

Extreme Inequality: A Political Consideration – Rural Policies in Colombia, 2002–09

Francisco Gutiérrez Sanín, *Universidad Nacional de Colombia*

A social problem and a puzzle

Historically, Colombia has faced a severe problem of unequal land distribution. Previous attempts at land reform have failed to deal adequately with this problem, which has become substantially worse as a result of the country's ongoing armed conflict, especially its recent dynamics of massive forced displacement and land appropriation.

The persistence of the problem is particularly puzzling. There exist true political competition and a working judiciary in the country. Moreover, there are strong international incentives for Colombia to solve the problem and gain legitimacy thereby. What is more, an elite covenant to expropriate land owned by drug-traffickers and redistribute it among peasants was proposed already by the late 1980s, offering an interesting opportunity to link redistributive and anti-narcotics policies.

The question, then, is why is there such appalling land inequality in Colombia. The question is relevant because, despite the current dominant political class's links with landowners and paramilitary groups, politicians have multiple constituencies and risk losing international and national legitimacy by implementing pro-landowner arrangements. Furthermore, the results of the current government's redistributive policies have been particularly bad in comparison to the historical average. Besides, the present situation is different from that of the past, owing to the increase of inequality and criminalization, the weakening of agrarian policies, and recent changes in institutional designs.

The conjunction of three factors (each of them necessary but not sufficient) explains the situation:

- i) The political economy of the armed conflict created a highly criminalized and ever more powerful 'agrarian special interests bloc'.
- ii) A new scenario of agrarian institutions emerged, which seems to privilege the values promoted by the international community (transparency, market principles, participation), but actually goes against redistribution.
- iii) Key technical problems persist, which, if left unsolved, will necessarily preserve the problem of land inequality.

The context

Several policy models have been used to address the problem of land inequality in Colombia, but all have produced quite poor outcomes.

In the 1930s, a major project of land reform was attempted, but it failed for several reasons and was soon offset by an undeclared civil war during the 1940s and 50s, known as *La Violencia*.

In the aftermath of war, a new agrarian model was adopted, which aimed at using land purchasing as the main redistributive tool. A specialized agency (the Colombian Institute of Agrarian Reform, INCORA) was created, tasked with expropriating inefficiently used land. Further, the organization and participation of the peasantry in the implementation of the reform was promoted.

The model's vigour did not last long, however. Strong opposition by politicians and landowners led to the adoption of the Chicoral Pact, which put an end to the efficacy of land reform. As a result, the previous agrarian model was maintained in the 1970s, but it lost all its political backing.

In the 1980s, an alternative model was tried, which attempted to combine agrarian and anti-narcotics policies. It aimed at using land expropriation as a tool against organized crime by inverting the burden of proof of legal ownership against drug-traffickers. However, this model was soon abandoned following its declaration as unconstitutional by the Supreme Court of Justice and violent pressure from the drug cartels.

During the 1990s, the project of agrarian reform underwent a radical change, turning to the use of market mechanisms for land allocation, especially in the form of peasant subsidies for direct land purchases. However, this turn led only to a weakening of both the efforts at and the results of redistribution, as subsidies failed to promote productivity or technological development, and instead strengthened the role of intermediaries, thus reducing peasants' capacities for negotiation.

Agrarian special interests

The first key factor that explains the persistence of land inequality in Colombia is the political pressure exercised by landowners. Although this pressure has traditionally been there and has been able to block or neutralize different attempts at land reform, its nature changed substantively during the recent stages of the current armed conflict, as a result of the following elements:

- i) The empowerment of landowners within the context of particular state policies, such as security. This was a consequence of the establishment of solid networks between landowners and state agencies, which took place when the former became targets of attacks by guerrilla groups and therefore began providing resources to the latter in exchange for privileged protection.
- ii) The long-term criminalization of rural elites. This resulted, first, from landowners' active participation in the creation and support of paramilitary groups, and, second, from the acquisition of great extensions of land by paramilitaries and drug-traffickers. Relations between the rural elites and paramilitaries introduced old elites to the use of criminal methods and gave paramilitary groups access to various state agencies.
- iii) The strengthening of the links between the new rural elite and the political system. This has facilitated land appropriation and the establishment of territorial control by paramilitary groups. Furthermore, it has allowed

for the capture of several state agencies by such groups (including security and policymaking agencies, as well as offices in charge of the registration of land property), together with the electoral apparatus. Indeed, paramilitaries have become capable of exercising a direct influence in electoral outcomes, through the provision of coercive means to particular politicians and the denial of access to others.

The elements summarized above have turned the rural elite into a rather powerful and highly criminalized pressure group, which explains the recent emergence of a series of legal and governmental projects favouring the legalization of land appropriated during the armed conflict. These projects have included:

- The Statute for Rural Development (promoted by the government, but recently declared unconstitutional by the Constitutional Court), which established an easy procedure for obtaining legal entitlements over recently possessed land, as well as high thresholds for accessing land-purchasing subsidies.
- Law 1182 of 2008, which allows for the clearing of properties possessed under 'false tradition' (i.e. with false or foul legal entitlements).
- A failed attempt by the government to reverse the allocation of a piece of land (the Carimagua estate) that had been allotted to forcibly displaced families, in order to allocate it to a group of entrepreneurs.

Institutions

While the influence of agrarian special interests is an important factor, it is insufficient by itself to explain land inequality in Colombia. Indeed, many of the legal projects promoted by the agrarian bloc have failed to materialize, which shows that such a bloc is not omnipotent. A second explanatory factor for the persistence of land inequality, however, is provided by agrarian institutions.

During the Uribe administrations, the institutional landscape underwent a deep reconfiguration. This reconfiguration was aimed at maintaining the market orientation of the agrarian policy, but focusing on guaranteeing its efficiency. Basically, it consisted of the elimination of the agency in charge of implementing the agrarian reform (INCORA) and its replacement with a new agency in charge of coordinating the rural development system (the Colombian Institute for Rural Development, INCODER).

However, this institutional reconfiguration has produced no significant changes in terms of land redistribution, for two principal reasons. First, the new rural agency, INCODER, was created with a much smaller bureaucracy than that of INCORA, which has entailed the dispersion of the different state functions related to the agrarian issue among different agencies.

Second, the new institutional landscape has faced two serious problems inherited from the past: on the one hand, the disproportionate power of rural elites in agencies in charge of agrarian issues; on the other, the capture of state agencies by paramilitary groups, which has allowed the latter to influence decisions on property rights and land use.

The latter problems have not only generated an institutional inertia concerning land redistribution; they have also allowed the well-connected rural rich to obtain privileged access to the few redistribution efforts made by agrarian institutions.

The operation of checks and balances – particularly Congress's political control and the Constitutional Court's constitutional control of agrarian laws – limited to some extent the negative outcomes generated by these problems. However, the preservation and reinforcement of checks and balances could never be sufficient – and might even be counterproductive – for solving the problem of land inequality, given that they could impose excessive obstacles to more adequate policies

Technical issues surrounding the regulation of property rights

A third factor that explains the extreme inequality of land distribution in Colombia consists of a series of technical issues related to the regulation of property rights, which hinder any efforts at redistribution. These issues are mainly of two types: one concerns the regulation of land property rights; the other is related to the failure of attempts to use land expropriated from criminals for redistributive purposes.

The regulation of land property rights in Colombia offers strong incentives for rural elites to maintain and strengthen their political influence and coercive capacity. Indeed, the legal requirements for acquiring real estate has led to very low levels of adequate registration of land ownership. Moreover, institutions in charge of formalizing and registering legal transactions related to land (notaries and registry offices) are not present in many regions of the country and face severe technological challenges in relation to the updating and sharing of information.

On the other hand, the government's direct intervention in the appointment of notaries (in charge of formalizing and authenticating deeds that transfer real state) and its control of the agency in charge of monitoring such notaries (Superintendencia de Notariado y Registro) have created a situation in which considerable political influence over institutions in charge of regulating property rights and guaranteeing the transparency of transactions related to land. In fact, notaries are regularly distributed as payment of political transactions, and their monitoring by the state (if any) is very loose.

Finally, the incompleteness and disarray of the country's cadastral records and the weakness of key bureaucratic agencies have also facilitated the capture of the regulation of property rights.

The second type of technical issues that have hindered land redistribution revolve around the failure to expropriate the (enormous) assets owned by criminals. In the 1990s, a new attempt was made to combine Colombia's anti-criminal and redistributive policies. Law 333 of 1996 established the state's duty to extinguish the dominion of illegally obtained assets through a brief administrative procedure and without the provision of compensation, anticipating that such assets would be put at the service of redistributive policies.

However, this policy has produced only meagre outcomes, as a result of the aggressive legal defence strategy used by criminal organizations to challenge the legality of the relevant processes, together with the criticisms made against attempts to allocate properties that have not been fully legalized to vulnerable populations. As a result, the Uribe government decided to separate Colombia's anti-criminal and redistributive policies for good.

Conclusions

The result of the failure to bring about a timely land reform, of the criminalization of rural elites, and of the shy and swiftly dismissed nature of attempts at land redistribution in Colombia has been a dreadful distributive disaster. The distribution of land property is not only dramatically unequal but also unstable, and the present situation is as difficult to solve as ever.

This result can be explained by reference to:

- i) the existence of a political economy of negative redistribution, which has been generated by the criminalization of the agrarian pressure group;

- ii) the dispersion, weakness and lack of coordination of agrarian institutions, which resulted from the reforms promoted by the Uribe government, but which also strengthened previous institutional trends. (It is worth noting that these institutional problems emerged in spite of the fact that many of the reforms followed the advice of the international community, which could be therefore considered counterproductive.)
- iii) the persistence of technical problems related to the regulation of property rights, which severely hinder redistribution.

In order to address these problems, technical issues will need to be dealt with resolutely; particular support should be given to short-term and focused actions; and checks and balances should be maintained and complemented by mechanisms such as special judicial procedures for handling criminals' assets and the recentralization of agencies.

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Summary

Gutiérrez offers a comprehensive political explanation of the extremely unequal distribution of land in Colombia, looking at the specificities of the present moment, particularly the emergence of a criminalized 'agrarian special interests bloc' within the armed conflict, the problematic implementation of a new institutional framework for dealing with land issues, and the persistence of key technical problems that hinder successful land reform.

About the author

Francisco Gutiérrez Sanín is a Researcher at the Instituto de Estudios Políticos y Relaciones Internacionales, Universidad Nacional de Colombia. The seminar *Land Reform and Distributive Justice in the Settlement of Internal Armed Conflicts* took place in Bogotá on 5–6 June 2009, organized by PRIO and the Program for Global Justice of the Universidad de los Andes, in the seminar series of the Forum for International Criminal and Humanitarian Law (<http://www.prio.no/FICJC/>), with financial support from the Ministry of Foreign Affairs of Norway. This brief was prepared by Maria Paula Saffon, PhD student at Columbia University and Associate Researcher at DeJuSticia, and edited by Morten Bergsmo, Senior Researcher, PRIO. The full text of this paper will be published in the FICHL Publication Series. Further information about the seminar is available at the Forum web site.

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International Peace Research Institute, Oslo
Institutt for fredsforskning

International Peace Research Institute, Oslo (PRIO)
Hausmanns gate 7
NO 0186 Oslo
Norway
E-mail: info@prio.no
www.prio.no