

**ACCESS TO LAND AND ITS IMPLEMENTATION IN THE  
ECONOMIC REINCORPORATION OF EX-COMBATANTS OF FARC  
GUERRILLA IN COLOMBIA**

By

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# Author's declaration

I, the undersigned Laura Sofía Ramírez Rivero, candidate for the MA in Public Policy, declare herewith that the present thesis is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography. I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person's or institution's copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Vienna, 2 June 2021

A handwritten signature in black ink, reading "Laura Sofía Ramírez Rivero". The signature is written in a cursive style with a large initial 'L' and a distinct 'R' at the end.

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Signature

# Abstract

Colombia signed a Peace Agreement in 2016 between the Colombian Government and the oldest guerrilla in Latin America called Fuerzas Armadas Revolucionarias de Colombia (FARC), to end a fifty-years armed conflict. Democratization of land access was at the core of the FARC demands in the negotiation, and it is key to achieve economic reincorporation of ex-combatants, and therefore for the peacebuilding process in the country.

This study analyses the achievements and failures of the Peace Agreement and subsequent policies enforced in Colombia for access to land regarding ex-combatants or FARC and their economic reincorporation. Therefore, the demands in land access will be discussed, the FARC economic reincorporation during the peace negotiations and the correlation of forces between parties during this stage, as well as the current legal framework of the topic, supported by the results of interviews conducted and evidence of the ex-combatants perceptions of the policy.

Findings indicate that in the four years following the peace agreement and the enforcement of these government policies, no ex-combatants have achieved access to land in Colombia through the government strategy. It was found that it is primarily due to barriers such as the political will and political incentives of the government. Moreover, the existence of multiple stakeholders with demands in regards to access to land, the complexity of the legal framework, as well as lack of state capacity, directly affects the outcome of these policies.

This study concludes with some policy implications and recommendations that will try to challenge the actual status quo in access to land for ex-combatants.

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Specially, to my beloved peasants in Colombia and victims who have fight for their land for many years, and to the ex-combatants of FARC who signed the Peace Agreement who remain in the reincorporation process and face the same struggle for land access.

You will achieve the land; we will achieve peace in our country...

“I believe in miracles; how can I tell you that I don't believe in peace” (Gabriel García Márquez)

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# List of Abbreviations

ANT: National Agency of Lands (Agencia Nacional de Tierras

AETCR Former Territorial Spaces for Training and Reincorporation (Antiguos Espacios de Territoriales de Capacitación y Reincorporación)

ARN: National Agency for Reincorporation (Agencia Nacional para la Reincorporacion)

CONPES: National Council for Economic and Social Policy (Consejo Nacional De Política Económica y Social)

FARC: Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia)

IGAC: Agustín Codazzi Geographic Institute (Instituto Geográfico Agustín Codazzi.

NAR: New Areas of Reincorporation (Nuevas Áreas de Reincorporación)

PTN: Transitory Normalization Points (Puntos Transitorios de Normalización

SAE: Special Assets Society (Sociedad de Activos Especiales)

UPA: Unity of Agriculture Production (Unidad de Producción Agropecuaria)

UPRA: Rural Agricultural and Livestock Planning Unit (Unidad de Planificación Rural Agropecuaria)

ZVTN: Transitional and Normalisation Zones (Zonas veredales de Transición y normalización)



# Introduction

Colombia has undertaken the monumental journey of compliance with the Peace Agreement signed in 2016 between the Colombian Government and the oldest guerrilla in Latinoamerica called Fuerzas Armadas Revolucionarias de Colombia (FARC) to end a fifty-years armed conflict. The Colombian Peace Process is significant in its efforts in laying out a Comprehensive Agrarian Reform that tries to set the bases of democratization of land access for landless peasants and the economic Reincorporation of ex-combatants to civil life<sup>1</sup>.

In this context, the government has created a Policy that includes the strategies for the resettlement and housing of ex-combatants in 24 of the Territorial Spaces for Training and Reincorporation (ETCR) including only partially the ex-combatants (2.579 out of the 13.098 ex-combatants), furthermore, some laws, without any articulation of a policy, have come into force including land access to develop productive projects. However, after four years of signing the agreement, none of the 13.098 ex-combatants of FARC in Colombia in the reincorporation process have been given their land title through those provisions.

The research provides evidence of land as a salient asset in the country, as well as land access at the core of the discussion and demands of FARC during the Peace Agreement. Moreover, analyze the political context in Colombia during the negotiating process of the agreement, the correlation of forces during this stage at weak bargaining position of FARC on the negotiation process, as well as the current setting for FARC in land access and reincorporation.

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<sup>1</sup> This Research was adapted from an initial research proposal called “The Role of the access to land for Reincorporation of Ex-Combatants of FARC EPL” submitted by the student for the Introduction to Development course during Fall semester at CEU in 2020.

To analyze the compliance in the implementation process of the policy in access to land, this research aims to respond to three main research questions:

**Q1:** What are the achievements and difficulties of the implementation of the Peace Agreement and access to land policy targeting economic reincorporation of ex-combatants?

**Q2:** To what extent have the implementation of the peace agreement and the policy of Consolidation of the ETCR (Former Territorial Spaces for Training and Reincorporation) contributed to the achievement of land access for the economic reincorporation of ex-combatants of guerrilla FARC?

**Q3:** Why there has been a partial implementation of the Peace Agreement regarding economic reincorporation of ex-combatants and land access?

In particular, while analyzing the implementation of the peace agreement and policies developed for access to land for ex-combatants of FARC in Colombia, will be identified the successes, achievements, and failures in the economic reintegration of ex-combatants.

Once this research identifies the failures, difficulties, and partial compliance of the peace agreement and in policies in access to land for former ex-combatants, will be explored the possible barriers in the implementation of the policy that hinder the access to land and therefore the reincorporation of ex-combatants. For this purpose, 4 hypotheses are presented as follows:

1. The insufficient and complex legal framework in access to land.
2. The lack of political incentives to facilitate the implementation of the Peace Process.
3. The lack of state capacity in the countryside causing delays in land access processes.
4. The existence of many stakeholders with demands and deficit of access to land for other actors.

To test the hypotheses, seven semi-structured interviews were conducted with three former FARC members with political roles in the party created by FARC, two officials from an international organization, an ex-official of the National Agency of Lands, and an ex-member of the table of negotiation in La Havana. The ex-combatants were chosen because of their role and leadership in the territories and because they were accessible and willing to be part of the study, as well as their knowledge on the topic; the ex-official of the institution was chosen for his knowledge in the legal procedure of acquiring land for ex-combatants and the political context after the Peace signing and its implementation. Finally, the two officials from the international organization, and the expert in the table of negotiation in La Havana because of their expertise and knowledge regarding access to land.

Furthermore, it was necessary to conduct a documentary revision and process tracing of documents that provide the discussions at the negotiation stage of the peace agreement, furthermore laws, policies, reports from the Government, the Congress, the Attorney General's Office, from academic institutes and national and international organizations that monitor the compliance of the Peace Agreement.

The main findings of this research are the following:

1. Although the initial framework set out in the Peace Agreement did not include the specific provision of access to land for ex-combatants, FARC does not consider it unsatisfactory. The Peace agreement has to be interpreted according to the context and considering access to land as essential for economical sustainability, livability, and therefore economic reincorporation of former combatants.
2. The correlation of forces and the weak bargaining position of FARC during the Peace Agreement might have hindered the incorporation of a specific provision in access to land for former combatants of FARC.

3. FARC's understanding of land access is directly related to having access to the land title and property. Furthermore, FARC understands the land as territory, and in collective (as a group), land as a political demand with political, economic, and social implications.

3. There are some important achievements in the issue of policies and laws that still intend to provide land for housing and productive projects, more than twenty laws have been issued to provide rules and regulations to achieve economic reincorporation. However, the lack of political incentives in the government has hindered or delayed the issue of other regulations that would facilitate and simplify the access of land. It is mostly the political will that conditioned the interpretation of the existent legal framework and the main factor causing the failure of the process.

4. Some barriers difficult the access to land: such as the existence of other stakeholders with demands for land, but especially when those stakeholders are part of the elite economic group. Moreover, the lack of state capacity, and the complexity of the procedures in the legal framework, but to change them, political will is required.

The thesis is divided into three main chapters, and it is structured as follows: the first chapter introduces the literature review regarding the economic reintegration of ex-combatants, as well as examining the existing literature about other peace processes and how access to land was incorporated or included in different peace accords or agreements. Furthermore, it provides a context of the armed conflict in Colombia with the Guerrilla FARC, from the start of the violence until the signing of the Peace Agreement in 2016. Then, chapter two assesses the research question and presents the possible four hypotheses that respond to this research question. Moreover, it examines the methodology used in this research which includes interviews and documentary revision, mentioning the ethics and limitations of this research.

For chapter three, the discussion and main findings are presented, and, finally, the conclusions are brought forth.

The research concludes with recommendations that seek to generate policy implications in the economic reincorporation and peace-building context in Colombia.

## Chapter one 1. Case selection and literature review

### 1.1. Case selection

Colombia faced one of the longest armed conflicts in the world and the longest conflict in the Latin-American region, furthermore, and as it will be analyzed further the country has one of the highest inequality in land ownership of the world with 0.902 in the Gini coefficient. Furthermore, since 1989 Colombian Peace Agreement is the most comprehensive Accord signed and with more provisions (Krock Institute 2020).

This makes necessary to focus on the compliance of the agreement that is key to guarantee the Peace-building process in the country.

### 1.2 Context of the armed conflict and the Peace Agreement

Colombia has faced the longest armed conflict in the Latin-American region, with many actors, an enduring presence, and widespread impacts in the whole Colombian territory, leaving more than 9,134 million victims (UARIV 2021). Political tensions among Liberals and

Conservatives from the 1930s were manifested in a political deadlock which soon resulted in the emergence of violent conflicts known as '*La Violencia*' (1946-1964). These were no longer only reserved for representatives of the two-party system but instead spread across the entire country.

After twelve years of fighting, the liberals and conservatives allied in 1958 with the '*National Front*,' which appointed the next four presidencies, lead by an alternating representative of each party. However, the "National Front" only brought a temporary truce; the inequitable distribution of lands, the expansion of areas with livestock of landlords, the Government's neglect of social demands, and the lack of agrarian reform, amongst others, triggered the creation of armed peasantry, representing the interest of the peasants. These formed, the FARC in 1964, ELN in 1962, EPL in 1967, M19 in 1974, amongst other actors in the Colombian conflict.

The guerilla FARC, was the oldest guerrilla group in Latin America; it began as an armed peasantry, but then it turned into a communist ideology (left-wing) guerrilla movement, inspired by Marxist-Leninist ideals with core demands of land distribution (Machado 2019) (Molano 2016). In 1964, under the U.S. counter-subversion policy in the context of the Cold war, the Colombian state launched an attack against the independent republic of Marquetalia called the 'Marquetalia operation.' By FARC, this was understood to be an attack against the peasant population, thus, it marked the transition of FARC into a guerilla organization (Molano 2016) (National Commission for Reparation and Reconciliation 2013).

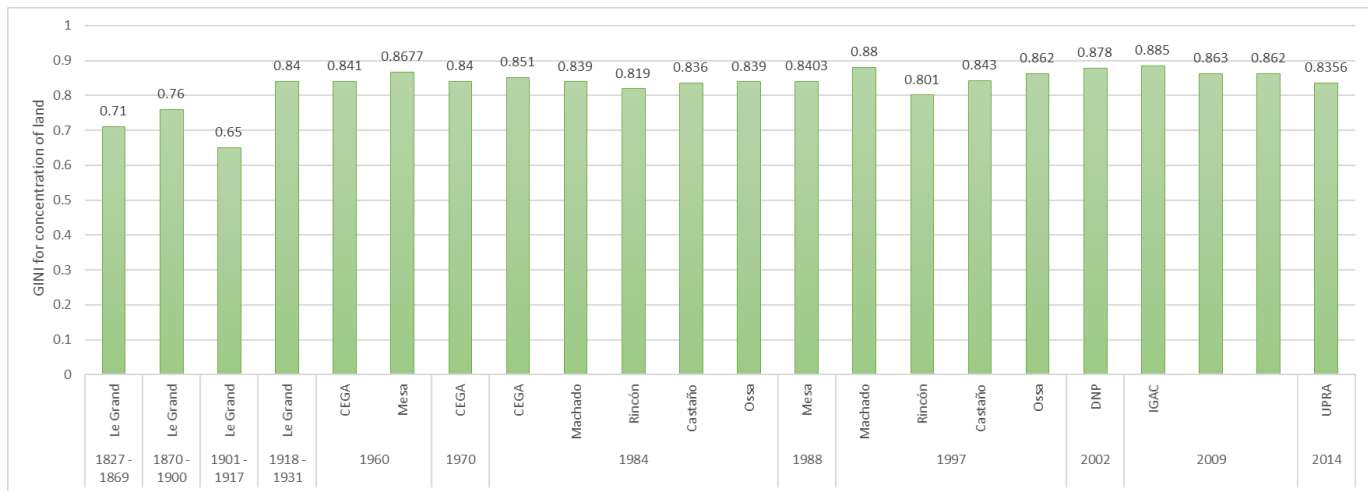
### 1.3. Inequality of land ownership in Colombia

One of the main historical causes for the conflict in Colombia was the dispute for access to land and the concentration of rural property in the hand of a few landowners. According to Oxfam, Colombia is the country with the highest inequality in land ownership in the Latin-American region 1% of the Colombian people own 80% of the land, while the remaining 99% only own 20%.

This inequality of the land ownership in Colombia has been thoroughly and comparatively studied. In particular, a study conducted by LeGrand and Kalmanovitz analyzed the concentration of land between 1827 to 1931. The authors used the Gini Coefficient to underline how inequality in Colombia increased historically. A Gini Index that is close to 0 represents perfect equality, while an index of 1 shows the highest inequality. According to LeGrand, from 1827 to 1869, the Gini took a value of 0.71. Between 1870 to 1900, the Gini index took a value of 0.76. The period between 1901 to 1917, when the Gini Coefficient was at 0.65, resembles the historical period in which Colombia came closest to equality. From 1918 to 1931 the Gini Coefficient again rose to 0.84. (UPRA 2016) (C. LeGrand 1988) (Kalmanovitz 2010). The Gini index worsened from 0.84 in 1960 to 0.885 in 2009. By 2017, the Gini coefficient in Colombia reached 0.902 which means that the access to land in Colombia is close to the highest inequality (Suescún and Posada 2017) (Grain 2014)

Graph 1 summarizes the data from different authors and sources regarding GINI coefficient in Colombia from 1827 to 2014:

*Figure 1: Historical calculation of inequality using GINI coefficient and concentration of land*



Source: Made by the author based on information from Le Grand (1988), IGAC (2012 p. 76) (UPRA 2016) (Kalmanovitz 2010, 216).

For all this, there is a need for redistribution and reorganization of Colombian land which was attempted in the 2016 Colombian Peace Agreement.

## 1.4. The Peace Process and subsequent legal framework for the creation of ETCR.

Different governments tried to sign peace agreements with the guerrilla fighters. However, three attempts failed: the agreements of La Uribe in 1984 under the Government of Belisario Betancur—who was the first to formally establish alternatives for the return of ex-combatants to society, followed by the government of César Gaviria Trujillo in 1982, and, lastly, the government of Andrés Pastrana Arango in Caguán (1998-2002).

In 2012, new peace talks were initiated between the FARC and the Colombian government which led to a formal peace agreement in 2016, officially ending more than 50 years of armed conflict (President of the Republic 2019). The main aim of this peace agreement was to stabilize the country by ending inequality over land in Colombia. On August 26, 2012, the government led by President Juan Manuel Santos, started a dialogue with the FARC with the aim of signing



a peace agreement. These conversations took place in Havana (Cuba) for more than 4 years. On June 23, 2016, the FARC-EP and the National Government announced the ‘Bilateral and definitive Agreement on ceasefire and cessation of hostilities and laying down of arms.’ This day marked the commitment of both parties to end offensive actions (Presidency of Colombia 2016a).

On September 16, 2016, the FARC and the National Government signed the ‘Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace’. After this, the Peace Agreement was subject to a plebiscite on the 2nd of October 2016, for people to vote for its approval or rejection. The outcome was a rejection of the Peace Agreement with 50,21 % NO votes against 49.78% voting YES. Consequently, the agreement was renegotiated considering the demands of the opposition party and it was signed again on November 24, 2016 and endorsed by the Congress of the Republic on November 30, 2016. After this, the process of implementation began:

One of the first actions to be implemented was the process of laying down arms and the implementation of the Transitional and Normalisation Zones (ZVTNs) and Transitory Normalization Points (PTN), named D-Day (Presidency of Colombia 2016b). These were formalized by Decrees in 2017 as areas where the ex-combatants were to be settled temporarily for 180 days from D-Day. Later that year, they were extended until August 15, 2017. Moreover, it was provided that after this the ZVTNs would be transformed into Territorial Spaces for Training and Reincorporation (ETCR) to continue the reincorporation process of former members of the FARC (Ministry of Justice 2017).

Furthermore, the government issued the Decree 2026 in 2017, through which the ETCRs were regulated, and it was defined that the Agency for Reincorporation and Normalization (ARN) would assume the responsibility of administering the operation of these spaces. This decree

further defined that the ETCRs would have a duration of two years from the date established in Articles 1 and 2 of Decree 1274 of 2017, until August 15, 2019. This meant that a legal framework established the grounds for ETCRs transitorily and temporarily until 2019, however, four years later, they remain as AETCR (ancient ETCR) and are still home to former ex-combatants.

Yet, this compels one to ask whether there exists a framework that provides guarantees for the economic reincorporation or stability in those AETCR for the former combatants of FARC. This is considered in the next section.

## 1.5. The importance of economic reintegration in Peace processes

Within the program of Disarmament, Demobilization and Reintegration (DDR), reintegration is one of the last stages. Disarmament is defined as the removal of weapons, ammunition, and explosives. Demobilization is the certification of the status transition from being a member of a military grouping of some kind to becoming a civilian. Reintegration is defined as the process by which ex-combatants acquire civilian status and gain sustainable employment and income (UN 2014). Reintegration is essentially a social and economic endeavor, a long-term process that takes place at the individual, community, national and regional levels, and is dependent upon wider recovery and development. Reintegration programs are designed to keep the ex-combatants from becoming “rearmed spoilers” and help them become functioning members of society (Nussio and Howe 2016). Reintegration programs normally include education, occupational training, psychosocial counseling, monitoring of ex-combatants, and financial subsidies (UN 2014).

The UN differentiates between reinsertion and reintegration; reinsertion is part of reintegration, and reintegration:

*“Reintegration is defined as: the assistance offered to ex-combatants during demobilization but prior to the longer-term process of reintegration. Reinsertion is a form of limited period assistance to help cover the basic needs of ex-combatants and their families and can include transitional safety allowances, food, clothes, shelter, medical services, short-term education, training, employment and tools. However, while reintegration is a long-term, continuous social and economic process of development, reinsertion is a short-term material and/or financial assistance to meet immediate needs that can last up to one year” (UN 2014)*

The economic reintegration focuses specifically on helping ex-combatants to generate income and livelihood. Ex-combatants need support in a transition process to become civilians, to connect again with the social fabric of the community, and to recover their social network (Ramírez Laura 2020). The economic reincorporation opens the window for developing those capacities as members of society.

Countries that have experienced the transition to peace have well learned the importance of the economic reintegration programs in maintaining peace and achieving the complete reintegration of ex-combatants, as well as the necessity of economic integration to achieve political integration thereafter (Gilligan, Mvukiyehe, and Samii 2013). Access to productive resources such as land is relevant to achieve economic reintegration of ex-combatants, especially within short-term demobilization to ensure the maintenance of peace (P. Collier 1994), but it is not always included as part of the compromises of the peace agreements.

In the Colombian context, the Final Peace Agreement between the Government and the FARC signed in 2016 included the concept of Reincorporation instead of using Reintegration which

improves the standing of ex-combatants, to allow participation in politics and a more comprehensive set of policies (ARN 2019).

Another significant aspect is to explore how this economic reintegration generally works in other peace processes, specifically in regards to land access, compared to the Colombian system, which will be discussed in the next sections.

## 1.6. Economic reintegration related to access to land in other peace processes

In some countries such as Nepal, which signed the Comprehensive Peace Agreement in 2006, the program of reintegration included cash transfers, which was used for land and in the resettlement process. Housing and household goods are generally priorities for ex-combatants. Accordingly, this study has found that ex-combatants spend a significant portion of the cash package on buying fixed assets, such as a house, residential land, and household investments, including house renovation, even in urban neighborhoods. Those who returned to villages lived in existing houses belonging to their families and found it relatively easier to resettle. (Subedi 2018). However, those that resettled, were buying land next to the cantonments where they were temporarily relocated. Since the money given was not enough, some ex-combatants ended up deciding to buy unregistered land at a cheap price (Kandel 2017).

Some scholars have analyzed how access to land is key to achieve economic mobility and food security for ex-combatants in African countries. In general, this shows that ex-combatants had a very high level of access to housing and land for cultivation across the Great Lake Region countries and live in permanent housing equitable to their neighbors, which means they have reached considerable parity with community members. However, some of them have insurance land tenure due to structures such as clans (Rhodes).

In the Northern and Southern regions of Sierra Leon, tensions over land were key drivers of the war. The land is being rented for a fee or a percentage of the harvest. This is the way to secure a piece of land, which is seen as risky because at the moment of the agreement, they don't know what the harvest will yield. Regardless, they face difficulties in having the start-up capital, as ex-combatants are mostly poor people who do not have savings to secure a loan. Also, young and unmarried women ex-combatants find it difficult to get their own land, and this affects the level of female involvement in agriculture (Hennings 2019).

In some countries, such as Ethiopia, scholars have indicated that ex-soldiers have not faced major problems in gaining access to land. However, there are difficulties in livestock provision in the reintegration program (Ayalew, Dercon, and Krishnan 1999).

In Liberia, a study of the impact of agricultural projects for young ex-combatants was conducted, where land is an available asset, it analyzed the importance of agricultural programs as part of the reintegration program of ex-combatants in a post-conflict context, and examined the effect on this in poverty alleviation, income, wealth, poverty reduction, social integration and the participation of the ex-combatants in legal activities. (Blattman and Annan 2011).

Among the Latin-American region, the case of El Salvador is relevant due to the rural landlessness in the country, for the socioeconomic reincorporation of ex-combatants, the Chapultepec Agreement included a land transfer program, and a program of credits for agriculture and micro-enterprise, for both ex-combatants from both the Farabundo Marti National Liberation Front (FMLN) and the Salvadoran military (FAES). Additionally, the program was developed in two phases: the "short-term (agricultural training, distribution of agricultural tools, basic household goods, and academic instruction) and medium-term (credit for production purposes and technical assistance) programs would also complement the land

program.” The land transfer took almost seven years to be complete even when it was initially thought to be implemented in one year (De Bremond 2007).

In the next section, the context of the armed conflict in Colombia is introduced, as well as the details of the Peace Agreement, which includes the reincorporation process for ex-combatants.

## 1.7. The framework of economic reincorporation and access to land in the Colombian Peace Agreement

### Reincorporation

The Colombian Peace Agreement consists of six parts. The third chapter of the Peace agreement addressed the reintegration of ex-combatants to civil life and their social and economic reintegration; it incorporates the identification and access for collective and individual productive projects, as well as a cash transfer program for ex-combatants. It envisaged reintegration into civilian life as an integral, sustainable, exceptional, and transitory process that considers the interests of the FARC community and their families and aims to strengthening the social fabric in the territories, coexistence, and reconciliation.

Through Decree Law 897 of 2017, the Colombian Agency for Reincorporation (ACR) became the Agency for The Reincorporation and Normalization (ARN), and, from that moment, was given the attribution of taking the necessary steps for the reincorporation into the social and economic life of the ex-combatants of FARC and their families.

This third point, the reintegration route, was elaborated by Decree 899-2017 and Resolution 4309-2019, which includes an early reincorporation and a long-term reincorporation:

The short-term reincorporation includes:

- Basic rent of 90% of the minimum salary in Colombia is given if the person doesn't have a job for 24 months, since they are accredited as ex-combatant (equivalent to 195 euros per month).
- A unique cash transfer called 'assignment of normalization', given once, an amount of 2 Colombian millions (equivalent to 469 euros).

The long-term reincorporation includes:

1. Education
2. economical sustainability
3. livability and housing,
4. health
5. integral psychosocial well-being
6. family,
7. Community component

As a part of Economical Sustainability, sustainable generation of sources of income and actions in individual and collective productive projects is included. For this purpose, an amount of 8 million Colombian pesos (around 1.876 euros) is given for productive projects (individual or collective), for individuals to buy or improve housing.

Additionally, the instrument of Public Policy called CONPES 3931-2018, the National Policy created for Social Reintegration and Economics of ex former of FARC, also laid out the access to land for ex-combatants. Decree 2027 of 2016: Creates the National Council for Reincorporation (CNR). Decree 1212 of 2018 and Resolution 3207 of 2018 stipulate the

requirements for verifying the viability and approving individual productive or housing projects.

## Land access

On the other hand, the first point on the Peace agreement incorporated access to land through a Comprehensive Rural Reform. It aimed to promote a democratization of the access to land, the structural transformation of the rural areas, and the comprehensive development of the rurality. It put the Government in the duty of creating a land fund, to facilitate access to land such as an integral subsidy for purchase of land and special credit for land purchase.

The Decree 902 of 2017 incorporated the general route of access to land for any peasant without land, including a process of registration, classification, and scoring, depending on the socio-economic circumstances, without any differential approach for former members of FARC, this was developed in Resolution 740 of 2007. This procedure is done by the ANT (National Agency of Lands) for potential beneficiaries of land endowment programs which implies registering the information for the further prioritization and classification of the beneficiaries. Moreover, Paragraph 1 of Article 24 of the Decree established the possibility of land being given to public institutions, allowing them to have it for social programs for FARC land access. Another legal instrument is the Decree 756 of 2018, which provides a special program for FARC land access.

For access to land for productive projects, the government has created two mechanisms: Law 1955 of 25 May 2019, established that rural lands where projects are or will be developed by people in the process of reincorporation will be transferred directly by the Special Assets



Company (SAE), to the beneficiaries. The second one establishes the possibility for former ex-combatants to lease land from the Special Assets Company (SAE). However, we will analyze further in the chapter of findings if these legal framework has achieved their goals.

## 1.8. Ex-combatant's preferences for agricultural projects:

According to the stipulation in the Peace Agreement, during May and June of 2017, the socioeconomic census of former FARC-EP members conducted for the combatants in the ZVTN, showed that from 9,929 of ex-combatants respondents, 66% have rural origins while only 15% have urban origins. This means ex-combatants have a strong connection and dependence on the land, as well as the aptitude and willingness to develop activities in the rural areas. Moreover, from 10,015 ex-combatants interested in developing productive projects, 60% responded to their willingness to agricultural activities (UNAL 2016). Furthermore, the CONPES 3931-2018 shows that according to ECOMUN data, 90 % of the associations and cooperatives of ex-combatants have a preference for agricultural and livestock and according to the Presidential Advisor's Office for Stabilization and Consolidation's Management Report from 2018-2020, 60.9% of the former combatants are interested in obtaining their source of income within the agricultural sector (Presidential Advisor's Office for Stabilization and Consolidation 2021).

In addition, according to the census half of the men are between 27 and 41 years old, 25% are under 27 years old, and women are on average 30 years old, and half are between 23 and 34 years of age, 25% of the women are under 23 years of age, and the remaining 25 percent are over 34 years of age. This implies that there is a young population that will reasonably be willing to keep this capability for agricultural activities in the rural areas. It also suggests that

the essence of the ex-combatants is rural, and land is an important asset in developing these activities.

In Colombia, there are 13,098 ex-combatants. After spending decades in the forest, the economic situation of ex-combatants in society, the need to reincorporate them into civil life, their conditions as peasants without land, and their untapped preferences for rural activity make this a social justice issue to be addressed. Today FARC lives in precarious conditions of tenure currently in the ETCRs, without access to housing, and instability to develop their productive projects (Procuraduría, 2020). Those former members of FARC that are outside those areas (9,614 from a total of 13,098 people for reincorporation) are not included in the strategy of access to land for housing, which means that only 2,579 are included, but any of them have had access to land yet in 4 years.

In the last report, the United Nations reminded the Colombian Government that the access to land for ex-combatants was urgent, to develop their productive agricultural projects (United Nation 2020) and according to the National Registry of Reincorporation (RNR) conducted with ex-combatants, 39% of ex-combatants are in populated centers (rural areas), 20.3% in dispersed rural areas, and the collective projects of greatest interest are focused on agricultural and livestock activities. When the RNR raises questions that have some relation to the land issue, such as Question 114 ("Do you require land for your productive initiative or undertaking?"), a total of 4,209 answered Yes to this question of the 11,982 participants who have responded to the RNR as of August 31, 2020 (ARN 2020).

At a later point, the Government admitted that land was a necessary asset for the reincorporation of FARC. The Agency of Reintegration and Normalization (ARN), created the Policy called 'Peace with legality' that indicated the importance of consolidating the access to land; however, the institution insisted that this was not something included in the Peace

Agreement. This policy only includes the relocation of the 24 Former Territorial Spaces for Training and Reincorporation AETCR, where about 2608 of the ex-combatants live. However, there are around 95 territories or areas outside those ETCR, called New Areas of Reincorporation (NAR), where 9,602 ex-combatants live, and these areas are not included in the strategy of the policy. Therefore, they won't have any guarantee from the government for access to land through a specific procedure.

Furthermore, the National Agency on Land is responsible for the access to land for ex-combatants, because the institution in charge of reincorporation, the Agency for Reincorporation and Normalisation, does not have that competence to directly provide access to land, thus needing to defer to in the duty of the National Agency of Lands for this purpose.

During the period from 2018 to 2020, the mechanism of access to land progressed slowly in the country; only 777,572.8 hectares of land have been included in the Lands Fund, only 317 hectares, for a total of 923 peasants have been given, which represents only 0.08% of what should have been done in a working year. Furthermore, the General Budget of the Nation for 2020, compared to the approved budget for 2021, had a significant reduction in key entities for rural development, specifically the ANT and the (Goebertus 2020).

For all this, access to land is still an ongoing process, but it is necessary to comply with the Peace Agreement and for the special condition and vulnerabilities of the ex-combatants and their preference.

The next chapter describes the research question, hypotheses, procedures, and methods used in this research.

## Chapter two: Theory & Hypothesis, and Methodology

As the literature review supported, access to land is relevant for the economic reincorporation of ex-combatants. In Colombia, this is key for peace building and the guarantee of stability. The research will examine how the peace agreement and the public policy laid out the access to land and the possible hypotheses for the non-compliance of this duty.

### 2.1. Research questions:

**Q1:** What are the achievements and difficulties of the implementation of the Peace Agreement and access to land policy targeting economic reincorporation of ex-combatants?

**Q2:** To what extent did the implementation of the peace agreement and the policy of Consolidation of the ETCR (Former Territorial Spaces for Training and Reincorporation) for access to land contribute to the achievement of land access for the economic reincorporation of ex-combatants of guerrilla FARC EPL?

**Q3:** Why there has been a partial implementation of the Peace Agreement regarding economic reincorporation of ex-combatants and land access?

### 2.2. Theory & Hypothesis:

To respond to the research questions, some hypotheses have been presented, which the research will seek to validate or reject. The research findings will also align with additional literature that has been developed by other scholars, specifically in the Colombian Context, to identify

the possible barriers or obstacles for the implementation of the peace agreement, as well as land access for ex-combatants of FARC:

## H1: Insufficient and complex legal framework in access to land

This will be analyzed in four ways: first, by examining the insufficiency of the existing legal framework, then by looking at possible failures of the process concerning land access, thirdly, by assessing whether the existing legal framework includes the same understanding and meaning of land access that FARC holds (rights of property over land as a collective land perspective), and, finally by considering the complexity of the legal framework for access to land.

First, this research seeks to explore if the existing legal framework is enough to provide land access or if, on the other hand, it contributes to hindering this right of ex-combatants from a scholarly perspective. Furthermore, I will discuss the concept of access to land.

Scholars have analyzed the tendency of agrarian reforms to pursue social justice and their relevance in allowing the transfer of land to those that have been historically marginalized regarding land access. Land reform normally includes structural changes in the distribution of lands between those who do not own or who own very little, and landowners (White, Borras, and Hall 2014). Land distribution is seen as key for Peacebuilding (Ngin and Verkoren 2015) and is relevant to foster the economic development of the rural population (Escallón 2021). Specifically, in Colombia, scholars have analyzed the policies of rural reforms in the history of the country, mentioning the attempts since Law 200 of 1936 to pursue agrarian reforms, with

two other attempts of agrarian reforms in 1974 and 1994. In all cases, these attempts failed, and then a new attempt began with the Peace Agreement in 2016 (Machado 2020).

The Colombian Peace Agreement has been seen as an opportunity to solve the problems of access to and formalization of lands; however, scholars have argued that the Comprehensive Agrarian Reform provided in point 1 of the Peace Agreement is still not an effective instrument to transform the land tenure. Even if all that is established in the document of the Peace Agreement is carried out, it would still not change the unequal concentration of land in the country or alter the historical power relations that exist on the land tenure (Escallón 2021) (Serrano 2018).

According to scholars, there is no progress with land access, which was laid out in the peace agreement, due to the lack of the approval of laws and mechanisms for the implementation of the agrarian reforms which would enhance compliance with the provisions of the peace agreement (Chaves 2018) (Escallón 2021). Because the changes in land tenure provided in the agrarian reforms only created a general framework, there have to be actual instruments so that policies may be inserted and rural development will materialize (Figuerola 1977).

Focusing on the case of combatants of FARC, the peace agreement did not specifically provide an article of access to land for this specific group, but some subsequent policies and laws did include this legal provision. However, the literature has not elaborated on the reasons for this omission in the peace process, and current research has not discussed the sufficiency and effectiveness of the legal framework created to address land access for ex-combatants. This component is strongly related to the goal of economic reincorporation and will be further analyzed in the third chapter.

Secondly, another relevant discussion of the legal framework is how the concept of access to land is formally incorporated in the legal framework. Amongst the scholars, despite the

different mechanisms of access to land used in agrarian reforms, land titling or tenure, which grants property rights over the land, is the most desirable. Ownership of the land offers legal security against eviction and relocation, as well as against unwarranted search and seizure; important to guarantee human development (Nussbaum 2001). Moreover, the peace agreement seeks to strengthen the role of the state in the guarantee of property rights (C. C. LeGrand, van Isschot, and Riaño-Alcalá 2017).

In the development field, academics have discussed the relevance of the property title, and the access to land to fulfill the capabilities. In terms of Sen's 'capability approach', it may be argued that the land (as a resource) offers functions that shall fulfill 'basic capabilities', and many more (Sen 2016). Furthermore, George argues that the justice of land ownership has been discussed: "What constitutes the rightful basis of property? What allows someone to justly say, "This is mine!"? Then he also highlighted that the ownership of land is crucial to determine the social and political aspects of the people, their social, political, and other abilities (George 2006)

Moreover, it has been argued by Soto, that there is a relationship between titling and ownership with the issue of poverty mentioning that poverty is caused not by the assent of assets but the absence of formal ownership over these assets, thus the title provides the necessary security (Merino Acuña 2014; Lowenthal and Soto 1989). This, however, has been criticized by empirical studies that have found that new titles were not an effective remedy to the conflicts but, instead, create more controversies and tenure disputes amongst land users (Griffith-Charles and Opadeyi 2009; Krul, Ho, and Yang 2021; Jansen and Roquas 1998). The discussion regarding titling for ex-combatants will be elaborated on further in the third chapter.

Furthermore, it is important to consider the discussions in the literature concerning the concept that some communities regard land in a manner that goes further than an economic perspective

but a social, cultural, and political space that has an impact on well-being (Ansoms and Hilhorst 2014).

Also within the literature, the concept of territory as a place where actors use available resources can be found, but it is also characterized as a space in which social ties and individual and collective identities are constructed (Ávila Sánchez 2015) and where the legal, social, political and spiritual relationships that are unique and interconnected are developed (Merino Acuña 2014).

In the same way, there is also the concept of having land access not as individual but as a collective. While ethnic groups may be the exception, most legal frameworks are not usually created with the understanding of communal property for groups. Among scholars, legal regimes, and legal elites, there is a lack of awareness regarding the nature and importance of communal property for ex-combatants. However, empirical studies show that this strategy allows for long-term investment, as well as sustainable production in which members have rights and duties that allow for sustainable management of the asset, which can be used in conjunction with individual ownership (Merino Acuña 2014). To conclude, while this concept has been developed for the indigenous population, few have researched how this might be applied to ex-combatants.

Finally, in regards to the complexity of the legal framework. In Colombia, the legal tools for distributing public land implemented in the agrarian reforms including the Peace Agreement are: land expropriation of private lands that are either illegal or unproductive, land colonization, willing-seller willing-buyer market-led distribution, and land titling or tenure (Borras 2007; Leite 2016; Escallón 2021). However, those strategies have been developed further through strict legal procedures that have made the agrarian reforms inefficient “Dispersed, fragmented and partial, immovable, which does not seek to change the agrarian structure” (Machado 2009).



Despite the changes in legal procedure, those immovables represent barriers for the implementation of a real agrarian reform in the country, and now FARC, as a new actor with demands in land access also faces these barriers. (Chaves 2018).

In conclusion, the literature supports the need to consider the hypothesis of lack of legal framework in agrarian reforms is not an effective instrument by itself to transform and it may be necessary to insert policies to achieve rural development. The legal framework can be a tool but also a barrier when the procedure is excessive, immovable, and does not respond to the context and reality. In the case of access to land, we will analyze the findings, but we will also use the literature to further examine from the interviewee's conceptions of land, territory, and collectivity.

## H2: The lack of political incentives to facilitate the implementation of the Peace Process.

This hypothesis tries to understand if the political incentives and political will of the government either hamper or promote the access to land for ex-combatants. We argue that the law and existent framework of the Colombian Peace Agreement requires political will to materialize and develop policies.

This hypothesis is necessary because the law is influenced and applied with human influence, expectations, and interests. In this sense, scholars have argued that laws and policies do not self-interpret or self-implement; they are shaped, interpreted, and implemented according to the very political interactions between state and societal actors with which they engage (Franco

2008) (McKay 2017). Moreover, to focus only on technical problems and solutions, and ignore the political decisions that are made, or have to be made, is to create a false illusion (van Leeuwen et al. 2021).

It is important to mention that the peace agreement has had opponents since its formation, during its design and negotiation. The ‘No’ to the peace agreement won, but the vote against the agreement is explained by scholars:

*“the support for the opposition party was a critical factor in the outcome, with more important quantitative influence than either the experience of victimization or economic drivers of dissatisfaction...”* (Dávalos et al. 2018, 118; Rettberg 2020).

After the implementation of the peace process and the agrarian reforms, there was still resistance, so it is necessary to analyze the political incentive of the government after the signing of the agreement. In the Colombian context, authors such as Absalon Machado have analyzed the agrarian reforms in the country and how it is possible that the political context conditioned the agrarian reforms, resulting in steps backward within the institutions (Absalon Machado, 2009). Furthermore, others have pointed out that the national government ignored the text of the Peace Agreement in the implementation of the Comprehensive Rural Reform, privileging the agro-industrial sector to the detriment of the rights of peasants. There is still a lack of political will to advance the participatory construction and implementation of public policies derived from the comprehensive rural reform agreement (Chaves 2018), which shows that the coalition of landholders and political elites should be broken to allow the political elites to carry out the agrarian reform (Escallón 2021). Moreover, scholars have argued that the central government in Colombia *“has displayed a bias against small producers in its development plans and policies, favoring large landowners,”* showing the lack of compliance

and desire to fulfill the compromises and regional accords made between the government and the community (C. C. LeGrand, van Isschot, and Riaño-Alcalá 2017, 260).

The government appears to be embedded in an economic model, with strong alliances with companies in the construction industry, agroindustry, and other groups largely against peasant interests, further evidenced by the creation of 400 new companies in the country since 2017 (Presidency of the Republic 2018) (Rettberg 2020). Rettberg has also pointed out the existence of many actors that influence the political decisions in the government:

*“Contestation over the agreement cannot be read in traditional class-struggle terms but needs to take into account intra-sectoral divisions along the lines of links to formal and international markets and international competitiveness as opposed to those more inward-looking, informal types of economic activity (Rettberg 2020, 7).*

Furthermore, as Fajardo asserts, “legal channels” often contribute to processes of ‘depeasantisation’ when the law is used with other ends such as to benefit agro-industrials or actors with power (Fajardo 2014) (McKay 2017).

From this, we can conclude that the literature supports that the government has other political incentives which do not privilege the rural development goals established in the Peace Agreement. Therefore, with this hypothesis, we will analyze if this government political and economic model might be the reason for the lesser implementation of access to land for former fighters of FARC.

Secondly, we will seek to understand the larger consequences and perceptions of the government’s political will. Scholars have analyzed the consequences for the population, such as the creation of a polarized society and low social cohesion (Rettberg 2020).

Moreover, although there is still a lack of trust in the government's compliance with the Peace Agreement, the people expect that the government will comply with the access to land. According to the Latin-American Barometer in 2019, only a third of those polled in Colombia believe that the government will comply with the Peace Agreement (35.7%), but 61.8% of respondents considered that the implementation of the accord will improve peasants' access to land. Furthermore, 86% (with the highest percentage amongst the other points) agree with the agrarian reform and the distribution of land to peasants. It can be concluded that there is high trust, consent, and expectancy specifically for what was negotiated in the first point of the agreement among the Colombian population (Transparency International 2019)

However, from the Democracy Observatory, some important conclusions have been made, which show that, during a 2018 national sample, support for the Peace Agreement was lower among the people from the Centro Democrático, which is the party that was opposing the Peace Agreement. During 2018, support for the Peace Agreement among Centro Democrático (44%) was lower, compared to the 48% of people who are not from this party but supported the agreement. In the 2019 special sample, 56.8% of people from the Centro Democrático supported the Peace Agreement, while 53.2% of those who do not feel an affinity for the Centro Democrático supported the Peace Agreement, suggesting a reversal of trends. This leads to the conclusion that those who identify themselves with the Centro Democrático may tend to positively assess the set of policies that are currently being carried out, including the implementation of the Peace Accord. In contrast, those who supported the signing of the Peace Accord during the previous administration, are comparatively more critical of its implementation (Observatory of the Democracy 2019).

In conclusion, the lack of compliance with the peace agreement and the tendency of the government to align with and support other actors are both relevant issues for the peace

agreement, likely causing the decline in trust for the process and furthering the polarization and break of cohesion in Colombian society.

### **H3: The lack of state capacity to guarantee institutional presence in the countryside is causing delays in land access processes.**

This hypothesis suggests that the lack of institutional presence in the countryside causes delays in land access processes, especially because a majority of ex-combatants live in rural areas. It is relevant to know if there is the lack of state capacity to provide timely responses in the territories that need access and definitive titles for the land.

For Weber, the state has not only a monopoly on the legitimate use of force but also on the investment of this monopoly into a rational-legal structure of authority, organized in a bureaucratic fashion. The important components of the theoretical construct of bureaucratic/administrative capacity are professionalism, insulation from political pressure, and efficacy in delivering government services. On the other hand, Fearon & Laitin (2003) emphasize the relevance of the reach of government institutions into rural areas (Hendrix 2010).

The Observatory for Democracy has created three dimensions of state capacity: territorial scope, provision of services, and the capacity to collect taxes (Observatory of the Democracy 2019). In Colombia, the National Entity for Reincorporation has the duties of reincorporation, but this depends on 30 national entities. According to reports of the General Attorney of the Nation, it has been limited in its action because the issuing of a regulatory framework for the

formalization of duties and competences is still pending, which assigns clear responsibilities with timeframes and goals for advancing along the reincorporation route. So far, the ARN has been depending on the political will of the administrators of those agencies and the entities responsible for economic reincorporation (Attorney General's Office 2020).

With this, we can conclude that the literature review supports that the provision of services is directly related to the state capacity, and this might be causing delays in the processes of land access, along with lack of personnel and infrastructure of the institutions with duties in reincorporation.

#### **H4: The existence of many stakeholders with demands and the historical delay and deficit of access to land for other actors**

With this hypothesis, this research identifies the possibility of many actors, with demands in access to land that do not own land or do not own enough. Even though access to land is achieved through different procedures for these different groups, the land is a highly demanded asset in the country as a part of the 'historical debt'. In this sense, the relationship between the stakeholders can be tense, depending on the legal claims and rights involved, and can cause territorial conflicts.

It is necessary to identify these stakeholders: peasants, agrarian workers, indigenous people, afro Colombians, and in general rural communities. Rural population is used in the Peace Agreement to refer to those who do not own land or not enough. Escallon includes all rural people as "rural poor" in the Colombian context, and includes as such, small owners, tenants,

squatters, sharecroppers, day laborers, and ethnic minorities. Landholder elites are also stakeholders, although they have historically been privileged with access to land, as well as political elites, composed of either militant, politicians, civilians, or important political appointees. In addition, pro-reform groups with actions and political positions towards structural transformations of the rurality are also stakeholders (Escallón 2021; Borras 2007; Bobrow-Strain 2015). Escallón asserts that alliances are formed between rural poor and pro-reforms which put pressure on policies for land access and break the coalition of landholders and political elite that hinder the agrarian reform (Escallón 2021).

It is relevant that those cataloged as poor people share an interest in access to land, which scholars have seen as an opportunity. The understanding of the failure of land tenancy can lead to the negotiation of additional agreements, with the possibility of “reconciling – or defragmenting – competing multi-stakeholder narratives” (Escallón 2021).

Those relations and common interests and land claims can also trigger conflicts, especially if they are considered ‘illegitimate’ land claims, even when those actors are in the same position of inequality. Evidently, agrarian reforms try to redistribute land and rights to access this asset, and it can unavoidably generate tension and disputes between ‘winners and losers’ of those reforms. While recognition of rights in rural reforms might benefit and protect some communities and social groups, it might affect others (van Leeuwen et al. 2021).

It can be concluded that former ex-fighters are not included explicitly in the literature amongst these vulnerable groups with land demands, perhaps under the idea of being part of the group of rural poor. The reincorporation of the FARC to civil life in 2016 through the Peace Process also included another actor with demands for lands, amongst others waiting for years for a response to this 'historical debt' of lands. It has led to conflicts over territory; some of them have been sorted by the communities that have implemented effective collective solutions to

problems and have empowered the communities to find compromises between interest in land with the understanding that ‘there is land for everyone.’

This section has reviewed the key aspects of the hypotheses of this research, attempting to respond to the first research question related to the difficulties of implementation. The next chapter describes the gap in the research, as well as the procedures and methods used in this investigation.

## 2.3. Methodology:

This research will carry out a qualitative analysis, using process tracing as a method, examining the critical points that difficult the implementation of the Peace Agreement and the Policy and laws for access to land for former ex-combatants. Process tracing allows the analysis of empirical phenomenon determining the causal process, the causal chain, and the mechanism in a case (George & Bennett, 2005). Process tracing has many advantages for policy studies research, and this case allows us to hypothesize multiple independent variables, causal mechanisms, and dependent variables to elaborate on the relationship between them and to operationalize them as an observation in a specific case (D. Collier 2011)

In this case, we will analyze the evidence from stakeholder interviews conducted and the analysis of documentary evidence (Kay and Baker 2015) considering the research questions and hypotheses that were posed, trying to contribute to evaluate the causality between the public policy and legal framework given and the failures and achievements in its implementation of access to land for ex-combatants.



### 2.3.1. Interviewees selection

The ex-combatants were chosen because of their role and leadership in the territories and because they were accessible and willing to be a part of the study and share their knowledge on the topic. The former official of the institution was chosen for his knowledge of the legal process of acquiring land for ex-combatants and the political context after the signing of the Peace Agreement and its implementation. The two ex-officials from the international organization and the expert that was at the negotiation table in La Havana were chosen because of their expertise related to land access and economic reincorporation of ex-combatants.

I consider the possible bias of two of the ex-combatants for their own perception as beneficiaries in the process of access to land since they also have a political role in the political party created by FARC that has representation in Congress and in politics called ‘Los Comunes’.

I obtained access to these people because of my previous work related to these topics as an officer in the Colombian Government during five years in different institutions at the National Level, such as the National Agency of Reincorporation and the National Agency of Lands and the Unity of Restitutions of Lands. However, regarding my own positionally, currently I am a researcher and not a government officer.

### 2.3.2 Interviews as a primary source, confidentiality, anonymity, and ethics

For this research, semis-structured interviews were conducted in Spanish to seven people with roles and expertise in economic reincorporation, according to the following table:

Participants	Date of the interview	Role and organization
Participant 1	June 9th 2021	Advisor to the peace process for economic reincorporation in The Habana and former advisor to the High Advisor for Post-Conflict, Human Rights and Security of Colombia.
Participant 2	June 9th 2021	Former member of FARC and peace signatory. Part of the Political Party of FARC (Comunes). Work in access to housing and land in ETCR Tierragrata. Social worker and profesor in a University in Colombia.
Participant 3	June 9th 2021	Lawyer in Human Rights and International Humanitarian Law. Ex officer at the National Land Agency coordinating the programme of special land acquisition programmes.
Participant 4	June 10th 2021	Former member of FARC and peace signatory. Delegate of reincorporation. Political spokesperson for the Comunes party in Tolima. Work in economic reincorporation in ETCR Icononzo.
Participant 5	June 11th 2021	Sociologist, former consultant in NGOs on social and economic reincorporation. Officer of an International organisation.
Participant 6	June 11th 2021	Former member of FARC and peace signatory. National Delegate to the National Council on Reincorporation
Participant 7	June 11th 2021	Sociologist and anthropologist. Officer in an International Organisation that support the National Reincorporation for ex-combatants of FARC, and the team and accompanies gender and community issues.

*Figure 2: Information about the semis-structure interviews conducted for the researcher*

The interviews were held in the first half of June. Before the interview, they were informed about the thesis topic, given the opportunity to ask questions about the research and the interview, and informed about the interview being recorded.

All the seven interviewees consented to having their words quoted in research outputs, six consented to having their names used if necessary, one person requested to have his name omitted and the other one asked explicitly not to mention his employer, however, their names will be omitted in the research due to security aspects and the sensitivity of the topic.

They all consented that the copyright of the material belongs to the researcher.

### 2.3.3. Limitations during the research

The 28<sup>th</sup> of April 2021, two days after I began conducting this research, Colombia found itself in a social and political turmoil; people took to the streets to protest the Government. This protest has been extended until June. The main reason for this was a tax reform bill, but the demands of the people are now not limited to this, but also includes social demands for the high inequality in the country and compliance with the peace agreement. The rural peasantry, ex-combatants, indigenous and civil society, and ex-combatants mobilized, and the Anti-riots Police responded with violence. The United Nations, NGOs, the Commission of Human Rights, and the European Union, have reported the crisis and violation of human rights in the country during the last two months of protests. This impacted on the access to people from the government and obtaining information from institutions and the community to conduct more interviews, which make the study not as representative as wished.

All this exacerbated with the fact that the thesis has been written during the still ongoing COVID -19 pandemic and lockdown in Vienna Austria, alongside time constraints, making this research a real academic challenge.

### 2.3.4. Interview Questions

Interviewees were asked thirteen questions targeted to acquire responses to the hypothesis of the research. The approximate duration of each interview was between fifty minutes and one hour and fifteen minutes.

The questions discuss the FARC's initial expectations and claims in the Peace Agreement concerning land access and economic reincorporation, either in the negotiation or the implementation, and their considerations about the initial framework set out in the Peace Agreement regarding access to land.

Moreover, the questions intended to find out their understanding of access to land and their consideration about the most important or salient issues related to land, as well as their experience with the barriers to implementation of policies for housing access and productive projects.

Thirdly, the research sought to identify actors and stakeholders, institutions of the government with competences directly involved with access to land or related with cadaster and registration, as well as other social groups, and international cooperation.

Finally, the research intended to identify the achievements and success of the policy, results and consequences, impact of any failures in the reincorporation process or impact on the lives of ex-combatants. The questionnaire is attached in English in the Appendix section.

### 2.3.5 Analysis of Documentary evidence

Another primary sources that were analyzed to aid the analysis of the legal framework were the Peace Agreement signed in 2016 between the government and FARC, Decree 4488 of

2005<sup>2</sup>, Decree 902 of 2017<sup>3</sup>, Resolution 740 of 2007<sup>4</sup>, Decree 899 of 2017<sup>5</sup>, Decree 1274 of 2017<sup>6</sup>, Policies such as Conpes 3931 of 2018<sup>7</sup>, Decree 1543 of 2020<sup>8</sup>.

Institutional information available such as the results of the Census of the National University of Colombia, the Management Report 2018-2021 of 'Peace with Legality of the Presidential Advisor's Office for Stabilization and Consolidation, the Framework Implementation Plan (PMI) that monitors the implementation of the Peace Agreement, the report of the 'ARN in figures 2020', the Report of the Attorney General's Office presented to the Congress, and the Report presented for the opposition parties in the Congress.

Reports of International actors that play a role in monitoring the compliance of the Peace Agreement such as the report of the Krok institute for International Peace Studies, the reports of the Mission to Support The Peace Process in Colombia of the Organisation Of American States (MAPP/OAS), the reports of the Mission of Verification of the United Nation in Colombia.

With the analysis of the documents and the interviews was possible to have a comprehensive understanding and analysis of the topic to support the hypotheses and respond to the research question.

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<sup>2</sup> It establishes a special programme for the acquisition and allocation of land for people who have been reincorporated into civilian life.

<sup>3</sup> Incorporate the general route of access to land for any peasant without land. And in article 24 established the possibility of land being given to public institutions for ex-combatants.

<sup>4</sup> Develop the Decree 902 of 2017 and specifies the procedures for its enforcement.

<sup>5</sup> Establish measures for the collective and individual economic and social reincorporation of FARC-EP members.

<sup>6</sup> Extends the duration of the Transitory Veredal Normalisation Zones (ZVTN) and some Veredal Normalisation Points (PTN) and converting them into ETCRs

<sup>7</sup> National Policy created for Social Reintegration and Economics of ex former of FARC

<sup>8</sup> Regulates the transfer of rural lands to ex-combatants for productive projects for reincorporation

## Chapter three: Findings and discussion

This chapter aims to describe the findings, exploring the achievements and factors that hinder the implementation of the Peace Agreement. The access to land and consequential economic reincorporation of ex-combatants will be examined to respond to hypothesis number one. In regards to the failures, the findings will be obtained through the process tracing of the agreement since it was negotiated in La Havana, as well as assessments from interviews conducted in relation with the hypotheses. The findings will conclude with the strongest points of those interviews that are related with the hypotheses.

This section will be divided as following:

**Section 3.1:** Achievements of the Peace Process: Economic Reincorporation and Land Access

**Section 3.2: Failure of the process and the resulting agreement:** Analyzing the Peace Agreement

Discussions during the negotiation process of Point 1 in land access

Discussions during the negotiation process of point 3 in Economic reincorporation

### **Section 3: Other factors that influence the implementation**

Insufficient legal framework or lack of political incentives

A lack of state capacity and institutional presence

The existence of many stakeholders with demands and the historical delay and deficit of access to land.

### 3.1. Achievements of the Peace Process: Economic Reincorporation and Land Access

Apart from the legal framework explained in the first chapter, there are some findings from reports of the ARN and the ANT as entities in charge of the duties in reincorporation and access to land that shows achievements in the process of economic reincorporation and access to land:

The National Registry of Reincorporation (RNR) was created and has been applied to 11,807 people, of whom 2,738 are currently registered in one of the former ETCRs.

Furthermore, from 1 August 2018, the ARN took over the administration of 24 ETCRs and has allocated resources to meet the costs of personnel, leases, maintenance, and supplies. A total of 86 collective projects were approved by the National Council for Reincorporation (CNR), linking 3,353 people in the process of reincorporation. Of the 86 projects approved, 63 have already been disbursed, involving 2,683 persons in the process of reincorporation. Moreover, 2,398 individual projects approved benefiting 2,891 people in the process of reincorporation of which 2,396 have been disbursed benefiting 2,889 people (Presidential Advisor's Office for Stabilization and Consolidation 2021)

Furthermore, 16 billion (USD 4.2 million) has been earmarked for the purchase of land. From the last report of the National Agency of Lands can be seen that six pieces of lands were acquired by the state through the mechanism of the Decree 4488 of 2005 and will be titled to the ex-combatants, these are: Becuarandó (Mutatá-Antioquia), Llanogrande (Dabeiba-Antioquia), La Fila (Icononzo-Tolima), Colinas (San José-Guaviare), Charras (San José-Guaviare), El Estrecho (Patía-Cauca) y La Variante (Tumaco-Nariño) (Tiempo 2021).

In conclusion, there are some important achievements and compliance of the Peace Agreement, the Policy Peace with legality, laws in economic reincorporation and purchased of land for former combatants of FARC.

### 3.2. Failures of the process and the resulting agreement: Analyzing the Peace Agreement

As part of the research, was relevant to analyze the documents containing the discussion and debates held during the negotiating table of the Peace Agreement in la Havana during 2012 and 2016, moreover the documents that contain the list of demands that FARC brought to the negotiation process. This, to have a comprehensive understanding of the peace process, regarding Points 1 of access to land, and point 3 in economic reincorporation, specially of the correlation of forces inside the table of negotiation and the aspirations that were deemed of interest for both parties.

### **3.2.1 Discussions in the negotiation table of Point 1 in land access**

The negotiation of the Colombian Peace agreement was held in 2012 in La Habana Cuba. Representants of the Governments and the FARC discussed point by point all the six points of the agreement. During the discourse given by Ivan Marquez, member of the National Secretariat of FARC in the installation of the negotiation table in Oslo, pointed out that land is not only material, but is linked to the concept of territory, involves the socio-historical relations of their communities, land is seen as a shelter and the heart of the struggles in Colombia (El País 2016)

According to this, the negotiation of point 1 related to the Comprehensive rural reform, was one that took longer in the negotiation process, on the table, FARC recognized land as one of the structural problems of the conflict and their demand was to provide access to land to peasants, for this FARC came with a strong position to fight against latifundia. Thus, while FARC proposed in its initial position alternatives, such as the expropriation of latifundia to



weaken the landowners and provide land to peasants, the government recognized the need to provide land to peasants, without taking land away from those who have acquired it through legal and constitutional means and with the respect of private property and the rights of owners and possessors of the lands. This was one of the toughest discussions on the negotiation table between the stakeholders amongst the six points of the agreement and was finally resolved through the figure of the land fund, incorporated in the Peace Agreement, which was intended to gather all the land to be given to the peasants in one place through different legal tools and various agrarian processes. Moreover, the total amount of land to be gathered in the land fund remained undefined throughout the negotiation period and was only defined at the end of the negotiations in 2016, while the FARC demanded 30 million hectares, the government proposed to accomplish 3 million hectares (Office of the High Commissioner for Peace 2018).

Moreover, FARC made a proposal for choosing the beneficiaries of land, done by the peasants' organizations, and even demanded to also have a voice in the choice of the peasants to be beneficiaries. Perhaps this request was to make access to land a less bureaucratic and complex process in hands of the government. On the other side, the government insisted this process had to be objective, conducted by an institution of the government, and with legal requirements. In this negotiation, finally, the government accepted a “mixed” procedure in which, between the state and the community could be identified the people that need access to land. However, after, with the renegotiation of the Peace Agreement that followed the plebiscite, it had to be changed due to the opposition's demands (Centro Democrático) for a strict legal procedure with requirements and objective criteria, not always suitable in contexts of transitions from war to peace (Office of the High Commissioner for Peace 2018)

To conclude, even though the peace agreement prioritizes the delivery of land to women and displaced people, it was not specified for ex-combatants, probably FARC considered

themselves as part of the general provision through peasantry. The mixed procedure they had agreed upon before the plebiscite would have made the implementation of the Peace Agreement simpler and faster. Furthermore, this shows the role the opposition had in the change of the procedure, making it more complex, bureaucratic, not specifically benefiting ex-combatants and peasants.

### 3.2.2. Discussions during the negotiation process of point 3 in Economic reincorporation

Regarding discussions about point 3 of the agreement, specifically economic reincorporation, was the debate that occupied less time on the negotiation table, "while the cease-fire and the ceasefire take up sixty-five pages, socio-economic reincorporation takes up six pages" (IFIT 2017, 164)

Despite this, the basic income for ex-combatants for a period of two years was finally included, a census of the population, the support for productive projects, and an education program. In the words of one of the national government advisors: "at the end, FARC only included the minimum demands" (IFIT 2017 p 164). Regarding the ETCR, as a place for the economic reincorporation of FARC, the agreement established that ex-combatants would arrive at the Transitory Zones for Normalisation (ZVTN), which incorporated some elements of the cantonment sites designed in the peace process in Nepal (Kandel 2017) and other similar spaces in El Salvador and Guatemala. That was the place to begin a process of transition to legality and the laying down of arms. Finally, it was intended to begin their reincorporation into civilian life.

FARC in the minimum demands on the table insisted on the importance of not generating a situation of displacement of the ex-combatants to the urban areas to go back to civil life, but instead be part on those territories they have occupied for many years (IFIT 2017 164). For this reason, FARC chose the Special Territories for Peacebuilding (called ZVTN and PNT and after ETCR) because of their presence in those territories, under the logic of rootedness and sense of identity and belonging to those. For the government those were distant places, inaccessible conditions for the construction of infrastructure. The government in the memories describes them:

*The sites selected ranged from being nine hours by boat from a departmental capital, to sites that were six hours from a municipal capital; there were even cases in which it was necessary to build roads in order to reach the sites and begin construction.*

The ETCRs (called AETCR by the government as ancient) were considered as a transitional, only for two years, until 5 August 2019 (according to Decree 2026 of 2017), but not more was mentioned regarding the solution in access to land for this afterwards. Nearly five years later, those territories still exist; there are strong connections that ex-combatants have created with the territory, including family, community, productive projects and a life plan. The final solution and guarantees for access to land have not been given yet, nor security on their permanence in those territories and stability where they have made investments and improvements.

### 3.3. Other factors that influence the implementation

#### 3.3.1. Insufficient legal framework or lack of political incentives

Since from the responses of the interviews we found the close relationship between both hypotheses, their findings and discussion will be presented together, and this sense will be analyzed: firstly, how the interpretation of the Peace Agreement has to be according to the context and this interpretation requires political will, secondly, the concepts of access to land, territory and collective as a FARC political revindication requires more than legal framework and accordingly political willingness in its interpretation and finally how the legal barriers can be overcome if there is political will for this.

##### **3.3.1.1. Political will for the interpretation of the peace agreement**

For the first one, in the interpretation of the Peace Agreement, the government has claimed that access to land for ex-combatants has not been incorporated explicitly in the Peace Agreement and there is a loophole, what is often used as an argument to limit the policies only to the Consolidation of the territorial spaces (ETCR), but few solutions for the productive projects, and the ex-combatants outside those areas. This claim of the government has 3 main problems:

Firstly, it ignores that, regardless, the incorporation of the Peace Agreement and the specific article related to land access, in its implementation the political incentive is necessary to

materialize it. The willingness to comply with the implementation of the peace agreement is necessary to substantialize the agreement itself. In this order of ideas, one of the ex-combatants (participant 2) was asked the Q3 in the interview about whether they consider the initial framework set out in the peace agreement satisfactory, concerning land access plans. He responded:

*But then the peace agreement, like any document that has to do with the law, depends on the correlation of forces. So, the peace agreement can say anything, but if the government in power does not want to implement it, then it does not implement it.*

It shows that the FARC and do not consider unsatisfactory the framework set out in the Peace Agreement with regards to land access, but the main issue is the interpretation of the government.

When asked (Q6) about what the main barriers have been for land access for reincorporated combatants, participant 2 mentions:

*To begin with, the government's interpretation of the Agreement, the ARN tells you directly that in the Agreement that there is no land left for you (FARC). It is pure political will if the government wants to give you land. That's why the Agreement is not only what it says, but also what is interpreted from it. Like legislation in general, like the Constitution in general, and it depends. Well, so that's the first one: interpretation.*

Again, it is pointed out that political will is required for interpretation and to materialize the initial expectation of the collective in the territory that is the democratization in land access.

When another ex-combatant (participant 4) was also asked the Q3, she mentioned:

*Let's say that in general terms it was very difficult to foresee everything and let's say that the broad general lines were left in the agreement on the issue of reincorporation and perhaps on the issue of land it was not specific and that is where the government has stuck, this government is sticking to say that the agreement does not say anything about land, specifically for the issue of reincorporation, but let's say in the point of reincorporation there is no a special point that talks about land or housing for the signatories of the agreement, still it is also understood that there are many things that should be built or developed in practice, it is very complex to think that the agreement should cover everything at the very least.*

In this sense, the understanding that the Peace Agreement was to include those general aspects and substantive provisions of the agrarian reform, that have to be further interpreted, and developed through Policies and procedures that allow materializing attending the aim of the norm, under a comprehensive approach, which again requires political willingness.

Secondly, this argument disregards the correlation of forces that existed during the negotiation of the peace agreement and that might have made it difficult or impossible for FARC to consider access to land explicitly. This correlation of forces caused FARC to allowed minimum proposals regarding point 1 to change on the negotiating table, which can be considered either as a political mistake or a naive action of FARC, who believed that the general inclusion in point 1 of Comprehensive Rural Reform of the Peace Agreement was sufficient, or lack of bargaining power at the negotiation stage. This was perhaps the result of the correlation of forces between the government and FARC during the negotiation process that even put FARC itself in an internal discord between the collective. It was also mentioned by participant 1 when he was also asked Q3, and he responded:

*...I believe that among of these turning points are the division of the FARC that was developing in Havana, there was a sector which in some way argued that the correlation of forces was important, that they had no way to negotiate anymore, they opted for the policy of giving in of those 100 original minimum points that FARC came with. This gradually weakened and there was a proposal to adapt to conditions while there were others that insisted on stronger positions....*

Finally, this interpretation disregards the historical and social context of conflict before the signing of the Peace Agreement, and the struggle for the land as one of the main causes of the conflict, as well as their constant demands for the distribution of land.

To conclude, FARC came to the negotiation with 100 minimum proposals, in which land access was one of the key and relevant aspects but emerged with only some of their demands included, due to the political context and a strong correlation of forces. Perhaps, they believed that point 1 of the agreement would be enough to guarantee their access to land, or their weak bargaining position. For all this, political will is required to interpret the agreement according to the historical and social context.

### **3.3.1.2. Political will for the understanding of the legal concepts of access to land, territory, and collectivity.**

The different understanding of ‘access to land’ between government and FARC is also part of the political discussion, firstly, land is a salient asset for FARC who demands title and security over the land from a collective perspective but goes beyond the economic perspective. For

FARC the concept of property or 'owning' is relevant and necessary to influence the political, social, and economic processes. For Q4 participant 1 responded:

*Access to land is about creating roots, if I don't have the title, it is not mine, I don't care about creating roots, because I know that at any moment any can take it away from me.*

Government shows in their reports the acquisition of land for ex-combatants, but there is a failure to consolidate property rights over this, most of the land for them is under lease contracts, which affects their economic sustainability and stability. The government seems to prioritize norms that make it difficult for the rural workers to own the land in the policy, while making it easier for the big landowners, multinationals, to own this important capital, privileging a political model in favor of the agro-industrial sector instead of the peasants that in its agenda-setting focus on laws—strategies that facilitate the implementation of topics instead of looking forward to benefiting peasants of ex-combatants, for instance, was found that the issue of law such as Decree 758 of 2018 only allows ex-combatants to have access to land of the SAE (Special Assets Society) by lease for their productive projects, but on the other hand, for instance, the government has issued laws that permit exploitation contract to national or foreign companies free of charge in Peasant Reservation Zones (ZRCs<sup>9</sup>). This disparity in the treatment

Moreover, it was also found that after the enforcement of Law 1955 in May 2019 that includes the possibility of access to land for productive projects for ex-combatants, the government took from May 2019 until November 2020, to issue the Decree 1443 of 2020 that was the necessary

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<sup>9</sup> “Peasant Reservation Zones (ZRCs) were established as part of Colombia’s market-led agrarian reform programme under Law 160 in 1994 as a means to protect small-scale/ peasant farmers from selling their land or being forcibly displaced by landed elites and related (agro)extractivist expansion. Unlike indigenous and afro-descendant territories” (McKay 2017)



regulation to apply the first norm. A real lack of willingness to put forward law to benefit the former FARC members.

In the same way, participant 2 mentions:

*The lack of will on the issue of housing is a clear sign of the intention to disperse us. Today the Colombian state has not built a single house in terms of reincorporation, four years later, something so obvious, you arrive with a backpack and a rifle from war and from there a world of obvious needs opens up.*

Moreover, the understanding of land as a territory, and the importance for FARC of having land rights on their property or 'owning' as a necessity to influence the political, social, and economic processes. One ex-combatant mentioned for Q2:

*We are talking about producing, living, generating income, having a salary, having something to eat, and then there is a variant that is the individual property and collective property, so these are the two things, it is not only about producing and living but about producing and living together...And the other is not only land but territory, which is the social construction of the space that is there, how the ex-guerrillas themselves can construct it, different from how it is traditionally constructed by the State, by other actors.*

However, the Government's position regarding access to land is not very prone to awarding the title and the properties for ex-combatants. From the official of the international organization, the response has similarities (Q4)

*Access to land implies access to a physical and social space, but also to conditions that allow them to develop all their physical, reproductive, and social activities, family reunification, reconciliation, but there is also a fundamental issue here, which is that*

*this also involves ownership of the portion of the physical space. This government has differentiated between access to land and land ownership and has stated very clearly that they focused on promoting and seeking to facilitate access, not ownership.*

Also, participant 3 mentioned these differences:

*FARC sees access to land in an integral way perhaps the institutions see it as limited to land for work, to produce food, for the food security of the reincorporated people themselves, but they go much further than the national government's vision, which was access to land to have, in addition to an integral life option, to influence the communities in terms of their vision of the world, politics, life, and community*

Secondly, the access to land for FARC is a collective demand, a political demand. Moreover, the government does not seem to have the same understanding of the concept of 'collective' as the ex-FARC members. The government has included this collective approach in some of the policies and laws of reincorporation; however, it can be seen in the focus on the approval of individual projects instead of collective projects, and that the process leading to the approval of the collective productive project is significantly slower than the individual project (Attorney General's Office 2020) However, despite the approval of projects, without guarantees of access to land, these projects cannot be developed properly.

Words such as 'attempting of fragmentation', 'disintegration' 'individualization' are repeated in the interviews. Participant 4 mentioned: *“What was expected was that the collective process could be developed, that our collective that was maintained for so many years in the struggle would not be disintegrated”*.

In the same sense, participant 2 pointed out:

*The policy is completely contrary to collective reincorporation, which is supposed to be cooperative, I mean, collective, organic tradition, the organisational culture of the guerrillas, which is why I was talking about territory, because in Havana the concept of Terrapaz (Ecomun) was used.*

The collective was at war for years together, as a group, sharing everything as an organization from achievements to losses, and united in their aims and demands of collective reincorporation, instead, they have come to face a government that does not prioritize collective needs and demands but individuality and tries to disperse them.

For FARC, unity is synonymous of strength, participant 6 mentioned: *“the collective generates political power, while the individuality weakness, but the government did not accept the collective title of lands but insisted on it individually”*.

In the interviewee participant 3 mentioned:

*I remember that they had the claim to access land collectively, not individually, which is a very important point in the FARC's claims, the strengthening of the community issue, and the positioning of their ideas and influence in the surrounding communities.*

It can be concluded that these concepts of access to land, territory and collective, are relevant for ex-combatants, those are political concepts and therefore have political implications. The peace agreement indicates that the reincorporation of ex-combatants will be done according to their vision, therefore, the interpretation of the norms should be done according to their vision of the concept of access to land, territory, and collective.

### 3.3.1.3. Political will to overcome legal barriers

In addition, regarding the complexity of the legal procedures in access to land, it was found that it is still operatively strict, long, and complex, and makes the institutional response slow compared with the dynamics in the territories. This has effects not only for the peasantry in general and not only ex-combatants but certainly, ex-combatants are affected due to the special conditions they live in the ETCR, places that were meant to be temporary when they returned from war and that do not assure their life with dignity in ideal human conditions.

In the same order of ideas, the government worked on the expedition of Law 1955 in May 2019, which, in art 283, includes the transfer of land that comes from judicial ending land tenure *extinción del dominio*, from the Sociedad de Activos Especiales- SAE (Special Assets Company) to former combatants who are beneficiaries of productive projects indicated by the National Agency for Reincorporation and defined by the CNR. Then, it took the government until November 2020 to issue the Decree 1443 of 2020 that was the necessary regulation to apply the first norm. This law is written, but the government is aware of the complexity of the land that comes from this judicial process since it is difficult to dispose from the land because the majority is occupied and there is a low probability that FARC can have access to the land through this tool.

Moreover, the creation of the Policy Peace with Legality which understands the access to land as something accessory and not as one of the main issues in the economic reincorporation, in the discourse, the focus on the number of productive projects that have been approved, however, it disregards that the access to land is a necessary mean to be able to develop those productive projects and make them productive. They have a different understanding of the

access to land since for them those productive projects can be developed in a rented place, but FARC.

In the same realm, the political agenda of the government has been more concerned with facilitating access to land to agro-business, including within the recent bills that have been issued during the last presidential period, as we previously exposed, instead of focusing on the necessary reforms for the compliance of the peace process.

To Q3 participant 2 responded:

*In the ETCR Tierragrata, they (the Government) is putting the problem that there is a problem that it is a 'baldío' (a public land), so we can't have land access, we can build our houses, well you know that this is solved with a decree, an administrative thing. You don't even have to move the Constitution or the law or whatever. But no, they don't do it, there is no will to do so.*

The Policy of reincorporation CONPES 3931 of 2018, foreseeing these difficulties in the implementation of the existing framework:

*[.. ] From the second half of 2018, the ANT will adopt measures to facilitate access to land for associations and cooperatives of people in the process of reincorporation, aimed at reducing times in the procedure and removing existing obstacles. This will be done through the identification of possible obstacles in the procedures and the proposal of legal alternatives to solve these obstacles (Calderón et al. 2018, 63)*

In this sense, the legal framework in reincorporation recognized the existing barriers in the legal framework of land access, and how necessary is to solve these obstacles in the procedures. Not only are the procedures complex, nor very efficient, and lacking an approach that

differentiates the ex-combatants in their conditions, but the non-flexibilization of these procedures and finding alternatives to solve the obstacles make the access to land impossible.

Participant 3 responded to the Q4:

*One, I think the main one, at least for the period of government in which we were in the National Land Agency, let's say 2016 to 2018, legal mechanisms were generated to overcome these barriers, these legal limitations, with great difficulty in any case for its implementation.*

Participant 6 mentioned to Q5:

*I believe that in terms of productive projects there have been significant progress policies but the times are still too slow, the times are very complex, it is a matter of political will. The issue is that the commitment to productive projects is a commitment to the sustainability of families and people in reincorporation, we have been implementing them for three years now and some people still do not manage to get involved in a productive project, the productive projects are still not approved, let's say that the instances, the requirements, the access to land, make the process of productive projects very slow, that is where it comes into contradiction with compliance.*

To conclude, again the political will appears as relevant to create the mechanism to overcome those barriers and procedures.

### 3.3.2 A Lack of State Capacity and Institutional Presence

In terms of state capacity, the research suggests that the lack of institutional presence in the countryside causes delays in land access processes.

The existence of only one entity in charge of all agrarian procedures for access to land - the agrarian authority National Agency of Lands (NAL) with the duty to providing access to land for its reallocation and compliance with the Peace Agreement and land acquisition, including the acquisition of lands for ex-combatants.

The institution has a high lag of the predecessor institutions that it replaced, along with out-of-date or missing information. Regarding this, the Colombian Constitutional Court has mentioned that there is no database with accurate information on rural lands. The state does not have accurate information about the public land owned by the state (baldíos) and ownership of private property (Constitutional Court 2014). Furthermore, the creation of the National Fund of Land of the Peace Agreement that is the duty of the National Agency of Lands, is ambitious, since it is more advanced to what the predecessor agencies of lands achieved since 1936 when the attempts of agrarian reforms and access to land started in the country.

In this sense, regarding the state capacity, interviewee 2 mentions to Q6:

*But, in terms of the issue of state, to apply a public policy systematically and continuously, you cannot guarantee it because, for example, officials do not have a contract to go to the field. So, what a community is anxious, to resolve a project as serious as housing, depending on the official having his contract. And you see that all the time, in these four years it has happened to us. Between December and February it's better not to count on the state because you know that they don't have a contract...but is even worse when the civil servant who was dealing with our issue doesn't have his contract renewed, it is starting all over again... And what's your name, sir? They ask. Just imagine.*

Also, interviewee 6 mentioned to question 5:

*So, the precariousness of this state, to apply public policy is a disaster. And on this issue, well, I tell you, we are meeting in eight days, yes sir, of course... Oh, what a pity, sir! Look, you won't be able to do it in eight days, so what else? And in eight days it turns out that there is something else.*

Participant 5 mentioned the lack of capacity of some institutions:

*ARN has the competence in terms of reintegration and now in terms of reincorporation, it finally becomes a managing entity because access to land is shared with ANT and others, housing ..and as it is not the ARN that executes...., it subcontracts everything, looks for operators and so on, so it is an entity that has shown that it is quite short to respond to a process of this dimension, so yes, indeed, the Agency had an initial transformation in 2016 to respond to this problem, But today it has become clear that it is not enough, that it is necessary to make other changes, proof of this is that, well the UTR (Technical Unit for Reincorporation) has many difficulties to be able to do technical work, to be able to travel to the territories and do effective work. So, it is clear that the structure of the ARN itself, as it was conceived, is becoming too narrow and needs to be restructured to face the new reality and the new challenges of reincorporation, for access to land and the peace agreement in general.*

The reduction in the budget in the ARN could be one of the causes that contribute to this lack of capacity, and therefore the process of access to land. Furthermore, the reduction in the budget of the ANT, since the institutions might present difficulties to hire personnel to work in the field in the inscription of beneficiaries for access to land, and personnel in charge to the processes to incorporate to the Found of Lands (Attorney General's Office 2020), but finally



the no enough assignation of resources to the local authorities for issues related with the reincorporation process.

In this sense, participant 5 responded to Q8:

*The mayors have remained almost as observers, gradually the government, especially since the policy of peace with legality, has been transferring its responsibilities to local governments, but without resources.*

Furthermore, or the titling of land for productive projects for ex-combatants the only tool is through the land given from the SAE (Special Assets Society). In the Report of the Attorney General's Office to the Congress of the Republic is addressed that this authority has land in their administration, but it is not possible for people to be given for its use, since it occupied or have other issues, perhaps the lack of state capacity to surveillance these lands in the territories, instead of doing it from the central level. (Attorney General's Office 2020).

We can conclude that the state capacity represented is also seen as the provision of services as a major barrier that hinders the implementation of the Peace Agreement. The state required the uninterrupted continuation of service provision, personnel, infrastructure, to accomplish their duties in reincorporation. However, this also underlies a structural problem that the Colombian state has been facing for many years.

### 3.3.3. The existence of many stakeholders with demands and the historical delay and deficit of access to land

The land is a highly demanded asset in the country as a part of the historical debt, including peasants, agrarian workers, indigenous people, afro Colombians. Even though access to land is achieved through different procedures for these different groups.

In this sense, as was explained before, the Law Decree 902 of 2017 stipulates the procedure of the ANT for access to land for peasants through individual and collective land allocation, the procedure is done by the ANT. Hence, the land acquired and incorporated in the fund of lands can be titled to these beneficiaries once they pass the requirements of the law, depending on their social and economic characteristics to be priorities and after the state has acquired the land, incorporated in the Found and then give it to the beneficiaries with the title. However, ex-combatants are just one of the stakeholders included in this strategy, thus ex-combatants are part of the "queue" with all the rest of the actors that expect to have access to land and have waited for years. Since the signing of the Peace Agreement, they have more expectations of having a piece of land to develop their activities and productive projects.

The former Government included a title 16 in Law Decree 1071 of 2015, a special program for the acquisition and adjudication of land in favor of reincorporated who have demobilized individually or collectively, which then became a Special Program of Lands for ex-combatants. This shows a will of the government to allow another mechanism and prioritizes a specific program to have access to land among the stakeholders. However, despite the legal framework, no land has been titled to ex-combatants yet through this legal tool.

Yet, the relationship between the stakeholders can be articulated or tense depending on the legal claims and rights involved. For instance, we found that in the case of ETCR 'Los Monos' it was in the territory of the indigenous community San Lorenzo de Caldon, the dispute between ex-combatants and indigenous was solved with accords between the community.

However, some of those problems over land have not immediate or been simplified solutions, stalling the materialization of land access to ex-combatants of FARC.

In the case of the AETCR Tierragrata located in the municipality of Manaure Cesar, one of the interviewees of this research mentioned the relationship between the ex-combatants and the indigenous Yukpa community that also has claims of ancestry of their land that includes the area where they AETCR is located and where they expect to develop their housing projects, and that also other peasant communities have interest in.

To question Q6 the participant 2 mentioned this tension:

*because you see, for example, that indigenous communities are given land, other communities are given land. And not to this one in particular...*

*Well, with the peasant community we have common interests, we have also supported the peasant reserve zones, as it is in the peace agreement, so we have also worked with them and so on...But I can't say that this indigenous community is adversarial, contradictory, or anything else, but rather that they were doing their own thing, but now they are understanding the benefits that not only the process but also the presence of this FARC community can bring them, that's with them.*

To the same question, interviewee number 5 mentioned that:

*You know that territories in the country are always in dispute, there are always actors there who have interests in the same territory. There are undoubtedly other actors who are present in the same territories where reincorporation is taking place, and one of these actors could be ethnic or Afro communities. You know that in some places there have been conflicts with ethnic groups.*

It can be concluded this tension of interest between the different groups or stakeholders classified as 'poor people' with demands in lands, that might difficult the access for both groups and make complex the access when conflict arises, however, it is not very evident that is a strong barrier in all cases, because often disputes can be solved through accords of community.

Also, from participant 3 it was obtained that:

*Another huge barrier is the issue of social legitimacy, it is no secret that here there is a conflict between victim and perpetrator in some way, the fact that the national government establishes a special land acquisition program for FARC reincorporated combatants will immediately generate a reaction from other sectors of society, mainly victims' organizations, civil organizations,*

However, in two of the interviews, other actors' part of 'the elite group' such as mining companies are mentioned:

*But there are other actors where the interests are contrary, even irreconcilable, as sociologists would say. This is the case of Fonseca, in Guajira, in the same area where let's say, interests clash, deep contradictions, and opposing models. While reincorporation promotes agricultural, integral, rural, local development, food sovereignty and what mining has left in Guajira, displacement of communities, higher unemployment, insecurity, diversions, violation of human rights.... There are ethnic communities and peasant communities with which it has been possible to reach common agreements, actors, but in areas of carbon and natural resource exploitation where the situation is irreconcilable, it is very difficult to reach agreements.*

In the same way, participant 2 also mentioned:

*This is a very rich region on both sides of the border, there is coal, gas, oil, so this is also a driving force. The government is not neutral but responds to interests and above all to interests of this kind. These groups lobby in a different way.*

Also mentioned:

*They want to implement that they build the house because the construction industry moves this country, they don't like self-construction because it twists the neck of the business. They don't like it.*

It is possible to conclude that the existence of these elite stakeholders has relationship with our hypothesis of political will, because the influence of elites' stakeholders with the same interest in land becomes a barrier for land access for ex-combatants, if the government does not have the political will to give prevalence to peasants over economic interest.

## Conclusions

One of the consistent themes amongst the interviews was the lack of existing political will to implement land access policies. While there are elements of weak language within the legal guarantees, caused possibly by the lack of FARC' bargaining power at the negotiation stage in the Peace Agreement, the legal framework could potentially be capable of ensuring the land access processes, as long as there is political will for its interpretation and materialization.

We found that the political will or political incentive hypothesis is cross-cutting to other hypotheses, this was evidenced in the relationship between the political will hypothesis and the legal framework hypothesis. Political will is necessary for the enforcement of new laws and policies and the interpretation of the existent framework.

The existence of stakeholders with demands in access to land might difficult the access. It is not a strong barrier between poor social groups, since many difficulties can be solved through agreements between the communities, however, the existence of other ‘elite groups’ as landowners or political elites might represent a strong barrier in the land access processes.

Futures studies should focus on the analysis of the impact of the lands in reincorporation once they are finally titled and given to ex-combatants, to analyze the improvement of their housing and productive projects and therefore their economic reincorporation. Moreover, future studies could analyze the sustainability of the current productive projects that have been approved for ex-combatants and analyze the difference in the sustainability between individual and collective projects.

In terms of policy recommendations, it is necessary the expedition of new laws and policies that include land access to all ex-combatants and that create a structured policy and strategy for the access to land to develop the productive projects, operate the flexibilization of legal procedures and facilitate its further interpretation. Secondly, the national budget assigned to the entities such as ARN and ANT should be maintained due to the relevance of those institutions in the reincorporation and access to land. Finally, the budget at the local level and should be increased to enable local authorities to assume the challenges and duties in economic reincorporation and contribute successfully to this process.

The peace agreement in Colombia has represented a ray of hope amidst a turbulent and long history of violence and conflict in the country. The Colombian population was highly divided in their views on the peace agreement, but finally, it was signed and there is hope for peace. Nevertheless, four years have gone by, and many things have still to be solved and accomplish. Ex-combatants of FARC have been fighting for access to land and the Peace Agreement represents an opportunity to bring them back to the society and they can contribute with the

productive capacities to society, otherwise will continue to be an underlying inequality, and the ex-combatants will still be considered outsiders. There needs to exist a political will and prevalence of those who do not have access to land, to restore the collective back into Colombian society and guarantee the peace-building process in the country.

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# APPENDIX

## Interview questions

Question 1	Could you please tell me, who are you and what is or has been your role in the process of access to land and economic reincorporation of FARC? (negotiation or implementation)?
Question 2	What were your expectations or FARC's initial expectations and claims with the Peace Agreement in relation to access to land for ex-combatants?
Question 3	Do you consider the initial framework set out in the Peace Agreement with regard to land access to be satisfactory? Why? Why not? Do you consider that this could have been made more explicit in point 1 of the agreement?
Question 4	What do you understand for “access to land for ex-combatants”? And what are the most important or salient issues related to access to land? (land title, the ability to at least use it, the location of the land, productive capacities and support for productive projects, the issue of housing, etc.)?
Question 5	Has the government's public policy fulfilled its role in enabling the development of housing and productive projects and the economic reincorporation of ex-combatants? Has it been possible to access this? What has/hasn't been solved so far?

Question 6	According to the experience so far, what have been the main barriers to access to land for reincorporated combatants?
Question 7	Who are the main "competition" on the issue of access to land? Other peasants, indigenous people?
Question 8	What support and successes have there been in accompanying the economic reincorporation of ex-combatants?
Question 9	What have been the supports and successes in accompanying the economic reincorporation of ex-combatants?
Question 10	Which organizations/institutions/people do you consider most important for land access issues? Which ones are you most in contact with?
Question 11	How do you perceive the role of state entities from your competence (ARN, ANT, IGAC, SAE, ORIP, Minambiente) in access to land for ex-combatants?
Question 12	How do you perceive the role of cooperation agencies? (UNDP, FAO, USAID, EU, IOM, World Bank, among others) in the issues of access to land for ex-combatants and economic reincorporation? What other cooperation actors do you consider relevant?

