August 18, 2017

¹²⁶ Field notes, San Alberto, July 23, 2017

time to time. What was ultimately most present for the current land owner was the potential ruin hanging over all the work and improvements he had put into the land. His property rights would be nullified if he lost the restitution case, and he was sure that the claimant would drive the pasture and ditch into an utter state of disrepair. “It really does pay to be a thief in this country” he gloomily concluded looking out over the pasture.

Against these demonizing portrayals of displaced land claimants, I tried on several occasions to interject a counter-position. I was always rebuffed. When I explained to one landowner that many land claimants couldn’t return due to their age, or perhaps because they feared coming back to the land, he immediately shot back: “They don’t return to their parcels because they understand their sins”.¹²⁷ If the parcel stands abandoned after the restitution process, it was because the land claimant rightly understood that they may be forced to answer for their guerrilla misdeeds should they return. In another instance I recounted to a woman evicted from her parcel that many of the land claimants I spoke to felt shame for what happened to the current land owner, and they had no wish for them to lose their property. “It’s not shame,” she retorted. “It’s fear”.¹²⁸ Fear, that is, they might be exposed for the guerrilla thieves they really were and thus forced to confront reprisals for the pain and suffering their lies had caused. In the meantime, a handful of overgrown pastures stand in as the objects of blame.

Conclusion

This chapter holds in tension varying perceptions of the restituted landscape. Predominantly, the Bureau of Land Restitution represents restituted land parcels as simultaneously peaceful, productive, and under the purview of state institutional commitments to human rights protections. In contrast to these idealized landscapes of small-holder production,

¹²⁷ Filed notes, San Alberto, July 27, 2017

¹²⁸ Field notes, Sabana de Torres, August 16, 2017

municipal officials charged with the day-to-day oversight of restituted parcels fret over the alarming high rates of abandon and dilapidation they see on the plots. For them, fields choked with weeds and down-barbed wire fences reflect the Bureau's territorial ignorance; that is, their misunderstanding of the intricacies of rural production and the limited capacities elderly displaced conflict victims have to make their land "produce" in a way consummate with the land restitution program's goals. Finally, oppositional landowners see rural abandon less as a sign of ignorance than of malfeasance. Present day land claimants are yesterday's "victimizers" who usurped land as a part of guerrilla territorial expansion. As "communists" who only know how to steal as opposed to work for a living, these land claimants left their restituted plots in an unsurprising state of ruin.

Grappling with the restituted landscape shows us more than divergent "ways of seeing" (Berger 1967) the material interventions in land that the Victims' Law makes possible. For landscapes as "contested terrains of practice", writes Donald Moore, becomes "less a mute backdrop to human agency than formative to cultural politics and identity" (2005:23). In this sense, the landscape stands as a simultaneously material and symbolic marker of groups' understanding of themselves, their place in history and their relationship to the nation.

If landscape serves as a particular "cultural medium" through which "the State" comes to naturalize or make its presence appear inevitable (Mitchell 1994; Nouzeilles 1999), then the counter-optics of landscape that land restitution opponents make visible signal their refusal to be interpellated as willing subjects within the land restitution program's processes of state formation. For land restitution opponents, these undesired and incomprehensible changes to landed production and the landscape signal a "complete upending of how the world works" (Bobrow-Strain 2007: 159) premised on a negation of the unqualified legitimacy of their

property as well as their historical sense of the causes and consequences of Colombia's armed conflict. For land restitution opponents, the loss of land to the restitution process is a simultaneous loss of bearing within politics and history. In many ways, the trope of the vicious and unscrupulous guerilla plague is the most readily acceptable means of making sense of the unconceivable treachery of losing land bought under the presupposition of legality and worked with consummate dedication and investment for years.

For the Bureau of Land Restitution (and the political emphasis on human rights norms through which it was mobilized), the image of the innocent, restituted land claimant who securely and productively manages land is thus much more than a symbol of re-inscribed state adjudication of rural property and accompanying interventions in landed production. The restituted landscape is—however tenuously—a reflective fragment of how a world once upended by conflict ought to work. The perceived success of this (re)constituted landscape cannot be simply measured by newly legitimated formal property documents or positive metrics of small-holder agrarian production. For this “restituted landscape” was made by upending a previous one. To the extent that such an “upending” is cemented as a transparent, cautious and legal means of rectifying forced displacement, the restitution process has taken a valiant albeit imperfect step toward atonement for ghastly legacies of violence. Conversely, to the degree that the previous upending in rural property relations is understood as nefarious, corrupt and negligent, then land restitution paradoxically sits as a continuation of the violence it purports to amend.

It is not my intention to resolve wholly on one side of the two competing perspectives mentioned above. Rather, it is to demonstrate as clearly as possible how land restitution in the Magdalena Medio is an indeterminate project. These indeterminacies bridge divergent

understandings of past histories of conflict, disparate positionings with respect to internationally grounded legal mechanisms, and contradictory framings of legitimate arbitration of rural property rights and landed production. Cumulatively, these indeterminacies are about something much more basic and fundamental: they signal the opaque character of land restitution as a practice of reparation for, yet potential source of, violence.

CONCLUSION

Introduction

Over the course of the previous chapters, I have approached the Victims Law's land restitution program as a series of enframing practices. These interrelated practices conjure the spatially abstract jurisdictional and property units through which forced displacement is grafted into a grammar of state legibility. The continued enframing of the constitutive inside-outside of Colombia's armed conflict through the Victims' Law unfolds via the designation of which properties and areas lies within the program's scope, and which do not. This delineation is complimented by a temporal bounding that sets 1991 as an abstract, state-sanctioned cut-off date for restitution claims. Finally, the law sanctions certain observing subjects, namely Bureau of Land Restitution officials and Land Restitution Court and Tribunal judges and magistrates as the privileged arbiters of the historical causes and consequences of forced displacement.

My aim in using this analytic framework has been twofold. First, I sought to show how the Victims' Law conceives of forced displacement as a legal problem and mobilizes juridical mechanisms in order to implement the land restitution program. Mitchell's notion of enframing, in this regard, helps convey how the Victims' Law enframes forced displacement and land restitution as a judicial exhibit. My second reason for using an enframing approach has been to gain analytical purchase on current landowners' opposition to the restitution program. Their opposition, I maintain, is premised on the manner in which the land restitution program not only disrupts their property claims but also enframes their historical narratives of the causes and consequences of conflict on the Victims Law's juridical "outside".

Restitution, as I have endeavored to show, involves far more than the arbitration of present-day property relations affected due to armed conflict. It also hinges on contested

arbitration of the very history of that conflict and its association with patterns of forced displacement. By way of conclusion, I wish to reorient my focus away from disputes about the past toward a consideration of the land restitution program's precarious future. I do so in order to highlight how the controversies detailed in the previous chapter portend continued struggle over the material implementation of the land restitution program and its overall symbolic significance.

As I approached the halfway mark of my fieldwork in July 2017, the rage and frustration that landowners felt concerning the Victims' Law had taken on a routine rhythm. My fieldnotes were overflowing with testimonies concerning the uncertainty, financial stress, and sense of humiliation associated with defending a land parcel in the Restitution Tribunal. Landowners' accompanying accusations leveled against land claimants as lazy, conniving guerrilla sympathizers were equally commonplace. Over seemingly endless cups of coffee, they had made their point clear to me. Despite my profound disagreements with their narrative, I was impressed by its consistency: the guerrillas and their pawns invaded the land, lost it because they were criminals and didn't know how to work it, and were now using the restitution program to rip property away from its rightful, current owners. It was a story everyone seemed to know quite well.

Amidst these tales repeated to me *ad nauseum* during interviews, I was shaken out of my stupor one afternoon while speaking to a dairy rancher on the patio of his house in the *Tokio* estate in San Alberto. After recounting to me how he had purchased his land from governmental INCORA offices more than twenty years ago—and how he was certain the former owner was an ELN associate using the land restitution process to steal back the property—he passed a letter to me across the table. “This started floating around last week,” he said, “and everyone around here has received it.” The words, “Autodefensas Gaitanistas de Colombia” (ACG, or Gaitanista Self

Defense Forces of Colombia), were emblazoned across the top of the page. It was dated July 16th, 2017, having only been issued a few days before our interview. At times referred to as the Clan del Golfo or Clan Usuga, the ACG is Colombia's most powerful "neo-paramilitary" organization, comprised largely of former AUC paramilitary soldiers who refused to demobilize under the auspices of the 2005 Justice and Peace Law. I silently read through the one-page letter, whose text was printed in the standard ALL CAPS and signed at the bottom by alias "J.J.", commander of the David Hernandez Rojas block of the ACG. I knew it was common practice for both guerrilla and paramilitary groups to distribute such communiques, but my stomach nonetheless pitted up as I read the last few sentences:

IN THE PAST WE PROMISED TO ATTACK ALL GUERRILLAS AND DELINQUENTS, AND TODAY NEITHER OUR HANDS NOR FINGERS ON THE TRIGGER WILL SHAKE AS WE PROTECT ALL HONEST AND HARDWORKING PEOPLE. WE INFORM ALL POLITICIANS THAT THIS REGION IS CAPTURED BY CASTRO-CHAVISTA COMMUNISTS AND THIS IS SOMETHING WE CANNOT PERMIT. WE ARE ALERT AND OUR MILITARY OPERATIONS WILL PREVENT THE THEFT OF CATTLE AND THE EXTORTION OF ENTREPRENEURS, PALM GROWERS, MERCHANTS, AND RANCHERS. TO ALL THOSE SCHEMING LAND RESTITUTION CLAIMANTS, WE SAY TO YOU: CLAIMING WHAT IS NOT YOURS WILL CARRY CONSEQUENCES. TO THOSE COMMUNIST S.O.B CAMOFLAGED AS HUMAN RIGHTS DEFENDERS, WE SAY TO YOU: WE KNOW WHO YOU ARE, AND YOU ARE OUR PRINCIPLE TARGET.

It took little to imagine what "consequences" land restitution claimants may face in light of these paramilitary accusations. I finished reading the letter and asked the dairy rancher sitting across from me what he thought about it. "*Está demorada*" he said. I first interpreted his response in its most direct translation as "it's late." I took this to mean that he felt surprised that paramilitary *communiques* like this were just now appearing given all the commotion that the land restitution process had caused. Everyone knew that the neo-paramilitary structures still operated in the region and that it was just a matter of time before they shared their "thoughts" on the land

restitution process. Yet as I pondered his response— “*Está demorada*”—another more nefarious translation occurred to me: “it’s about time.” That is, given the extreme hardship the land restitution process had caused for landowners like him, perhaps he felt that someone needed to do something about it. I turned over his words— “*Está demorada*”—and their multiple translations in my mind for a few moments longer before I asked him to clarify what he meant. He stared back and pointed to the letter. “If I lose this ranch, I’m with them.”

I tried to reassure myself that he was just venting deeply-held frustration and that I wasn’t sitting across the table from a future paramilitary soldier. After all, he had been forced to make monthly extortion payments to Juancho Prada’s paramilitary group two decades before when they used the nearby school house as a base of operations. He, like many in San Alberto, was a paramilitary victim. Yet that did not stop his apparent identification with their goals, or at least his tacit support of their threats to stop the land restitution process dead in its tracks. No wonder, I thought to myself, land owners like him have to consistently deny the accusations of paramilitary collaboration launched against them. He was a heavy set, at times bellicose, cattle rancher who often engaged in seemingly endless soliloquies about the leftist plague haunting Colombia, typified by the communist specters pulling the strings behind the scenes at the Bureau of Land Restitution to conspire to steal his land. He knew how to work the land, and unlike the shameless communists coming to steal his property, knew how to *work* in the first place. In short, he seamlessly cut the profile of the reactionary “bad guy” landowner who all too easily serves as the uni-dimensional foil against *campesino* and indigenous mobilizations for more just agrarian relations (Bobrow-Strain 2007). In Colombia, these landowners are readily portrayed as direct paramilitary usurpers of land—or, barring that, as *testaferros* (straw men) who own and occupy land as loyal associates of paramilitary forces.

In this sense, this dissertation has sought to tell the story of the Victims Law's land restitution process from the perspective of these otherwise "bad guys" who currently own land once presumably abandoned or stolen due to armed conflict and who in many cases espouse a certain affinity with political projects that have for decades propelled Colombia's violent agrarian counter-reform. In trying to cast these characters in a more than uni-dimensional light, I do not aim to establish their guilt or innocence concerning how they obtained their present-day landholdings. In that respect, I have deferred to the Land Restitution Tribunal's rulings in the Magdalena Medio which have— in a limited number of cases— recommend criminal charges against current landowners, yet in the majority of cases present no formal evidence of current landowners' direct or indirect associations with illegal armed groups.

To be sure, just because the Tribunal recommends charges against someone does not mean that he or she is guilty, nor does the lack of charges cement the persons' innocence. Rather, Victims Law's unfolding in the Magdalena Medio has shown that the dominant supposition that stolen or abandoned land is now directly owned or occupied by the groups responsible for forced displacement is limited and in many instances false. The juridical firepower of the Victims Law's "good faith with due diligence" provision is indeed necessary to in order to detect legally sophisticated and malfeasant means of acquiring land during armed conflict, yet it is a legal mechanism imperfectly suited for a reality in which many current owners of once stolen or abandoned land acquired their holdings without personal recourse to violence.

The significant emotional and financial stress that landowners assume in defending their property against restitution petitions in Land Restitution Tribunals cannot be denied. In the best-case scenario, a land owner may prove he or she bought land in "good faith with due diligence" or that his or her vulnerable socio-economic situation qualifies them for the "second occupier"

compensation measures that the Constitutional Court established relatively *ad hoc* in 2016. Yet even in those cases, landowners are left with substantial legal bills, not to mention the lost productivity from agrarian projects put on hold while the legal knots concerning the land are tortuously untangled. Across my interviews with current landowners in Sabana de Torres, Rionegro and San Alberto, the actual or potential loss of their land undoubtedly placed them on the edge of the precipice.

Largely, they made sense of the impending abyss through a political-historical framework that blamed the incomprehensible challenges to their private property squarely on Colombia's timeless foe—*la guerrilla*. As I showed most directly in Chapter II, labor unions, human rights organizations, *campesino* movements and alternative political parties have all endured these *guerrilla* accusations and their violent consequences, especially in the Magdalena Medio. To suture present day land claimants into these stigmatizing tendencies therefore hardly requires any substantial reworking of commonly held historical perceptions about the causes and conflict of war in Colombia. It is rather a fairly streamlined process of (re)placing once victimized people into a discursive framework that casts them as responsible for any violence they may have experienced in the past and therefore as tacitly available for reprisal violence in the future.

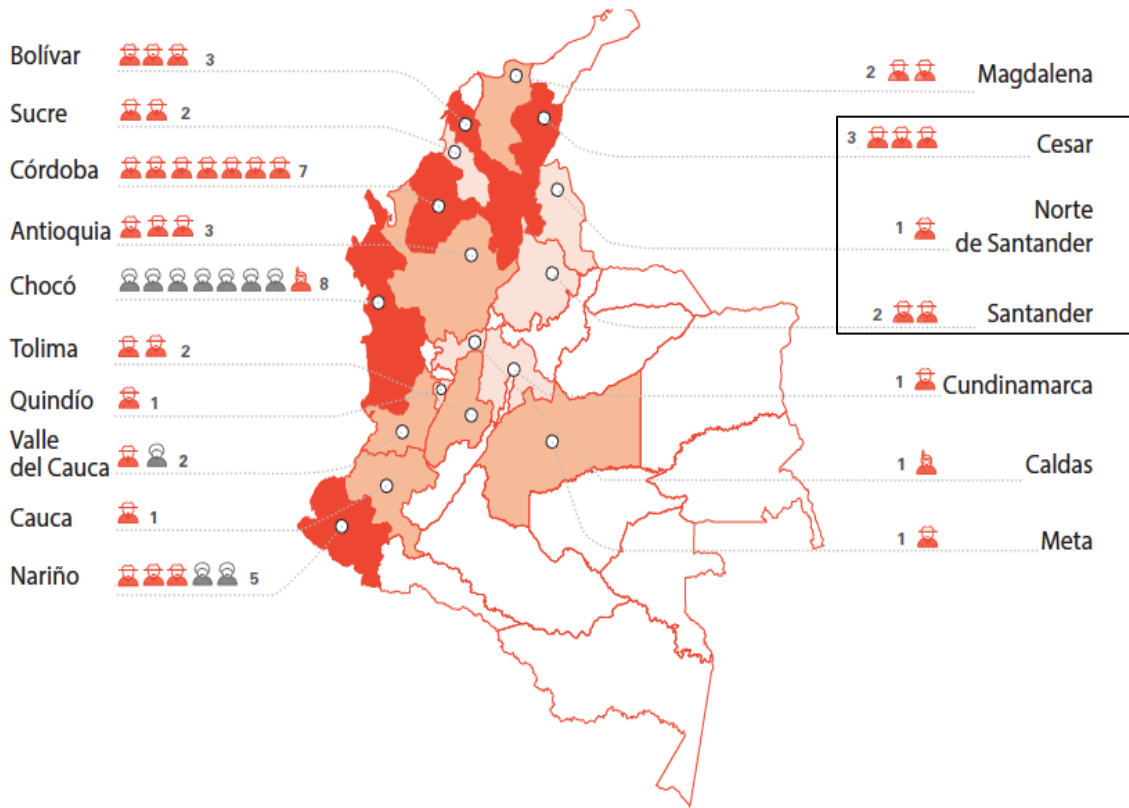
As such, when the afore mentioned dairy rancher confided that he would cast his lot with the paramilitaries if he lost his ranch, he indexed one of the Victims Law's central difficulties: a program meant to address past legacies of violence ran the very real risk of becoming imbricated in future violence. By way of conclusion, then, this chapter aims to offer some tentative remarks on how the land restitution process has become stitched into present and future facets of Colombia's enduring war. In Section I, I address the direct violence perpetrated against land claimants. In Section II, I note the new, hostile political reality into which the Victims' Law has

entered after Colombia's 2018 national elections. In Section III, I note directions for future research concerning the restitution program. In Section IV, I draw concluding remarks concerning the nature of law as a practice of rendering conflict legible in order to provide redress for violence.

Section I: *Violence against land claimants*

The first assassinations of land claimants in Santander happened early on in the restitution process. In 2013, two *campesinos* associated with the Peasant Workers' Association of Carare in Lanaduzzuri, Santander were murdered by paramilitary units, presumably for their efforts to reclaim land in a predominantly afro-descendent region of Santander known as La India (El Espectador 2013). On the national level, assassinations such as these are anything but isolated events. By 2018 various governmental and human rights organizations came to recognize violence against land restitution claimants as not only "systematic" but as having increased substantially after the 2016 Havana Peace Accords. According to a 2018 nation-wide report on violence against land claimants, Colombia's General Inspectors Office concluded that those assassinated due to their participation in the land restitution process generally "belonged to rural *campesino* and ethnic organizations that opposed extractivist economic models and the associated ecological harm caused due to the expansion of mining and agroindustry" (Gómez 2018). The assassination of land claimants has largely taken place in regions along both the Atlantic and Pacific Coasts, in areas defined by overlapping agro-industrial, cattle ranching, mining and narco-trafficking interests (see Conclusion 1)

Homicidios de DDT en proceso de restitución



Map Conclusion.1 Assassination of Land Restitution Claimants. (General area of field sites highlighted)
Source: General Inspectors Office 2018:22.

While the General Inspectors’ report determined that 45 people had been assassinated given their association with the land restitution process as of 2018 (29 of whom were direct restitution claimants, twelve of whom were immediate family members of land claimants, and four of whom had yet to officially launch restitution claims), the Bureau of Land Restitutions puts that number at forty. More than differences in methodology, the divergent statistics offered by the General Inspectors Office and the Bureau of Land Restitution are largely due to the Bureau’s strict confidentiality measures concerning restitution proceedings, meaning that the Bureau only makes exceptionally minute details about restitution claimants available, even to other state entities (General Inspectors Office 2018: 19-20). Other estimates suggest over that

well over seventy land claimants have been killed (Thomson 2017). This figure—whether of forty, forty-five or seventy-plus assassinated land restitution claimants—certainly points to the significant risk that claiming stolen or abandoned land entails in Colombia.

However, this number only begins to approximate the larger waves of violence that have taken place against civilian social leaders in Colombia *after* the historic 2016 Havana Peace Accords. Since then, nearly 500 *campesino*, indigenous and afro-descendent social leaders and human rights defenders have been assassinated as part of an overall precipitous rise in violence against civil society in Colombia (Vanguardia Liberal 2019). This cruel new chapter of violence comes amidst a complex political and social reality in which the partial demobilization of the FARC has left so-called “power vacuums” which other guerrilla, paramilitary and narco-trafficking organizations have desperately sought to control. Amidst these turf wars, industrial-extractive interests in land remain unabated. Accompanying these varying facets, as the next section demonstrates, Colombia’s 2018 national elections reoriented the Colombian government toward a more traditionally militaristic approach to dealing with conflict.

Section II: *An Anti-Peace Politics*

The rightward political shift that Colombia witnessed in the 2018 congressional and presidential elections stemmed in significant part from virulent opposition to the 2016 Havana Peace Accords, premised on a tacit favoring of a more militaristic, hardline approach to dealing with guerrilla groups in Colombia (Coronado 2019). The Victims’ Law, too, was implicated in this political shift to an overtly more “strong hand” (*mano firme*) preference for addressing continued guerrilla activity. As a member of the House of Representatives, Maria Fernanda Cabal staked her ambitions to be elected to the Senate in 2018 on what she portrayed as her valiant quest to protect innocent landowners from the scourge of land restitution. During her

campaign, she gave a particularly controversial interview with Bucaramanga's *Vanguardia Liberal* newspaper, in which she referred to land restitution as a "farce." She repeated her well-hewn perspective that guerilla groups had propelled the "land invasions" through which INCORA retitled land throughout the Magdalena Medio, and that many of those now claiming land restitution rights had undeniable guerrilla links (Vanguardia Liberal 2018).

In the 2018 national elections, Cabal rode a wave of right-wing resurgence throughout Colombia in which she was elected to the Senate. Along with her, former *Centro Democrático* president Álvaro Uribe Velez was re-elected to the Senate, while Uribe's hand-picked successor Iván Duque Márquez was elected president. As mentioned, the hard-right *Centro Democrático* party's electoral resurgence stemmed in great part from their successful "No" vote against the October 2016 plebiscite concerning the Havana Peace Accords between the Santos administration and the FARC. In their eyes, the 2011 Victims' Law was the precursor to the Santos administration's legislative capitulation to guerilla demands in Havana in 2016. In the 2018 elections, both the Victims' Law and the Havana Accords were thus discursively lumped together as guerilla corruptions of state legitimacy. The campaign poster for current President Duque strikes a familiar chord of *Centro Democrático* critique against the Victims Law—namely that it robs innocent people of their land to the benefit of guerilla narco-terrorists (Image Conclusion.1).

Las TIERRAS que vamos a quitar son
a las Farc, al ELN y al Narcotráfico
NO a la GENTE de Bien.



Image Conclusion.1 Iván Duque 2018 Presidential Campaign Poster “We will take away land from the FARC, ELN and Narcotraffickers. NOT from decent people.”

As a newly-elected Senator, Maria Fernanda Cabal has since assumed the position as the land restitution program’s most ardent political opponent. In particular, landowners from Sabana de Torres and San Alberto served as her primary examples of the Victims’ Law’s treachery, many of whom Cabal invited to the capital building in Bogotá in October 2018 to testify in front of a congressional committee about the injustices they felt they had suffered due to the restitution program. These landowners were invited to Bogotá principally to help propel Cabal’s unfolding political project (Law 131 of 2018) which proposes substantial modifications to the Victims’ Law.

Specifically, Law 131 of 2018 (if passed) would essentially eviscerate the good faith with due diligence provision and substantially increase the restitution program’s time and cost by giving current landowners greater latitude to appeal magistrates’ decisions (Senado de Colombia 2018). Through deft political exploitation of the good faith with due diligence controversy, Cabal claims to be protecting innocent landowners. However, the Victims’ Law’s proponents immediately deemed Law 131 of 2018 an attempt to weaken the restitution program to enable agro-industrial and other interests to hide the violence they relied upon to expand their

landholdings and thus tacitly legalize forced displacement (El Espectador 2018a). At the time of this writing, it is unclear what prospects Cabal's changes have of being implemented as they continue to wind through the legislative process.

Nonetheless, upon assuming office in 2018 President Duque nominated a new national Bureau of Land Restitution Director to replace outgoing director Ricardo Sabogal. The nomination of current director Andrés Augusto Castro Forero drew immediate concern given that from 2004 to 2013 he served as an executive of FEDEPLAMA, the main agro-industrial palm oil corporation syndicate in Colombia. Castro's promotion to lead the Bureau of Land Restitution raised obvious red flags given that Bureau of Land Restitution is currently addressing several thicketed restitution claims against palm oil corporations in Bolívar and Cesar provinces (Verdad Abierta 2018e). Again, it is early to speculate the overall impact of Castro's appointment will have, especially on cases involving the agro-industrial interests of which he was a direct representative of for over nine years.

Hearings in front of the 172nd Inter-American Commission of Human Rights session held in May 2019 do, however, offer some insight on the future obstacles the restitution program is set to face. During this Commission session in Kingston, Jamaica, a group of twelve Colombian human rights organizations laid out their concerns with both the restitution program itself and renewed governmental steps to undermine it. They noted that to date the Victims' Law had restituted approximately 350,000 hectares in eight years, falling drastically short of the six-million hectares the program was originally intended to restitute. Recent governmental pressure to strictly enforce Victims Law's 2021 sunset date (through Decree 1167 of 2018) suggests that, without a significant extension, the vast majority of land sold or abandoned due to armed conflict will never come under the purview of the restitution program.

As the NGO report submitted to the Inter-American commission concluded, renewed governmental efforts to draw the restitution program to a strict close in 2021 attempt to “close the chapter on displacement in Colombia...[these actions] are oriented toward an erasure of the violent dispossession of massive tracts of land throughout Colombia, in a context in which land restitution is not being fully completed and there are new, massive displacements of *campesino* and ethnic communities throughout the country.”¹²⁹ To suspend the land restitution program, the report suggests, is to not only siphon off historical investigation and litigation over past waves of forced displacement, but to foreclose that same possibility for contemporary and future processes of forced displacement as well.

The report presented to the Inter-American Commission noted continued pressure from mining and agro-industrial interests to oppose the restitution program. Most alarming, however, was the fact that various governmental agencies including the National Hydrocarbon Agency, the National Infrastructure Agency, the National Mining Agency and the partially state-owned oil company Ecopetrol had all taken oppositional stances toward the restitution program. The capacity to undermine the Victims’ Law from *within* state institutions—especially those that facilitate mining extraction and agro-industrial extraction—thus stands as one of the central pillars of ongoing concern for the restitution program (for a recounting of the Commission meeting, see Verdad Abierta 2019). The Duque administration’s continued pivot toward placing mining and agro-industry at the center of the Colombian economy portends ominously for the restitution program writ large.

¹²⁹ Quoted in Verdad Abierta 2019

Section III: *Directions for Future Research*

Amidst the challenges highlighted above, there are a number of pressing empirical concerns for future research on the land restitution program. In this section, I identify two: the Bureau of Land Restitution's rejection of petitions and the post-restitution sale of land. While these foci stem from observations about the particular unfolding of the restitution program in Sabana de Torres, Rionegro and San Alberto, they point to larger issues concerning the Victims' Law and how it aims to address entrenched legacies of violent displacement, land concentration and continued agro-industrial/mining expansion.

Bureau of Land Restitution petition rejections

The May 2019 Inter-American Commission of Human Rights session on Colombia's land restitution program raised important concerns about the difficulty conflict victims face in launching successful restitution petitions. During the hearing, it was noted that the Bureau of Land Restitution had rejected a full 64% of restitution petitions filed to date. Thus, only 36% of restitution petitions filed to date have been presented before a Land Restitution Court or Tribunal.¹³⁰ The Bureau of Land Restitution does not disclose the particular reasons for which it declines to accept restitution petitions. Should this information possibly become available, it will be incumbent on future scholars to thoroughly analyze which factors resulted in Bureau of Land Restitution rejections. Were formal plots more likely to be accepted compared to plots with only informal property claims? Did a parcel's proximity to industrial land holdings affect its chances of inclusion? What percentage of land claims leveled against current mining or agro-industrial land holdings did the Bureau of Land Restitution reject? These are just a few important questions that remained to be addressed in their geographic specificity by future restitution scholars. The

¹³⁰ Of the 36% of petitions that have made it to trial, approximately 12% have a finalized ruling while the remaining 24% are still being arbitrated (Verdad Abierta 2019).

Bureau of Land Restitution’s rejection of petitions was certainly pronounced in Sabana de Torres, San Alberto and Rionegro. To date, only a very small fraction of the restitution claims in these municipalities have been arbitrated. At the time of writing, it is impossible to know with certainty what percentage of these claims have been rejected and which are still awaiting a final administrative or judicial decision. However, as the table below shows, a significant majority of the restitution claims in Sabana de Torres, San Alberto and Rionegro do not have a finalized judicial ruling. It is possible that some cases are still awaiting arbitration, but the figures suggest that the Bureau of Restitution has indeed rejected most claims in these areas.

Municipality	Total Petitions Filed (as of June 2019)	Petitions with Judicial Resolution (% of total)
Sabana de Torres	532	35 (6.5%)
Rionegro	272	28 (10.3%)
San Alberto	455	33 (7.3%)
Totals	1259	96 (7.6%)

Table Conclusion 1. Restitution Petitions Filed and Petitions Judicially Resolved. **Source:** Estadísticas Solicitudes Restitución Discriminadas Municipios (<https://www.datos.gov.co/Agricultura-y-Desarrollo-Rural/Estad-sticas-Solicitudes-Restituci-n-Discriminadas/s87b-tjcc>)

As these figures suggest, only a select few restitution petitions to date have a finalized sentence from Land Restitution Courts or Tribunals. It is reasonable to suspect that the remaining petitions, rather than currently awaiting trial, have been rejected by the Bureau of Land Restitution. Because formal documentation detailing these rejection decisions is not currently available, I can only comment speculatively on why the Bureau of Land Restitution decided these claims lacked merit. To answer that question, the Bureau relies on a stock of three answers as to why claims are generally deemed non-applicable for restitution rights: armed conflict was

not the direct reason (*nexo causal*) why a property was sold or abandoned; the property was sold or abandoned before the 1991 cut-off date; or the property lies in a jurisdictional unit not currently “micro-focalized”, or slated for restitution proceedings.

For those who have had their restitution petitions rejected, however, these bureaucratic justifications offer little salve for still open wounds. In March 2017, I met with a group of former INUDPALMA palm-oil workers who had fled San Alberto in the early 1990s due to the paramilitary onslaught against unionized workers detailed in Chapter II. As we sat together in a sweltering office in downtown Bucaramanga, this group of seven displaced conflict victims recounted the sheer terror they felt in light of ever-visceral paramilitary threats and why they chose to sell or abandon their houses in San Alberto in order to flee. That *all* of their restitution petitions had been rejected the prior year added an additional layer of painful victimization upon the horrors they had already experienced decades earlier in San Alberto. While I was unable to specifically examine the Bureau of Land Restitution documents substantiating the rejections, the land claimants said they were rejected because the Bureau determined they sold their houses of their free will and not as a direct outcome of violence.¹³¹

All of the former palm oil workers with whom I was gathered that afternoon had endured the taunting stigmatization of guerrilla accusations at their time of their displacement, and with the unfolding “second occupier” controversy, they were re-living all of the same incriminations of being guerrilla pawns who sought restitution rights over land which was not rightfully theirs. In a certain ironic twist these displaced land claimants--like the current landowners who so routinely demonized them-- shared a perception that the Bureau of Land Restitution was

¹³¹ In a similar pattern, across San Alberto, Sabana de Torres and Rionegro, Land Restitution Magistrates have ruled against land claimants in multiple cases. While the particular details vary, magistrates typically determine that—even if the claimant experienced direct violence—it was not the direct reason (*nexo causal*) why they sold or abandoned their property.

politically co-opted and willfully ignorant of what “really happened” in the region. Yet their diagnosis approached the problem from an opposite angle. As one of the former palm oil union members explained to me:

After the massive anti-restitution rally in San Alberto in April 2016, all of the restitution rulings started to come out against the land claimants. Those same groups that displaced us are now covering up the truth, claiming that nothing happened there. And the [Restitution Magistrates] believe them! Every time they rule against us, they are saying that ‘nothing happened’ in Cesar. But that’s what the judges do not understand. Well, it’s that they have political pressure and because of that they are denying what really happened and telling us that we left San Alberto simply because we wanted to.¹³²

As he attempted to regain a sense of calm after recounting the indignities to which the restitution program had subjected him, the woman sitting next to his side intervened:

There is something extremely important to add to all of this. It is not just that we can *prove* that there was forced displacement. It’s that there is *overwhelming* proof, and that proof is the death of all of our *compañeros*. All of these assassinations are the stark, irrefutable proof that there was in fact violence. I saw all of this when I worked in INDUPALMA in the late 1980s. But what do the judges say? “No, they sold because they wanted to sell, they left because they wanted to leave, if they sold for a reduced price that’s their own problem.” But if we look back, we can see that the most clear evidence is all of the murdered INDUPALMA members. And of course along with these murders were death threats, and enforced disappearances in which they still today haven’t even found the bodies of the INDUPALMA workers who went missing. So we have to recognize that there *was* a violent problem in San Alberto and that we can absolutely show before the [land restitution] judge that we didn’t leave “because we wanted to”. We left because there was violence.

Their sense of revictimization was compounded through what they felt was the Bureau’s official negation of the histories of violence they had endured. The horrors which they had so intimately experienced failed to cohere in front of the Bureau as eligible for restitution rights. Their personal histories of violence, that is, failed to register with the Bureau’s investigative efforts to determine “what really happened” in San Alberto.

The stories and statistics above, therefore, highlight to continued need to investigate

¹³² Group Interview, Bucaramanga, March 28, 2017

the substantial rejection of restitution petitions. This line of inquiry sheds potential light on the efficacy of the restitution program, as it can offer a clearer picture of: if certain types of land holdings (private, public, informal) have disproportionate rejection rates; if certain land use practices influence restitution decisions; and if claims against corporate/business land holdings are rejected in higher proportion compared to land owned by individuals or families. These interrelated lines of inquiry provide potential insight on the capacity of the restitution program to confront entrenched patterns of agro-industrial land concentration (McKay 2018). Just as importantly, such research offers a vital venue through which to include the voices and perspectives of land claimants whose experiences of force displacement the Bureau of Land Restitution chose not to validate.

Post Restitution Land Sales

In the initial years of the land restitution program, Amnesty International released a touchstone report on the Victims' Law aptly titled "A Land Title is Not Enough" (Amnesty International 2014). One of the report's central critiques is that simply restituting title does not ensure that agrarian livelihoods are re-established. In this sense, land restitution may be a simple conduit through which displaced land claimants receive a new title to their land, but due to continued agrarian precarity or potential reprisal violence, decide to sell their parcel. Such practices would both defeat the restitution program's stated long-term symbolic goals and potentially foment new waves of speculative land concentration.

As a partial bulwark against this process, the Victims' Law stipulates that land claimants may not sell their land within a two-year period after the restitution sentence or the official handing over (*entrega*) of the parcel (Article 101). For many parcels, this two-year embargo has now passed. In turn, each restituted plot will eventually surpass this waiting period. This begs the

practical question: what percentage of restituted land owners subsequently sell their parcels, and under what circumstances? Future research on the land restitution program should be attentive to this question for a number of reasons. First, and perhaps most obviously, it speaks directly to the restitution program's efficacy. Does the restitution program, as its proponents claim, offer a viable path toward the reconstruction of small-scale agrarian livelihoods? Second and relatedly, such research would make an important intervention into debates concerning the very nature of property formalization (De Soto 2003; Demarest 2003; Mitchell 2007; La Torre 2015). The land restitution program seeks to give formal property title to parcels that lacked it previously, as well as a new, sanitized title to formal property abandoned, bought or sold under the duress of armed conflict. Whether or not these newly (re)titled parcels are sold after their two-year embargo period, important questions will remain about what long term forms of social relationships over land come in the wake of the restitution process (Verdery 1994; Fay and James 2009).

Section IV: *The Law of the Land*

Land restitution scholars are certain to note that restitution programs typically confront steep practical difficulties such as conflicting claims over the same land parcels between different claimants (Ballard 2010) and entrenched opposition from neoliberal interests hostile to governmental expenditures on marginalized populations (Hall 2004, 2009). Beyond these difficulties, restitution scholars similarly note that such programs never merely "restitute" what was. Rather, they engender new forms of (potentially exploitative) relations between restituted land claimants and state institutions (Nugent & Alonso 1994; Fay & James 2009; Dorondel 2009; Nuijten & Lorenzo 2009). As this dissertation has shown, those newly remade relationships, in all of their contention, extend to current landowners as well. These analyses

suggest that land—especially in the context of restitution— is more than a simple “clod of earth”, but rather an “elastic” entity defined by ever-shifting social relations that delineate boundaries and schema of ownership (Verdery 1994).

This elasticity of social relations over land nonetheless entangles with the peculiar rigidity of law. In the wake of the 2005 Pinheiro Principles, there was great hope that both states and international institutions, by extending formal property rights through well-designed restitution programs, would be similarly able to extend the rule of law itself to war-torn societies. As legal scholar Megan J. Ballard cautions, the claim that formal, institutionalized land restitution programs will subsequently extend the rule of law in war torn societies is one that ought to be met with skeptical caution. A narrowly depoliticized and technical focus on restituting property rights, she argues, in fact potentially undermines the rule of law through insensitivity to convoluted political realities on the ground that may engender blowback against restitution and its institutional representatives (Ballard 2010).

Throughout this dissertation, I have traced some of the unintended routes the Victims Law’s formal statutes have precariously traversed over the course of confronting the complex land holding patterns made and remade due to armed conflict in Colombia. However, whether land restitution effectively extends the “rule of law”, as Ballard asks, is not my concluding question. I have not necessarily endeavored to show how (or if) the Victims Law has effectively (re)formalized property and subsequently extended institutional actors’ judicious oversight of areas devastated by armed conflict. Rather, I have attempted to show how the Victims’ Law—through the restitution program—has sought to remake armed conflict and forced displacement in its own image. Through the enframing practices detailed in this dissertation, the Victims’ Law molds a particular conception of Colombia’s armed conflict through abstractions of place and

time. It is through this enframing work that the Victims' Law, in a sense, recreates the very conflict into which it aims to intervene through administrative and judicial restitution procedures. For land restitution opponents, this (re)making of armed conflict poses both a challenge to their ownership of land as well as their historical understandings of the contours of violence and forced displacement in Colombia.

We may ask, then, if “restitution” is even the correct word to describe what is transpiring. As my research suggests, the Victims' Law—at least in Sabana de Torres, Rionegro, and San Alberto—actually restitutes very little in the strict sense of the term. Through its enframing of forced displacement, the Victims' Law rather creates the conditions for novel and situated realities. The original title to the land is not simply “given back” through the program—an entirely new marker of state validation, complete with the Bureau of Land Restitution and Restitution Tribunal's seal—accompanies the new documents. These place land and its owners under an entirely new array of institutions that did not exist when claimants abandoned or sold their land. Similarly, the small handful of land claimants who returned to their properties hardly confronted the same social realities that existed when they abandoned or sold their plots. Even if they are able to re-engage in previously practiced agrarian activities, they do so in an agrarian economy profoundly transformed due to neoliberal free trade deals and the continued unfolding of conflict-related violence. For many land claimants, the international norms underpinning the Victims' Law (especially those related to human rights recognition of “internally displaced persons” and property restitution) were non-existent or only vaguely codified in domestic or international law at the time of their displacement.

As such, the Victims' Law land restitution program places land claimants, restitution opponents, human rights groups, legislators, Bureau of Land Restitution Employees and Land

Restitution Tribunals and Courts on novel and unstable terrain. To retribute, then, is not so much to return to what once was in the past, but to take precarious steps into an unknown and indeterminate future. The debates and controversies I have addressed throughout this dissertation, and especially in this concluding chapter, suggest that such a future will be just as profoundly shaped by those voices and political tendencies the Victims' Law attempts to exclude as those it chooses to recognize.

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APPENDIX A: LAND RESTITUTION COURT CASE LOG

Total Cases	Total Properties	Restitution without opposition	Opposition able to prove good faith with due diligence	Opposition unable to prove good faith with due diligence	Opposition afforded “second occupier” rights	Restitution claim denied
36	59	2	15	14	4	24

San Alberto, Cesar

Total Cases	Total Properties	Restitution without opposition	Opposition able to prove good faith with due diligence	Opposition unable to prove good faith with due diligence	Opposition afforded “second occupier” rights	Restitution claim denied
44	48	7	4	15	5	17

Sabana de Torres, Santander

Total Cases	Total Properties	Restitution without opposition	Opposition able to prove good faith with due diligence	Opposition unable to prove good faith with due diligence	Opposition afforded “second occupier” rights	Restitution claim denied
37	43	6	13	6	3	15

Rionegro, Santander

San Alberto Restitution Rulings

Sentence Date	Parcel Name (Identification); size	Displacement Date (Armed Actor)	Opposition?	Ruling	Prosecutor Referral?
Feb 11 2014/ Feb 18 2015	Parcelación: La Carolina; Predios: 1) Parcela No. 4 “El Destino” (196-20179); 2) Lote 17A	1) 1996 (Paramilitaries); 2) 2003 (Paramilitaries)	Yes	1) Restitution/Recognize buena fe exenta de culpa; 2) Restitution/deny buena fe exenta de culpa	No
Jun 5 2014	Vereda: Las Burras (buena vista), Predio: Buenos Aires	1995 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	No
Jun 10 2014	Parcelación: Los Cedros; Predio: Parcela No. 22 “Gran Chaparral”	1993 (Paramilitaries)	No	Deny Restitution Claim	No
Mar 10 2015	Parcelación: Los Cedros Vereda: San Isidro, Predio: Parcela No. 23 La Mesa	1998 (Paramilitaries)	Yes	Deny Restitution Claim	No
Apr 14 2015	Parcelación :Los Cedros Vereda: San Isidro, Predios: 1) No.1 Hatosambra 2) Parcela No. 31 El Paraíso	1995 (Paramilitaries)	Yes	Deny Both Restitution Claims	No
Apr 14 2015	Parcelación: La Carolina Vereda: Monterrey; Predio: No. 33 Los Arrayanes (16ha)	1995 (Paramilitaries)	Yes	Restitution/Recognize buena fe exenta de culpa	No
Apr 28 2015	Parcelación: La Carolina; Predios: 1) No. 38 “Diana” (16 ha); 2) No. 29 “Los Cocos” (16 ha)	1994-1995 (Paramilitaries)	Yes	1) Restitution/deny buena de exenta de culpa; 2) Deny restitution claim	No
May 19 2015	Parcelación: La Carolina; Predios: 1) No. 1	1996 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa (both cases)	No

	La Lucha y Lote 1A (196-20202; 196-20320 2) No. 2 Calima (196-20203)				
May 20 2015	Parcelación: La Carolina; Predio: No. 10 “La Frontera” (16Ha)	1996 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	No
May 21 2015	Parcelación: La Carolina; Vereda: Monterrey Predio: No. 36 “El Guamo”	1992-1993 (FARC)	Yes	Restitution/recognize second occupier rights on appeal	No
Jun 16 2015	Parcelación: Los Cedros; Predio: No.34 Villa Ana	1994 (Paramilitaries)	Yes	Deny Restitution Claim	No
Jul 16 2015	Parcelación: La Carolina; Predio: Lote 14 A	1994 (Paramilitaries)	Yes	Restitution/recognize second occupier rights (021/2015)	No
Jul 21 2015	Parcelación: Los Cedros . Predios: 1) No.13 La Santana; 2) No. 15 El Vallenato; 3) No. 21 San José	1996 (Paramilitaries)	Yes	Deny all 3 cases	
Aug 21 2015	Parcelación: La Carolina; Predios: 1) No. 16 “Pradera”; 2) No. 30 “La Victoria”	1994 (Paramilitaries)	Yes	1) Deny restitution claim; 2) Restitution/Deny buena fe exenta de culpa	No
Nov 30 2015	Parcelación: Los Cedros; Predios: Parcelas No. 5, 17, 18, 19, 25, 26, 27, 28, 29, 30, 33	1993-1998 (Paramilitaries)	Yes	1) No. 5, 19, 30: Restitution/Recognize Buena fe exenta de culpa; 2) No. 17, 18, 25, 26, 27, 28, 29, 33: Deny restitution claim	No
Dec 18 2015	Parcelación: Los Cedros; Predio: No. 32 “Villa Paola”	1993 (Paramilitaries)	Yes	Deny Restitution Claim	No
Jan 12 2016	Parcelación: Tokio; Predios: Santa Isabel Parcela 11 (196-22648); 11A (196-22671)	1995 (Paramilitaries)	Yes	Deny Restitution Claim	No

Jan 26 2016	Parcelación: Los Cedros: Predios: 1) No. 12 Oeste-Mexico ; 2) No. 7 San Antonio 3) No. 11 Los Corrales	1999 (Paramilitaries)	Yes	Deny Restitution Claim (all parcels)	No
Jan 26 2016	Parcelación: La Carolina; Predios: No.24 “La Conquista” (196-20449) y Lote 24A (196-20448)	1993 (ELN)	Yes	Restitution/Recognize buena fe exenta de culpa	No
Feb 16 2016	Parcelación: La Carolina; Predio: No.14 Villa Rica	1994 (Paramilitaries)	Yes	Compensation/Recognize buena fe exenta de culpa because current owner is victim	No
Mar 31 2016	Parcelación :Los Cedros Predio: No. 10 Los Holguines	1996 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	No
Apr 1 2016	Parcelación: La Paz Vereda: Los Tendidos; Predio: Villa Jhoana Parcela 17 y 17A	1996 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	Yes (Not specified against whom)
Apr 1 2016	Parcelacion: La Carolina Predio: No. 9 La Esperanza	1994 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	No
Apr 12 2016	Parcelacion: La Carolina; Predio: Lote 7A	1996 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	No
Apr 27 2016	Parcelacion: La Carolina; Predio: No.8 Los Toronjos	1996 (ELN)	Yes	Restitution/Deny buena fe exenta de culpa	No
May 25 2016	Parcelación: Siete de Agosto; Predio: No. 14 Loma Alta (17.5 Ha)	1993 (Paramilitaries)	Yes	Deny restitution claim	No
Jun 24 2016	Parcelación: La Carolina; Predio: Lote 33A	1995 (Paramilitaries)	Yes	Restitution/Deny buena fe exenta de culpa	No
Aug 3 2016	Parcelación: La Carolina; Predio: No. 3 La Fortuna	1994 (Paramilitaries)	Yes	Restitution/Recognize buena fe exenta de culpa	Yes (against INCORA officials)
Sep 28 2016	Parcelación: La Carolina; Predio: No. 23 El Triunfo y 23A	1996 (Paramilitaries)	Yes	Compensation/Recognize second occupier benefits	No

	(17.41 Ha y .856 Ha)				
Dec 9 2016	Parcelación: La Carolina; Predio: No. 25 "Villa Luz" and 25 a(196-20456)	1993 (ELN)	Yes	Restitution/Recognize buena fe exenta de culpa	No
Mar 24 2017	Predio Urbano: Diagonal 2B no. 10-58; Barrio Brisas del Cesar	1995 (Paramilitaries)	Yes	Restitution/recognize second occupier rights	No
Aug 3 2017	Vereda: Altos del Osos Corregimiento: Libano; Predio: Sin Nombre (1.8 ha)	1993 (Paramilitaries)	No	Compensation	No
Nov 22 2017	Siete de Agosto: 1) No.1 "El Rodeo" (12 Ha), 2) No.13 "Bavaria" (), 3) No. 5 "La Cascada" (9.2 Ha) and 4) No.3 "La Providencia" (14.7 Ha)	1993 (Paramilitaries)	1) No; 2-4) Yes	1) Restitution/ 2-4) Restitution/recognize buena fe exenta de culpa	Yes (Not specified against whom)
Dec 12 2017	Parcelación :Los Cedros Predios: 1) No. 20 La Fortuna (18.5ha) y 2) No.24. La Fortuna 2 (18.6 ha)	1) 1994 (Paramilitaries); 2) 1993 (Paramilitaries)	Yes	1) Restitution/Recognize buena fe exenta de culpa; 2) Restitution/Deny buena fe exenta de culpa	Yes (against INCORA officials)
Jun 26 2018	Parcelación: La Carolina: Predio: No. 34 y 34A	1995 (Paramilitaries)	Yes	Restitution/Recognize buena fe exenta de culpa	No
Sep 28 2018	Predio Urbano: Calle 1C No. 4-12	1998 (Paramilitaries)	Yes	Equivalent Restitution/Recognize Buena fe Exenta de Culpa	No

Sabana de Torres Restitution Rulings

Sentenc e Date	Parcel Name (Identification) ; size	Displacement Date (Armed Actor)	Oppositio n?	Ruling	Prosecutor Referral?
May 31 2013	Vereda: Provincia; Predio: Las Canoas (303-81886); ¾ ha.	Abandon 2003 (FARC)	No	Restitution/Formalization	No
Jul 30 2013	Corregimiento: Payoa; Vereda: Caño Edén; Predio: El Silencio. (303-49763); 69.7 has.	Abandon 2002 (Paramilitaries)	No	Restitution	Yes (Enforced 334isappearan ce case)
Aug 21 2013	Vereda: Payoa; Predio: Zapatón. (303-56633);48.4has.	Abandon 1995 (Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	No
Aug 28 2013	Vereda: Campo Tigre; Predio: La Argentina (Baldio) (303-6562); 14.36 has.	Sale 2002 (Not specified)	Yes	Restitution (Deny equivalency petition); Deny buena fe exenta de culpa	Yes (against current owner)
Sep 24 2013	Vereda: La Gómez; Predio: El Silencio. Ganado. (303-25323) 110 has.	Sale 1992 (FARC)	Yes (Las Palmas Ltda)	Restitution; Deny buena fe exenta de culpa	No
Sep 24 2013	Vereda: Las Lajas; Predio: La Esperanza, parcela No.2. (303-42483); 18.6 has	Sale 1994 (Military/Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	No
Oct 31 2013	Vereda: Km 36; Predio: La Planada. (303-42338) 6.7 has.	Abandon 2001 (Paramilitaries)	Yes (Agrotep S.A.S)	Restitution; Deny buena fe exenta de culpa	No
Nov 6 2013	Corregimiento: Payoa; Predio: Nuevo Mundo. (303-8552) 37.6 has.	Abandon 2001 (Paramilitaries)	No	Deny Restitution Claim	No
Dec 2 2013	Vereda: Caño Eden; Predio: Campo Alegre/ Villa Rosa; (303-111439); 34.2 has.	Abandon 1998 (Paramilitaries)	No	Restitution	No

Jan 22 2014	Vereda: San Pedro; Predio: Parcela 102 La Esperanza (303-32537). 36.5 has.	Sale 1993 (Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	Yes (Against Incora and paramilitaries)
Feb 19 2014	Vereda: Santa Helena y/o Rio Sucio; Predio: La Isla. (303-8758) 15.4 has.	Abandon 1997 (Paramilitaries)	Yes	Restitution	No
Feb 25 2014	Corregimiento: Santos Gutierrez Vereda: Mata de Plátano, Predio: Mirabel Las Vegas.(303-10639) 62.8 has.	Sale 2001 (Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	No (But criminal conduct descrbied)
Feb 25 2014	Vereda: Magará Predio: Nuevo Porvenir. (303-48534) 29 has	1991 (ELN)	Yes	Deny Restitution Claim	No
Mar 31 2014	Vereda: Caribe Parcela No.3: El Brillante. (303-9691) 46.13 has.	Sale 1998 (Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	Yes (Not specified against whom)
Apr 23 2014	Vereda: Caribe Bajo Distrito de Adecuación Rio Lebrija. Predios: 1) La Primavera(303-57823) 2) El Tesoro (303 57824. (both part of Parcela n. 1 La Primavera 47. 6 has).	1999 (Paramilitaries)	Yes	Deny Restitution Claim (both cases)	No (But criminal conduct described)
Jul 9 2014	Vereda: Las Lajas; Parcelación: Rosas Blancas Predio: La Garza no.9. (303-46259) 18.2 has.	Forced Sale 1996 (to Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	Yes (Against paramilitaries)

Sep 2 2014	Vereda: Barro Negro; Predios: 1) Quantum Progress (303-64203) 2) Las Tres Palmas (303-303-61331) (baldío) 15.8 ha	Sale 2003 (Paramilitaries)	Yes	Equivalent Parcel Restitution; Recognize buena fe exenta de culpa (both cases)	No
Oct 31 2014	Vereda: San Rafael de la Arenosa; Predio: La Batalla. (303-18893) 101 ha	Abandon 1998 (Paramilitaries)	Yes	Restitution; Deny buena fe exenta de culpa	No
Feb 4 2015	Vereda: Cristales La Ye; Predio: Alba María. (303-55594) 71.4 has.	Abandon 2001 (not defined)	Yes	Compensation; Recognize buena fe exenta de culpa	No
Mar 11 2015	Vereda: Payoa Corazones; Predio: Campo Alegre. (303-73357)98.9 has.	Abandon 2002 (Paramilitaries)	Yes	Deny Restitution Claim	No (But criminal conduct described)
Oct 7 2015	Vereda: San Pedro; Predio: Villa Luz (303-2968) 34.6 Ha	Abandon 2004/Sale 2006 (Paramilitaries)	Yes	Deny Restitution Claim	No
Dec 11 2015	Vereda: Km 36; Predio: La fe. (303-82216) 65 Has.	Abandon 1997 (not defined)	No	Deny Restitution Claim	No
Feb 15 2016	Vereda: Payoa; Predio: La Esperanza.(303-15103) 48.7 Ha	Abandon 2005 (Paramilitaries)	No	Compensation	No
Aug 24 2016	Vereda: Mata del Plátano; Predio: El Vergel (303-709) 13.5 Ha	Sale 2001 (Paramilitaries)	No	Deny Restitution Claim	Yes: Against Land Claimant
Nov 28 2016	Vereda: Magará; Predio: Los Cocos. (303-22400) 68,2 has	Abandon 1997 (Paramilitaries)	Yes	Restitution/second occupier compensation for improvements	No

Nov 28 2016	Vereda: Bellavista; Predio: Brisas de Payoa. (303-49901) 51.31 has.	1997 (Paramilitaries)	Yes	Restitution (deny compensation claim); deny buena fe exenta de culpa	No
Dec 12 2016	Vereda: Provincia Predio: El Limoncito/El Silencio (303-4053) 24 has.	2002 (Paramilitaries) (sells in 2006)	Yes	Restitution; Deny buena fe exenta de culpa	No
Dec 13 2016	Vereda: Campo Tigre; Predio: La Esmeralda. (303-22454) 153.39	2004 (Paramilitaries)	Yes	Deny Restitution Claim	No
Feb 23 2017	Parcelación: Rosas Blancas; 1) No. 22 La Estrella (303-43143) 16.7ha; 2) No.12 Cusaman (303-46171) 24.4Ha	1998 and 1996 (Paramilitaries)	Yes	1) Restitution/ second occupier compensation for improvements; 2) second occupier benefits	No
Feb 28 2017	Vereda: Provincia; Predio: Las Delicias; (303-28463) 118.6	2002 (Paramilitaries)	No	Restitution	No
May 31 2017	Vereda: Campo Tigre; Predio: El Bambu (303-44781) 305.7 ha	1993 (FARC)	Yes	Restitution; second occupier compensation for improvements	no
Jun 27 2017	Vereda: San Rafael de Payoa; Predio: Lote No.1 La Pradera (303-53057) 25.1Ha	2003 (FARC)	Yes	Restitution; second occupier benefits (equivalent parcel)	No
Jul 31 2017	Vereda: Miraflores; Predio: Villa Nueva (303-47036) 111.7 Has	2002 (FARC/ELN)	No	Restitution	No

Aug 10 2017	Vereda: Veracruz; Predios: 1) No.2 (303-444991); 2) No.9 (303-44994)	1994 (Paramilitaries)	Yes	Deny both claims	No
Aug 11 2017	Vereda: Villa de Leyva; Predio: Los Pinos No. 11	2000 (Paramilitaries)	Yes	Deny Restitution Claim	No
Aug 11 2017	Vereda Rio Sucio; Predio: Santa Elena	2002 (ELN)	Yes	Deny Restitution Claim	No
Sep 27 2017	Predio: San Blas	2006 (Paramilitaries)	Yes	Deny Restitution Claim	No
Oct 13 2017	Vereda Payoa, (antes Vereda 'la robada') Predio: El Encanto; (303-29365) 59.47 Has	1992 (FARC)	Yes	Deny Restitution Claim	No
Nov 24 2017	Vereda: Rio sucio; Predio: Villabel (97.62 HA)	1998 (Morantes)	Yes	Deny Restitution Claim	No
Dec 5 2017	Vereda: Aguas Claras, Predio: Palmares 2 (303-60128)	1999 (FARC)	Yes	Deny Restitution Claim	Yes (Against intervening landowner)
Jun 26 2018	Vereda: Payoa Corazones; predio: la esperanza 43.2 Has	1997 (Paramilitaries)	Yes (Palmaeres La Gomez); and others	Compensation; Recognize buena fe exenta de culpa	No
Sep 25 2018	Vereda: La Gomez; Predio: Auga Bonita 41.6 Has	1998 (ELN)	Yes	Restitution; Deny buena fe exenta de culpa;	Yes (against land claimant for falsifying documents)
Dec 12 2018	Vereda: La Raya; Predio: El Diamante 63.8 Has	1998 (not specified)	Yes	Restitution; Deny buena fe exenta de culpa	No
Feb 26 2019	Vereda: Las Lajas; Predio: La India no.24, 18.6 Has	1995 (Paramilitaries: Morantes)	Yes	Restitution; Deny buena fe exenta de culpa	No

Rionegro Restitution Rulings

Sentenc e Date	Parcel Name (Identification); size	Displacement Date (Armed Actor)	Opposition ?	Ruling	Prosecutor Referral?
Sep 3 2014	Vereda: Panamá; Predio: La Perla (13.5 ha)	1995 (Colombian Military)	No	Restitution	No
Sep 16 2014	Vereda: Laguna del Oriente; Predio: Santa Teresa (7.8 has)	2000 (Paramilitaries)	No	Restitution	No
May 20 2015	Vereda: Misiguay; Predio: Estocolmo (21.9 Ha)	2001 (ELN)	Yes	Compensation/ Recognize buena fe exenta de culpa	Yes (Not specified against whom)
Jun 5 2015	Vereda: Halirimante; Predio: La Ceiba (9.3 has).	1996 (Paramilitaries/Convivir)	No	Restitution	Yes (Against paramilitaries)
Jul 29 2015	Vereda: Venecia; Predio: Bélgica No. 26; (9.8 has).	2001 (Paramilitaries)	Yes	Restitution/deny buena fe exenta de culpa	No
Jul 30 2015	Vereda: Misiguay; Predio: Sol y Sombra (18.9 has)	1998 (Guerrillas)	No	Restitution	No
Sep 23 2015	Vereda: Cuesta Rica; Predio: Miraflores	1993 (FARC)	Yes	Compensation/ Recognize buena fe exenta de culpa	No
Oct 21 2015	Vereda: Corcovada; Predios: 1) Sabaneta; 2) Flores Negras; 3) La Gandaña	1995 (EPL)	Yes	Restitution (Equivalent parcel); 1) Deny BFEC; 2-3) recognize BFEC	No
Nov 30 2015	Vereda: El aburrido; Predio: Santa Monica (3 has).	1993 (ELN)	Yes	Compensation/ Recognize buena fe exenta de culpa (current owner is victim)	No
Dec 14 2015	Vereda: La Cristalina; Predios: 1) Campo	1998 (EPL)	Yes	Compensation/ Recognize buena fe exenta de culpa (current owner is victim)	Yes (Intermediate buyers between solicitor and victim)

	Hermoso (2.1 Has); 2) Filipos (5.6 has)				and current owner)
Dec 16 2015	Vereda: Misiguay; Predio: Argelia (53.12 Ha)	1995 (EPL)	Yes	Compensation/ Recognize buena fe exenta de culpa	No
Jan 27 2016	Vereda: Tamboquemad o; Predio: La Aurora; (30.7 has)	1997 (Paramilitaries)	Yes	Compensation/ Recognize buena fe exenta de culpa	No
Feb 3 2016	Vereda: Venecia; Predio: Las Flores (13.5 has)	1993 (Paramilitaries)	Yes	Restitution/deny buena fe exenta de culpa	No
Nov 28 2016	Vereda: Galanes; “Chorro Alegre – Lote Buenos Aires”	1996 (Paramilitaries)	Yes	Deny Restitution Claim	No
Mar 28 2017	Vereda: La Ceiba; Predio: Mi cabaña	1997 (FARC)	Yes	Compensation/ Recognize buena fe exenta de culpa	No
May 9 2017	Vereda:El Portachuelo; Predio: La Cabaña y Lote de Terreno; 1.6 Ha and 1.5 Ha	1991 (Paramilitaries)	Yes	Compensation/Recogn ize second occupier rights	No
May 25 2017	Casa Calle 6 No. 7-02/04/10/12 and Carrera 7 No. 6-03	1993 (FARC)	Yes	Compensation/ Recognize buena fe exenta de culpa	No
Jun 5 2017	Casa No. 6 Calle 7 # 7-55, San Rafael	1992 (Paramilitaries)	Yes	Restitution/deny buena fe exenta de culpa	Yes (Sulima Quintero Navarro)
Jun 7 2017	Carrera 9 N° 7-03/-17 y Carrera 9 N° 7-21 Lote 2	1996 (Paramilitaries)	Yes	Equivalent Restitution/recognize second occupier rights	Yes (Against paramilitaries)
Jun 28 2017	Vereda: La Virginia; Predio: Fatima 103.9 has	1999 (Unknown)	Yes	Equivalent Restitution/recognize second occupier rights	No

Jun 28 2017	Vereda: Venecia Antigua o Simónica; Predio: “La Durana” (103.7 has)	Year not specified? (Paramilitaries)	Yes	Deny Restitution Claim	No
Aug 11 2017	Vereda: El Taladaro; Predio: El Diamante (El Contento)	1991 (FARC)	Yes	Deny Restitution Claim	No
Aug 22 2017	Casa rural: calle 7 No. 5-32, 5-34 y 5-36	2004 (Paramilitaries)	Yes	Deny Restitution Claim	Yes: against Both claimant and current owner
Sep 27 2017	Vereda: Cuesta Rica; Predio: La Paz (4.7 has)	1998 (ELN)	Yes	Deny restitution claim	No
Nov 24 2017	Veredas: Florencia/La Tigra; Predios: 1) Buenos Aires; 2) Totumales/Brisas	1995 (EPL)	Yes	Deny both restitution claims	
Nov 27 2017	Vereda Tambo Quemado; Predio Agua Dulce	2005 (Paramilitaries)	Yes	Deny Restitution Claim	No
Dec 18 2017	Predio: Las Flores (45.7 ha)	1994 (Paramilitaries)	Yes	Deny Restitution Claim	No (But mentions Morantes’ father)
Apr 2 2018	Vereda: Galanes; Predio: Mirabel (65.2 ha)	2002 (Guerrilla)	No	Restitution	No
May 7 2018	Vereda la Victoria Predios: 1) Buena vista; 2) La esperanza	1997 (ELN)	Yes	Deny both restitution claims	No
May 11 2018	Vereda Villa Paz o Panamá; Predio: El Portal	2000 (Paramilitaries)	No	Deny Restitution Claim	No

Jun 22 2018	Vereda Halirimante; Predio el Jardin	1998 (Paramilitaries)	Yes	Deny Restitution Claim	No
Jun 22 2018	Vereda Venecia Antigua o Simónica; Predio “La Fortuna-Parcela N° 5” n/a	1995 (Paramilitaries)	Yes	Deny Restitution Claim	No
Jun 25 2018	Predios: 1) Villa Olivia (229.7 ha); 2)Lo Verán (78.5 Ha)	1996 (Paramilitaries)	Yes	1) Equivalent Restitution/Recognize buena fe exenta de culpa; 2) Deny Restitution Claim	Yes; Villa Olivia sold to Mairo Navarro Quintero; charges against his associates
Oct 1 2018	Vereda: Laguna del Oriente; Predio: Casanare	1999 (Paramilitaries)	No	Restitution (Equivalent parcel)	No
Nov 13 2018	Vereda: El Taladaro; Predio: La Platanala	1993 (Military/Paramilitaries)	No	Restitution/deny buena fe exenta de culpa	No
Dec 13 2018	Vereda: Portachuelo; Predio: Camoruco (44.7 has)	2002 (EPL)	Yes	Restitution/Recognize buena fe exenta de culpa	No
Feb 11 2019	Vereda: La Simonica; Predio: La Ponderosa	1992 (guerrilla)	Yes	Restitution/deny buena fe exenta de culpa	No

APPENDIX B: AGRARIAN REFORM FIGURES 1962-1996 (ORIGINAL DOCUMENTS:

SANTANDER REGIONAL INCORA OFFICES)

INCORA REGIONAL SANTANDER							
Preadq3							
OMAR/2/12/97	RELACION DE PREDIOS ADQUIRIDOS POR MUNICIPIO						1
PERIODO 1962-1996							
EXPRESADO EN 000							
MUNICIPIO	Nº. PREDIOS ADQUIRIDOS	AREA TOTAL	VALOR INVERSION	Nº. FLAJAS BENEFICIADAS	V/R PROMEDIO POR FLJA.	Nº. PROMEDIO POR FLJA.	% PARTICIPA DEL TOTAL
BARBOSA	1	73.8700	107.396	9	1.461	8	0.12
BARICHARA	3	1.818.9068	2.247	79	1	23	2,85%
BARRANCA	1	1.097.5715	24.855	27	23	41	1,72
BETULIA	3	1.056.0811	130.034	41	123	26	1,65
BOLIVAR	1	104.5470	9.300	9	89	12	0,16
BUCARAMANGA	2	190.6000	360.000	19	1.839	10	0,30
CABRERA	3	298.8425	535	28	2	11	0,48
CERRITO	2	394.0060	3.734	40	9	10	0,62
CHARALA	11	1.343.3171	395.037	128	214	14	2,89%
CHARTA	1	180.3600	250	5	1	36	0,28
CHIMA	4	421.3100	448.342	36	1.064	12	0,66
CIMITARRA	2	767.3200	46.641	26	61	30	1,20
CONFINES	2	867.1300	215.641	51	323	13	1,05
CURITI	2	568.2518	218.927	54	382	11	0,89
EL CARMEN	6	2.259.1841	139.813	132	82	17	3,54%
EL PALMAR	1	244.3163	115.987	24	475	10	0,38
EL PLAYON	1	97.4000	44.073	7	452	14	0,15
ENCINO	1	170.1000	119.700	10	704	17	0,27
GALAN	2	552.0000	121.220	47	220	12	0,86
GIROÑ	5	3.711.1500	493.933	101	133	37	5,81%
GUADALUPE	4	389.0376	529.987	42	1.382	9	0,61
LEBRUA	8	3.019.5226	289.949	132	96	23	4,73%
MATANZA	3	794.3870	331.092	44	417	18	1,24
MOGOTES	1	138.2203	42.399	11	307	13	0,22
OIBA	13	3.610.3867	1.569.388	185	435	22	5,66%
PARAMO	2	347.1500	130.846	35	377	10	0,54
PIEDRECUESTA	6	1.053.4177	162.670	78	154	14	1,65
PINCHOTE	5	804.5345	80.853	87	76	9	1,26
PUENTE NACIONAL	1	30.3340	42.808	6	1.411	5	0,05
PUERTO PARRA	2	857.3000	192.000	27	224	32	1,34
PUERTO WILCHES	1	433.4000	170.000	10	392	43	0,68
RIONEGRO	22	6.890.8829	1.821.643	327	221	21	10,79%
SABANA DE TORRES	12	12.895.5983	588.310	300	46	42	19,89%
SAN ALBERTO	6	2.901.5726	973.706	157	336	18	4,55%
SAN GIL	1	189.7260	930	32	5	6	0,30
SAN MARTIN	4	2.332.8559	757.541	102	325	23	3,65
SAN PABLO	1	428.5750	11.706	10	27	43	0,67
SAN VICENTE	32	7.945.8019	1.440.408	438	181	18	12,45%
SIMACOTA	1	263.9300	11.700	7	44	38	0,41
SOCORRO	2	330.7200	126.947	39	384	8	0,52
SUAITA	7	721.4891	557.826	48	773	15	1,13
SURATA	2	172.9099	331	15	2	12	0,27
VALLE DE SAN JOSE	1	62.8000	134.000	7	2.134	9	0,10
VELEZ	2	265.1390	84.721	12	320	22	0,42
ZAPATOCA	2	846.3900	31.503	29	49	22	1,01
TOTALES:	195	63.838.1333	12.787.820	3.033	200	21	100

INSTITUTO COLOMBIANO DE LA REFORMA AGRARIA
INCORA - REGIONAL SANTANDER

LISTADO DE PREDIOS ADQUIRIDOS POR AÑO Y MUNICIPIO

NRO. ORDEN	AÑO DE ADOQUIÇÃO	MUNICIPIO	NOMBRE DEL PREDIO	AREA (HAS.)	FAMILIAS FLIAS BENEFIC.	VALOR VALOR (000)	EXPRES. EN (000)		Has. PROMEDIO HAS. PROMED/FLIA
							COSTO COSTO PROM /Ha.		
1	62/88	BARICHARA	BUTAREGUA	1634.6769	70	1,827		1	23
2	62/88	BARICHARA	SAN JOSE	50	4	103		2	13
3	62/88	BARICHARA	LLANO VERDE	131.92	5	317		2	26
4	62/88	B/BERMEJA	TENERIFE	1097.5715	27	24,855		23	41
5	62/88	BETULIA	ALTAMIRA	323.8453	15	398		1	22
6	62/88	BETULIA	LA FLOR	311.58	9	14,629		47	35
7	62/88	CABRERA	BOCORE	22.2938	6	101		5	4
8	62/88	CABRERA	OJO DE AGUA	17.96	5	172		10	4
9	62/88	CABRERA	CUCHILLAS	256.5887	17	262		1	15
10	62/88	CERRITO	ALTA MIRA	80.006	8	398		5	10
11	62/88	CERRITO	EL BANCO	314	32	3,336		11	10
12	62/88	CHARALA	EL RESGUARDO	98.975	12	29,355		297	8
13	62/88	CHARALA	NORMANDIA	213.025	9	8,794		41	24
14	62/88	CHARALA	UCRANIA	229.65	14	6,343		28	16
15	62/88	CHARALA	SABANETA	210.85	12	12,441		59	18
16	62/88	CHARALA	EL SALITRE	166.1577	18	15,758		95	9
17	62/88	CHARTA	CASCO DURO	180.36	5	250		1	36
18	62/88	CIMITARRA	EL DORADO	262.4	13	14,500		55	20
19	62/88	CURITI	EL PALMAR	280.8518	26	1,302		5	11
20	62/88	EL CARMEN	BIRMANIA	413.3224	35	810		2	12
21	62/88	EL CARMEN	ANDALUCIA	315.5367	14	9,416		30	23
22	62/88	EL CARMEN	LA CONQUISTA	205.8	18	10,843		53	11
23	62/88	EL CARMEN	LAS VEGAS	239.225	13	11,626		49	18
24	62/88	EL CARMEN	RANCHO GRANDE	755.5	35	24,965		33	22
25	62/88	GALAN	PEÑA GRANDE	422	40	96,365		228	11
26	62/88	GIRON	LLANO GRANDE (H)	415.5	27	2,264		5	15
27	62/88	GIRON	LLANO GRANDE	333.55	10	12,299		37	33
28	62/88	LEBRIJA	EL CACIQUE	290.8603	20	1,377		5	15
29	62/88	LEBRIJA	LA UNION	1580.5811	34	1,453		1	46
30	62/88	LEBRIJA	LISBOA	394.1267	27	1,145		3	15
31	62/88	LEBRIJA	SAN BERNANRDO	101.45	8	423		4	13
32	62/88	LEBRIJA	EL CONCHAL	60.2	1	-		-	60
33	62/88	MATANZA	BREMEN	465.887	21	2,010		4	22
34	62/88	OIBA	GUAYACA	129.86	8	263		2	16
35	62/88	OIBA	MARACAY	772.508	22	67,000		87	35
36	62/88	OIBA	CARBONERAS	88.1349	8	463		5	11
37	62/88	PIEDECUESTA	BARROBLANCO	642.7573	43	1,368		2	15
38	62/88	PIEDECUESTA	BARROBLANCO	26.006	6	410		16	4
39	62/88	PIEDECUESTA	BARROBLANCO	45.999	5	224		5	9
40	62/88	PINCHOTE	EL CUCHARO	299.1965	38	3,193		11	8
41	62/88	PINCHOTE	SANTA CRUZ	156.5767	13	1,280		8	12
42	62/88	PINCHOTE	LA MESETA	93.5363	9	1,138		12	10
43	62/88	PINCHOTE	EL CONGUAL	184.06	20	1,645		9	9
44	62/88	PUERTO PARRA	LA ESMERALDA	329.3	6	12,000		36	55
45	62/88	RIONEGRO	BERLIN	543.4	35	2,792		5	16
46	62/88	RIONEGRO	LA CORCOBADA	49.35	2	3,000		61	25
47	62/88	RIONEGRO	LA MUTISLA	1061.884	43	1,929		2	25
48	62/88	RIONEGRO	LA UNION	784.6068	46	1,210		2	17
49	62/88	RIONEGRO	MARACAIBO	898.1	16	1,736		2	56
50	62/88	RIONEGRO	VENECIA	518.2	26	895		2	20
51	62/88	RIONEGRO	VILLANUEVA	145.6927	7	273		2	21
52	62/88	RIONEGRO	LA MUTISIA	71.75	4	10,000		139	18
53	62/88	RIONEGRO	PLAMIRA	220.15	5	11,642		53	44

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INSTITUTO COLOMBIANO DE LA REFORMA AGRARIA
INCORA - REGIONAL SANTANDER

LISTADO DE PREDIOS ADQUIRIDOS POR AÑO Y MUNICIPIO

NRO. ORDEN	AÑO DE ADO	MUNICIPIO MUNICIPIO	NOMBRE DEL NOMBRE PREDIO	AREA AREA (HAS.)	FAMILIAS FLIAS BENEFIC.	EXPRE. EN (.000)		Has. PROMEDIO HAS. PROMED/FLIA
						VALOR VALOR (000)	COSTO COSTO PROM /Ha.	
54	62/88	SABANA DE TORRES	AGUABLANCA	257.2	1	281	1	257
55	62/88	SABANA DE TORRES	DISTRITO	8580.3338	187	13,938	2	46
56	62/88	SABANA DE TORRES	PERICO	405.5	6	1,366	3	68
57	62/88	SABANA DE TORRES	TAMARINDO	117.5	2	180	2	59
58	62/88	SABANA DE TORRES	VILLA DE LEYVA	966.0297	7	1,593	2	138
59	62/88	SABANA DE TORRES	DIAMANTE	355.3651	7	2,548	7	51
60	62/88	SABANA DE TORRES	LAS UNION	238.3	7	1,537	6	34
61	62/88	SABANA DE TORRES	LA FUENTE	416.9054	8	500	1	52
62	62/88	SAN ALBERTO	BRISAS	56.8726	9	2,115	37	6
63	62/88	SAN GIL	GUARIGUA	189.726	32	930	5	6
64	62/88	SAN MARTIN	CAMPO ALEGRE	647.2	20	64,094	99	32
65	62/88	SAN PABLO	LA POLONIA	428.575	10	11,706	27	43
66	62/88	SAN VICENTE	SAN JOSE	139.125	11	8,917	64	13
67	62/88	SAN VICENTE	CLAVELLINAS	63.5515	5	176	3	13
68	62/88	SAN VICENTE	LA ESMERALDA	313.0587	25	1,847	6	13
69	62/88	SAN VICENTE	LA ESPERANZA	160.74	10	330	2	16
70	62/88	SAN VICENTE	LA MAGDALENA	230.9	27	16,500	71	9
71	62/88	SAN VICENTE	LA UNION	870.9125	45	1,918	2	19
72	62/88	SAN VICENTE	SAN AGUSTIN	119.3565	13	863	7	9
73	62/88	SAN VICENTE	SANTA INES	265.553	26	952	4	10
74	62/88	SAN VICENTE	SAN FRANCISCO	125.65	12	328	3	10
75	62/88	SAN VICENTE	LA UNION	381.9	33	-	-	12
76	62/88	SAN VICENTE	BRISAS TRINIDAD	375.43	10	25,000	67	38
77	62/88	SAN VICENTE	ARDILANDIA	413.8	15	10,968	27	28
78	62/88	SAN VICENTE	DON GERMAN	750.4397	20	16,200	22	38
79	62/88	SAN VICENTE	LA ESPERANZA	47	1	70	1	47
80	62/88	SAN VICENTE	IRELBA	85.15	6	19,407	228	14
81	62/88	SAN VICENTE	MIRABEL	239.22	6	14,000	59	40
82	62/88	SAN VICENTE	SAN RAFAEL	42.6	5	16,000	376	9
83	62/88	SAN VICENTE	HATO PANOPTICO	452.88	15	23,000	51	30
84	62/88	SAN VICENTE	LA PONDEROSA	177.28	5	6,000	34	35
85	62/88	SAN VICENTE	VARSOBIA	206.925	17	9,287	45	12
86	62/88	SIMACOTA	PALMERAS AGUA	263.93	7	11,700	44	38
87	62/88	SOCORRO	LIBANO	186.72	26	24,406	131	7
88	62/88	SUAITA	TEQUENDEME	68.79	8	580	8	9
89	62/88	SUAITA	STA LUCIA - STA F	158.18	14	1,213	8	11
90	62/88	SURATA	BETANIA No. 2	46.0099	6	89	2	8
91	62/88	SURATA	BETANIA No. 1	126.9	9	242	2	14
92	62/88	VELEZ	ABISINIA DÓLAR	98.039	2	8,636	88	49
93	62/88	ZAPATOCA	HATUMAL	567	19	1,503	3	30
94	1989	BOLIVAR	ALTA MIRA OJO D	104.547	9	9,300	89	12
95	1989	CHARALA	LA FLORIDA	121.73	10	36,479	300	12
96	1989	CONFINES	VEGA EL LIMON	393.73	32	101,295	257	12
97	1989	GALAN	HOBO BUENOS AI	130	7	24,855	191	19
98	1989	SABANA DE TORRES	LA PAYOA	2483	35	238,800	96	71
99	1989	MOGOTES	VEGA RICA	138.2203	11	42,399	307	13
100	1989	OIBA	LAS BRISAS ACAC	306.278	10	36,000	118	31
101	1989	PARAMO	CAGUANOQUE	248.75	24	86,525	348	10
102	1989	PIEDRECUESTA	EL PAJONAL	66.375	10	63,690	960	7
103	1989	PIEDRECUESTA	EL SALITRE	263.3235	13	77,478	294	20
104	1989	SAN ALBERTO	EL TESORO	648.8	39	154,537	238	17
105	1989	SAN VICENTE	GERMANIA	52.39	10	25,000	477	5
106	1989	SAN VICENTE	SAN PEDRO - L'AD	54.8	9	18,146	331	6

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INSTITUTO COLOMBIANO DE LA REFORMA AGRARIA
INCORA - REGIONAL SANTANDER

LISTADO DE PREDIOS ADQUIRIDOS POR AÑO Y MUNICIPIO

PLANEACION REGIONAL		PLANEACION REGIONAL		DOC		EXPRE. EN (000)		Has. PROMEDIO
NRO. ORDEN	AÑO DE ADOCU	MUNICIPIO	NOMBRE DEL NOMBRE PREDIO	AREA AREA (HAS.)	FAMILIAS FLIAS BENEFIC.	VALOR VALOR (000)	COSTO COSTO PROM /Ha.	HAS. PROMED/FLIA
107	1990	CHARALA	CAPELLANIA	118.115	10	50,588	428	12
108	1990	CHARALA	LENGUPA	58.6419	5	26,824	457	12
109	1990	CHARALA	ESMERALDA/B.AIF	257.635	15	90,851	353	17
110	1990	CHARALA	SAN ANTONIO/TIN	306.1375	15	75,554	247	20
111	1990	CIMITARRA	SANATA ANA	504.92	13	32,341	64	39
112	1990	LEBRIJA	LA CABAÑA	279.84	24	135,832	485	12
113	1990	OIBA	PRIMAVERA	269.111	20	254,388	945	13
114	1990	OIBA	HOLANDA	369.61	10	90,558	245	37
115	1990	OIBA	EL CAIRO	637.932	15	85,341	134	43
116	1990	PUENTE NACIONAL	BUENOS AIRES	30.334	6	42,808	1,411	5
117	1990	SAN MARTIN	CANDELIA	725.15	44	173,786	240	16
118	1990	SAN VICENTE	EL LIBANO	47.24	8	45,965	973	6
119	1991	CONFINES	PALO BLANCO	273.4	19	114,346	418	14
120	1991	EL PALMAR	LA CEIBA Y OTRO	244.3163	24	115,987	475	10
121	1991	LEBRIJA	TIERRA BUENA	109.6	11	77,353	706	10
122	1991	PARAMO	CAPELLANIA	98.4	11	44,321	450	9
123	1991	PINCHOTE	LAS VUELTAS	71.165	7	53,597	753	10
124	1991	RIONEGRO	PALOMAR - LOMA	32.8	5	25,938	791	7
125	1991	SAN ALBERTO	EL RODEO	175.9	17	30,304	172	10
126	1991	SAN MARTIN	HOLANDA	339.5159	16	119,661	352	21
127	1991	SAN VICENTE	LOMA REDONDA	79.4	10	30,000	378	8
128	1991	VELEZ	SALENTO	167.1	10	76,085	455	17
129	1991	ZAPATOCA	LOMA REDONDA	79.39	10	30,000	378	8
130	1992	CHARALA	SAN RAFAEL	62.4	8	42,050	674	8
131	1992	EL CARMEN	EL CENTENARIO	329.8	17	82,153	249	19
132	1992	EL PLAYON	MATA DE CAÑA	97.4	7	44,073	452	14
133	1992	GIRON	EL CEDRO	179.1	18	149,746	836	10
134	1992	OIBA	LA HOYA DE S. DE	72.1	8	57,974	804	9
135	1992	RIONEGRO	LA FLORESTA	128.4	15	117,596	916	9
136	1992	RIONEGRO	SECCION DE GAL	603.2	25	175,509	291	24
137	1992	RIONEGRO	GOLCONDA	228.8	10	50,834	222	23
* 138	1992	SABANA DE TORRES	ROSABLNA Y O	456.5	25	213,850	468	18
✓ 139	1992	SABANA DE TORRES	BIRMANIA LA ESTE	407.1	23	195,221	480	18
140	1992	SAN ALBERTO	LOS CEDROS	675.4	31	213,002	315	22
141	1992	SAN ALBERTO	LA FRAGUA - SNA	674.8	35	308,659	457	19
142	1992	SAN ALBERTO	TOKIO Y OTROS	669.8	26	265,089	396	26
143	1992	SAN VICENTE	FLORENCIA POZC	890.9	22	209,136	235	40
144	1992	SAN VICENTE	LA REFORMA	401.2	14	61,405	153	29
145	1992	SAN VICENTE	EL TULCAN	149.2	10	30,484	204	15
146	1992	SOCORRO	EL BOSQUE	144	13	102,541	712	11
147	1993	GIRON	SAN RAFAEL	300	11	90,824	303	27
148	1993	LEBRIJA	VEGA RICA	202.8645	7	72,366	357	29
149	1993	OIBA	LA DURANA	143.9712	15	226,398	1,573	10
150	1993	PIEDRECUESTA	LA TRINIDAD	8.9569	1	19,500	2,177	9
151	1993	RIONEGRO	PENSILVANIA	10	1	18,000	1,800	10
✓ 152	1993	SABANA DE TORRES	CRISTALINA II	326.928	15	93,340	286	22
153	1993	SAN VICENTE	LA LORENA	65	6	19,491	300	11
154	1993	SAN VICENTE	LA SECRETA	64	6	40,018	625	11
155	1993	SUAITA	LA CHAPA	69.83	5	133,000	1,905	14
156	1993	SUAITA	LA TACHUELA SAN	107.4125	3	66,438	619	36
157	1993	SUAITA	LOS BAULES	128.0766	4	67,435	527	32