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Land Redistribution in Times of Conflict

A Case Study of Colombia

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Abstract

Land is an important asset and redistribution of land is a sensitive subject in Colombia. Land issues in Colombia are complex and include political, social and economic aspects. Due to an on-going conflict people are being denied access to land. In Colombia there are between 3.3 and 4.9 million internally displaced persons that have been deprived of land. In a country where many base livelihoods on land, displacement cause severe effects. With a new Victims' Law introduced in 2010, the Colombian government intends to address issues of displacement. A case study method has been used to examine if redistribution of land can function in times of conflict. In order to answer the question we used a theoretical framework involving land redistribution, property rights and legal empowerment. In a context where land rights are being neglected and not protected, land redistribution faces challenges. The internal conflict have damaged the efficiency and reach of institutions, which hinders institutional reforms. When there are not sufficient institutions to assure implementation, reforms fall short.

Keywords: Land redistribution, conflict, land rights, legal empowerment, Colombia

Acronyms

AUC- United Self-Defense Forces of Colombia (Autodefensas Unidas de Colombia)

CLEP- Commission on Legal Empowerment of the Poor

ELN- National Liberation Army (Ejercito de Liberacion Nacional)

FARC- Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionares de Colombia)

IDMC- Internal Displacement Monitoring Centre

IDP -Internally Displaced Person

INCODER- Colombian Rural Development Institute (Instituto Colombiano de Desarrollo Rural)

INCORA- Colombian Agrarian Reform Institute (Instituto Colombiano de Reforma Agraria)

LEP- Legal Empowerment of the Poor

OAS- Organisation of American States

OCHA- Office for the Coordination of Humanitarian Affairs

OECD- Organisation for Economic Co-operation and Development

Sida- Swedish International Development Cooperation Agency (Styrelsen för internationellt utvecklingssamarbete)

UN- United Nations

UN-HABITAT- United Nations Human Settlements Programme

UNHCR-United Nations High Commissioner for Refugees

WB- The World Bank

Table of Contents

1. Introduction.....	5
1.1. Study Problem.....	5
1.2. Relevance and Purpose.....	6
1.3. Research Questions.....	7
1.4. Disposition.....	7
1.5. Background and Historical Context: The Case of Colombia.....	8
2. Method.....	9
2.1. Method Approach.....	9
3. Theoretical Framework.....	11
3.1. Redistribution of Land.....	11
3.1.1. Definition.....	11
3.1.2. The Importance of Land Reform.....	11
3.2. Property Rights.....	12
3.2.1. Definition.....	12
3.2.2. The Importance of Access to and Ownership of Land.....	12
3.3. Legal Empowerment of the Poor from the United Nation’s Perspective.....	14
3.3.1. Definition.....	14
3.3.2. LEP as an Approach.....	15
4. Land Rights in the Case of Colombia.....	16
4.1. The Importance of Land.....	16
4.2. Previous Laws and Plans.....	18
4.3. Governmental Initiatives.....	19
4.4. Implementation of Land Redistribution.....	23
4.5. Access to the Legal Framework.....	24
4.6. Inequalities in Access to and Ownership of Land.....	26
4.7. Land Rights and Stability.....	29
4.8. Access to Land before Ownership?	30
5. Results	32
6. Concluding Remarks.....	35
7. Future Research.....	36
8. References.....	37
9. Appendix.....	41



Table 1. Source: IDMC 2005

1. Introduction

1.1 Study Problem

Inequalities has long been plaguing the Colombian society. These are not only evident in the social, political and economic fields but also in the divide between the rural and the urban areas. The country has also witnessed an internal armed conflict since the mid 1960s. The conflict involves several actors, has lasted for decades, and is centred

in rural areas. Land as an important and valuable asset causes political, economic and social complications for people living in rural areas. For example, illegal groups appropriate large areas of land through violence or compulsion resulting in the displacement of many people. A large part of the population living in rural areas, where poverty is prevalent, has seen its livelihood worsened by the conflict (Meertens 2002:2). The organisation Internal Displacement Monitoring Centre (IDMC) estimates that 92% of the internally displaced persons (IDPs) are from rural areas (IDMC 2011:31). As a result of displacement, peasants are greatly affected through loss of arable land. IDMC estimates the number of IDPs to be between 3.3 and 4.9 million (2011:36). With these large numbers Colombia have the second largest amount of IDPs in the world, which affect rural as well as urban areas.

Access to land has become a big enough concern that land policies and laws have been drawn in order to address the issue. The value and impact of land reforms and land ownership is well discussed within development studies. Previously, land reforms have often been enforced in order to increase livelihood and economic growth (Deininger 1999:2-3). In South American countries land reforms and land movements have often been central in development processes. At the moment the land issue is in the spotlight in Colombia due to the on-going conflict. The matter of land reform and importance of access to land has been emphasised as the violence and problems with guerrillas have not been successfully tackled (Gruszczynski & Jaramillo 2003). As a consequence of the above, the study will approach the relation between land issues and conflict.

1.2 Relevance and Purpose

Previously, land reforms have often been discussed in relation to post-conflict settings focusing on reconstruction and preventive measures. Yet, Colombia needs to tackle issues with land access because of the many IDPS during the on-going conflict. In June 2011 the Colombian government adopted a programme to redistribute land through the Victims' Law, which intends to create a system to provide financial help and redistribute land to internal displaced families. Thereby, we aim to study how land redistribution could function during an on-going conflict.

1.3 Research Questions

We want to gain an understanding of the interacted processes in the relation between land issues and conflict. In order to meet the aim of this study we have used the following research question.

- How could land redistribution be carried out in the context of an internal conflict in Colombia?

In order to answer our main question we have used supplementing questions.

- Are there any specific obstacles that can be identified?
- Is there a relation between access to land and conflict in Colombia?

1.4 Disposition

In the introductory chapter, problem, purpose and research questions are presented followed by background and historical context. There the reader gets an introduction to the subject. In Colombia agriculture play an important role in the society, which have been negatively effected by the conflict. Illegal groups use land as resource and tool in the conflict, which increase its political connection. We have chosen Colombia because it statues as a present example where land and conflict is interrelated. In chapter two the case study method is presented along with the study's limitations. In order to deal with collected data and approach the research questions we have used land redistribution, property rights and legal empowerment as a theoretical framework. Thereafter, data is presented and analysed for a broader understanding of the conditions and actions taken (or not taken) to address issues concerning land. This leads up to the result of the study. Here, different aspects presented in the analyses will bring findings together to answer our main question. We have found that implementation of land redistribution have met challenges that have hindered positive results. To sum up, a conclusion will be presented followed by future research. While carrying out this study, additional questions have emerged, which have not been included in this study. These are important aspects that could be used in further research. At the end, the reader finds references and appendix.

1.5 The Colombian Background and its Historical Context

Colombia has been facing an internal armed conflict for decades, involving different actors and topics. The guerrilla groups Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) arose in the 1960s. Their political aim was beyond earlier political parties and for example strived for land redistribution and social justice (Meertens 2010:151). In the early stage of FARC, change of agrarian structures was promoted and they gained support from peasants that they later expanded from. Other actors have been the paramilitaries, which has its origin in civil-defence groups initiated by the government in the late 1960 in order to help fight the guerrillas. They were first in cooperation with landowners but moved towards illegal groups and increased violence, which led to illegalisation in 1989 (Holmes, Gutiérrez de Piñeres, Amin, 2008:54-59). During times the conflict has been intensified and guerrilla groups' increased influence have made it difficult for the Colombian government to secure law and order (Solimano 2000:2).

New illegal groups have caused severe threats to the country's security. They have committed abuses to the civil society and threatened, for example, human rights defenders (IDMC 2011:32). It has been a severe and challenging conflict over population, land and resources where the civil society has suffered greatly, resulting in violations of human rights, increase of displaced persons and violent deaths (Meertens 2010:151).

In addition to forced displacement, communities have been trapped in unfavourable circumstances where their opportunities and rights were limited (Meertens 2002:5). Looking at IDPs, violence and abuse of human rights are apparent and internal displacement is an evident cause of the insecure situation in Colombia. The overall insecurity hinders access to and ownership of land and illegal groups have been behind a counter-agrarian reform (Chernick 1999:187). Paramilitary groups have taken three times as many hectares of land as have been redistributed by the state during the last four decades. These seizures have had serious effects on the distribution of land in Colombia (Kerr 2010:4). Issues concerning access and ownership of land are no new problems, nor do they only exist in the past. For example, inequalities in land access can be traced to the Spanish colonisation of the region and still shape the society. Unequal distribution of power and discrimination against poor people are still common features in Colombian society. To address the

problems concerning land access, the Colombian government has adopted and approved a range of legislations over time that aims to tackle issues regarding justice, peace and illegal deprivation of land (Elhawary 2007:22). However, the government is facing numerous challenges.

2. Method

2.1 Method Approach

We have chosen to collaborate on this study because of mutual and complimentary interest in conflict and land related issues in Latin America. Even if we have collected data separately we have mutually compiled and analysed the information. By collaborating, discussion has been a profound part of the process where different perspectives have been gathered and considered. We believe that our collaboration has strengthened our study (for a structured division of the study see appendix 1.). In order to answer our research questions we have used the *case study method*. We have chosen the case study method to examine the subject profoundly. Our aim has been to look at how land redistribution could function in the context of an on-going conflict. In accordance with the case study method (Denscombe 2009:63) our case has been specifically selected for our study. We have chosen Colombia because the government is redistributing land and facing an armed conflict. These factors are crucial for the research problem and question.

The case study method aims to look at relations and processes where it explains *how* and *why* a situation is what it is, rather than to what extent (Yin 2009:4). The method has been useful in our study since we aimed to find out more about social processes and structure in Colombia. In line with the method we aimed to be clear with the case study's boundaries. While looking at the conflict and issues concerning land we have focused on rural areas. Foremost we have studied redistribution's possible effects during the internal conflict. The study's geographical restriction has been limited to the national borders of Colombia where we have chosen Colombia as a country rather than specific regions. It has been difficult to look at specific regions due to language barriers which otherwise could have been a way to narrow our study further.

We have based our study on secondary data such as books, reports and articles. We have gone through a large scope of literature in order to choose the most relevant for

our study, which has given us a broader understanding of the subject. Data has been collected from different well-known and recognised organisations such as UNHCR, the World Bank and Sida. In order to find relevant articles we have for example used Libhub, a search engine at Lund's University.

We have tried to look at secondary data from a critical standpoint. We have recognised the limitations when using only secondary data. By only using secondary data it has not possible to fully control the material. Because of the distance to our subject we have not used surveys or interviews to triangulate. We have tried to overcome this by using different sources concerning the same subject to verify data. This has increased the reliability and validity of the study. Thereby, with the same material, reproduction of the study should be possible. However, it is important to notice that our own perceptions may have coloured the study. By spending less time collecting data in the field, we have gained more time to analyse and discuss the data we did collect. When not performing our study in the field, ethical problems that may occur while being involved with the recipients decrease. Our chosen theories have been analysed in relation to the context of an on-going conflict. The study does not include a gender theory but we have found it relevant to look specifically at the situation for women in certain contexts since we have found their situation to be further exposed. We recognise the complexity and the extent of our research problem but due the timeframe we have narrowed our study.

In order to get a deeper insight and include locals' perspectives, it would have been useful with a field study in Colombia. By conducting the study in Sweden we have reduced our possibility to acquire opinions from involved parties, with further insight into the environment and the area's geographical surroundings.

Because of our limitations in the Spanish language we have foremost reviewed literature in or translations to English. We recognise that there may be flaws and biases in translations which may affect reliability. Further, it needs to be considered for *whom* and for *what* purpose articles and reports are written. For example, organisations representing perspectives and principles that promote their own interests may not be universally agreed upon. Along with this, our previous knowledge may also have reflected the study, which must be considered in order to strengthen objectivity.

3. Theoretical Framework

3. 1 Redistribution of Land

3.1.1 Definition

The goal of land reform is, simply stated, to increase income, power and status for the poor with increased control over land. Land reform can be defined as change of structures where the poor's proportion of farmland increases (Lipton 2009:1).

Land reform is often included in a broader agrarian reform and includes land tenure reform as well as redistribution of land. In general, land reform intends to improve productivity along with peasants' living standards (Binswanger-Mkhize, Bourguignon, Brink 2009:4). In addition to change in production patterns, redistribution of land intends to redistribute power. Here, secure land rights can result in increased control and power for peasants. By taking land from the land rich elite, distributing it to poor peasants, redistribution intentionally tries to increase well-being of the poor (Borras S 2006:73). While looking at history, land redistribution has been a way to eliminate feudal, colonial, or collective land ownership and to correct historical faults (Binswanger-Mkhize et al. 2009:4). Conclusively, the structure of land ownership is meant to change from land-rich to land-poor through land redistribution (Binswanger-Mkhize et al. 2009: 4; Griffin, K Khan R, A Ickowitz, A 2002:280).

3.1.2 The Importance of Land Reform

Access to land is the main source of income and productivity among poor in most developing countries (Lipton 2009:2). Empirical evidence demonstrates that well-aimed programmes for land redistribution have a positive impact on poverty reduction. Those attempts have shown how poor people can climb out of poverty through access to good farmland and support (Binswanger-Mkhize et al. 2009:10). In countries where there is lack of equal distribution of land between rich and poor, large- and small-scale farmers and where there is lack of accessible land, there is a well-grounded need for land redistribution (ibid 2009:4-5). For example, a relation can be seen between equity in land distribution and economic growth. Where there is more equal distribution of land, institutions tend to be well functioning and more inclusive, which favour economic growth (ibid 2009:9). Patterns of inequalities in

North and South America are being addressed to explain how institutions have prolonged inequalities, which can be traced to land distribution. Here a relationship can also be seen between economic growth, education institutions and inequalities sustained by land rich elites (Sokoloff & Engermann 2000:229-230). While discussing the relationship between inequality and economic growth land can be used as a tool to measure distribution of assets as a compliment to measures of income (Deininger & Squire, 1998:259). Land is not only economically valuable through the income it can provide; it is also valuable as sellable land. Additionally, land includes political, social and cultural value. These aspects must be included in order to understand the importance of land (Borras 2006:75).

3. 2 Property Rights

3.2.1 Definition

There are different forms of property rights but we will use a more general definition. Property rights shall include the right to occupy, inherit, cultivate and rent ones land. Further property rights can induce additional rights and opportunities such as political participation and access to social services. This suggests that one piece of land can include different types of rights either formal or informal (UN-HABITAT 2008:6). With land rights one shall have the acknowledged rights and privileges to access, use and control land, socially and/or legally (ibid 2008:5).

In addition to property rights, access to land is also important to notice. Land access means that one shall be able to use and occupy land, temporarily or permanently. Access to land can for example be distributed by the government, landowners or by family (ibid 2008:5).

3.2.2 The Importance of Access to and Ownership of Land

Land ownership can be a crucial element in production capacity and ability of investment, especially in agrarian economies where land is an important resource (Deininger & Squire 1998: 265). The formalization of land rights has often been promoted as means of development and poverty reduction (ibid 2008:13). Property rights have also in the past been viewed as the biggest determinant factor of why some countries became rich while others remained poor. They can help countries in

order to develop modern economies and can be an important and necessary part of a broader development agenda (CLEP 2008:47).

The importance of property rights can be discussed by comparing the advantages of a formal system in comparison to the informal (de Soto 1989:172-173). Formal property rights are considered to be more secure and investment friendly, in comparison to informal where rights are more diffuse. Formal property rights can be referred to the right to property through ownership and contract (de Soto 1989:172). According to UN-HABITAT, access to land is essential for shelter, food production and other economic activities (2008:3). Supported by data from South Asia, it has been argued that there is a strong link between poverty and landlessness and insecure access to land. In order to hinder poverty from transferring through generations, property rights could function as investment (Meinzen- Dick 2009:1). For example, when there is defined land security, households can invest in land and also improve production and increase livelihood (UN-HABITAT 2008:19). Such investments in property can increase value of land. Land rights can also serve as an economic security since land can be sold or rented out and help people to access public services and sources of credit (ibid 2008:13, 3). All rights mentioned above, help creating capabilities for peasants. The economist, Amartya Sen (2005) argues that the combination of political freedom, economic and social capabilities support one's ability to act. These freedoms are goals and instruments for development (2005:24-25). When ownership provides the right to use the land as one desire, decide how to use its resources and what to use it for, to own becomes a right of action (Alchian & Demsetz, 1973:17).

Land rights have further importance in regards to women. Womens' land rights stimulate welfare as well as their empowerment (Baranyi, Deere & Morales 2004:48). Even though women make up for half of the world's population, they only own a marginal fraction of the world's property (CLEP 2008:6). For this reason we have chosen to highlight the role of women. It is argued that, in order to reduce poverty secure land rights for women must be specifically provided. Women often have a broader role in household work and to provide food for the family. Secure land rights is also beneficial for those households headed by women, which are a noteworthy share of the poor. Moreover, women's control over land can benefit the entire

household by increased income for women and spending on food, healthcare and education (UN-HABITAT 2008:15).

The United Nations (UN) acknowledges the importance of Property rights as a human right in article 17 of the universal declaration of human rights. It states that everyone shall have the right to own property and ones property shall not be arbitrarily deprived (see appendix 2). Property rights are part of a broader institutional arrangement, where there are instruments for defining and implementing those rights. Here both formal and informal (social customs) approaches that concern legitimacy and acknowledgment are included (Feder & Feeny 1991:136- 137). Institutions work as tools for the society to create order and stability and are needed to secure property rights (North 1991: 97).

3.3 Legal Empowerment of the Poor from the United Nations' Perspective

3.3.1 Definition

“Legal empowerment of the poor can be understood as the process of systemic change through, which the poor are protected and enabled to use the law to advance their rights and their interests as citizens and economic actors” (UN 2009:3).

Legal empowerment is focused on reducing poverty and promotes good governance and we have the UNs Commission on Legal Empowerment of the Poor (CLEP) in the theory and analyses. We are aware that this view of legal empowerment is rather an approach than a distinct theory. However, we have chosen to use the legal empowerment approach in order to analyse the legal aspect of access to land its contribution in the discussion of land redistribution.

In 2008 CLEP published a report *Making the Law Work for Everyone*, supported by UNDP, which emphasises the importance of legal rights. Legal empowerment of the poor is based on the development approach of human rights, which acknowledges that poverty is a cause of dis-empowerment, exclusion and discrimination (UN 2009:3). According to CLEP, exclusion from the rule of law, which four billion people faces, results in difficulties to leave poverty and thereby improve their situation. Poor people often lack the protection which law is supposed to assure. It is not the absence of work etc. that keeps people in poverty, but the insecurity of or lack of protection (CLEP 2008:1). In sum, CLEP argues that poor people would get the opportunity to

increase livelihood through inclusion of law (CLEP 2008:1).

3.3.2 LEP as an Approach

Legal empowerment seeks to make the rule of law accessible for all and function both as preventive and as a remedy for poverty. According to CLEP, the modern society with market economy needs laws in order to function, which must be accepted and respected on all levels (UN 2009:4; CLEP 2008:3). When being oppressed by formal laws, one is more often inclined to follow informal norms and institutions (CLEP 2008:2). A functioning and not discriminatory legal system is a condition to empower the poor, offer protection as well as make peaceful resolutions of conflicts possible (UN 2009:3-4). When laws and institutions exclude a large part of the population it can weaken and challenge stability and security (CLEP 2008:2). With legal empowerment the voice of the poor would rise and give them more influence on institutional and legal reforms through improved awareness of citizen rights (ibid 2008:27). Women and indigenous people often face further exclusion and more often possess weaker political voice (CLEP 2008:2).

Legal empowerment should be understood as a complement to other development strategies and not as a substitute. LEP, including four pillars, can work as guidelines for state efforts as well as for the international community (CLEP 2008:5). In the report (2008) it is noted that legal empowerment differs from traditional reforms when taking into account the national and local context and does not rely on blueprints to fit every situation. In this approach, to tackle poverty, the government should be the main actor and legal empowerment should start at grassroots level (ibid 2008:9).

In the report (2008) there are four pillars of legal empowerment that should work to protect and provide opportunities for the poor. They are: access to justice and the rule of law, property rights, labour rights, and business rights. These pillars enhance each other and are interdependent. Access to justice and rule of law is needed in order to guarantee the other pillars (CLEP 2008:5). This study will use access to justice and the rule of law and property rights to analyse the collected material. From the commissions points we have emphasised the following when it comes to access to justice and the rule of law. Laws and regulations, which are biased against poor

peoples' rights and interests should be repealed or changed. Legal and land-administration systems should be accessible to the poor and customary and informal legal procedures should be recognised and integrated. Alternative work and instruments for conflict resolution should be supported. Institutionalisation of legal services should be promoted to increase the poor's knowledge about laws and how to use them for their advantages. Measures for marginalised groups such as women, minorities, refugees and internally displaced persons, and indigenous peoples should be supported.

CLEPs enhancement of property rights is a continuation of the discussion on its importance and role in development. For a well functioning system that can provide property rights four factors are needed: 1) a system of rules which defines rights and obligations between people and assets and the diversity of different property systems around the world, 2) a governance system, 3) a market that functions well for the assets of property and 4) a tool for social policy. It is important that these four factors function well or they may otherwise work against the poor. For this pillar we emphasise the following. Efficient governance of individual and collective property should be promoted to integrate the formal and the informal. Law shall legally protect all recognised property and everyone shall have access to the same rights. Availability of property rights should be broadened through social and other public policies. An inclusive property-rights system that will automatically acknowledge property bought by men as co-property of their wives or informal partners should be promoted (CLEP, 2008:5-7). To sum up, inclusion of all people and equality in front of the law is what is being emphasised.

4. Land Rights in the Case of Colombia

4.1 The Importance of Land

In order to analyse the impact of rights and ownership of land the importance of land ought to be analysed. With the importance of land, economic, cultural and political aspects will be included. IDPs' and people's dependence on land indicates the importance of land access. For example, increased poverty is a direct result of forced displacement when peasants no longer have access to land. Not only are they losing land, savings and sources of livelihood are also being lost (Acción Social 2010:8). Because of appropriation of land many of those forced into displacement have been

driven into poverty. Around 50 % of the IDPs were above the poverty line in comparison to only a few per cent after being displaced (IDMC: 2010:3). After losing land, IDPs most often have to move to urban areas where income by farming is difficult to replace. Approximately 76%, of the IDPs based their livelihood on land and, to a large extent, land was their primary or only source of income (ibid 2010:10). According to different sources a major part, between 50-83% of the IDPs, owned land before being displaced (IDMC 2011:36; Springer 2006:25). Due to loss of land security and income, those being deprived often lose economic capabilities. As a consequence, displacement has resulted in decrease of agricultural output because of large amount of uncultivated land (IDMC 2010:10). According to Sen, economic capabilities are essential when it comes to spur development and reduce poverty (2005:24-25). Conclusively, deprivation of land has actually increased poverty, which reveals the relationship between land and economic opportunity as well as poverty in Colombia.

The importance of land is especially evident when it comes to women where property rights and ownership of land can function as a tool to assure women's access and thereby provide the opportunities of land. Sen stresses the importance of land for women and its impact on the economy and balance of power in the development process (Sen 2005:287). Women who own land can enhance power and status. For example, according to previous research, women who own land are less often victims to domestic violence. This is supported by findings from India and Colombia as well as other countries in Latin America (Meinzen- Dick 2009:2).

The importance of land involves several dimensions. For example, production of coca has increased the value of land in Colombia (Gallo 2010:425). Through increased value, land has become a political issue where the state and illegal groups recognise land as an important asset. In this case land is not only an economic asset but also a political one, where power relations play an evident role. As a consequence, land is an important asset in the conflict. The economic impact of land is often emphasised in land reforms. However, in many countries with a large part of the population living in rural areas, land is not only an economic asset, but also of social and historical value. In Colombia the cultural and social bonds to land are even stronger among ethnic communities, which have been recognised in the Colombian constitution of 1991

(Springer 2006:33-34). In summary, land plays an important role on several levels and in different ways in the Colombian society.

4.2 Previous Laws and Plans

In order to understand land related power and economy one must first begin to understand the socio-economic context, system of land tenure, land markets and the institutions working for regulation in the country (Palmer et al. 2009:14).

In order to analyse what affects and problems land reforms or land redistribution face in Colombia today, we found it necessary to also include some previous reforms and laws that have been implemented and attempted. We will mainly look at specific laws from the years 1994, 1997 and 2011 since the laws during those years are highlighted for their importance in the process of development of land policies. Although it is too soon to find any results from the new Victims' Law (2011) it will be used in order to demonstrate how access to land is still a central concern in Colombia.

In 1994 Colombia adopted the Agrarian Law 160. The law intended to promote land ownership where poor farmers were given the opportunity to buy land through market assistance and loans. They would be able to receive titling after 12 years of loan pay-back and land cultivation. The law also allowed for shared titling to couples and prioritised women (Baranyi et al. 2004:14). The law included market-based assistance while the government also remained in position to assure fair redistribution (Deere & León 2001:171- 172). The state, including Colombia's land reform agency, INCORA, was involved in land reforms that was not promoted in other parts of Latin America during this period of time (ibid 2001:172). The Law 160 was introduced and implemented during difficult times characterised by increased violence by guerrillas and paramilitaries in the country. The law faced numerous problems and land continued to be a central issue (ibid 2001:173). Foremost, problems with the law were related to implementation. One of the problems with the implementation was the issue of corruption within INCORA. A pilot project supported by the World Bank suggested a decreased role for INCORA in order to decentralise the work on land reforms and increase local participation. This project was implemented in selected municipalities of different conditions and background such as a mining town and the outskirts of a peri-urban area. The project was intended to make the process of land reform more effective (Gruszczynski & Jaramillo 2003). Another problem the law

faced was the overall situation in Colombia where powerful illegal groups hindered any effective results from the law. Illegal groups have confiscated numerous hectares of arable land. Baranyi show that since 1990, an estimated three to four million hectares of land has been appropriated. In response the government passed an additional law to expropriate land that had been illegally obtained. The increase of paramilitaries and guerrilla movements and the spread of narcotic production have been factors undermining land reform and rural development (Baranyi et al. 2004:15). The agrarian structure has not been changed in Colombia after the Law 160 was introduced. Nor did the law have a noticeable affect on the armed conflict. Here, INCORA met criticism for not being able to effectively act in the agrarian process of structural change. Out of this criticism sprung INCODER, the Colombian rural development institute. INCODER was expected to change what INCORA could not. However, the attempt remained on structural level and did not extend to have any significant impact on the situation at large (ibid 2004:14).

In 1997 the Congress of Colombia, passed the Law 387 that focused on the protection of displaced persons. It was the first statute to do so and was important in order to raise awareness of the IDPs conditions. With this law followed introduction of registration of property. In order for the applicant to seek and receive assistance he or she first required registering the land as lost property (IDMC 2011:23). However, the need to register proved to be an obstacle for IDPs and will be discussed further ahead. In June 2011 the new Victims' Law was adopted by the congress in Colombia. The law is intended to restore property and redistribute two million hectares of land that has been seized from IDPs by illegal actors (ibid 2011:5). Before restitution to take place, concerned areas must be secured. This is a challenge when there are illegal armed groups with great interest in land that may oppose restitution. The situation in Colombia differs to countries where there is no land to redistribute (WB 2003:336). In Colombia there is not lack of the amount of land, the problem rather concerns the distribution and how to make redistribution a functioning strategy.

4.3 Governmental Initiatives

It is hard to generalise land redistribution and its outcome because of context, time and degree. Land reforms and land redistributions have shown significant results in some countries and in others not, depending on context and approach for example.

Implementation of laws and regulations are mainly being made through governmental initiatives. In following paragraphs initiatives by the Colombian government will be discussed with a glance on attempts made in other parts of the world.

Looking at so-called successful examples one finds differences within where the context and approach varies. It can be argued that the process of Chinese land reforms with redistribution of land was successful when it for example accomplished to change the prevailing structures of power (Gunnarsson, Rojas & Andersson 2008:212). However, the Philippines show an example where a small part of the population of powerful elites has hindered enforcement of land reform (ibid 1999:108). In East Asia land reforms based on redistribution helped to increase the productivity and change economies. In this discussion it is important to recognise the efforts made and the involvement of the state. The state was an important actor when it came to redistribute land from large landowners to those without and give them means in order to use the land effectively (Meinzen- Dick 2009: 2). These examples do not intend to search for one strategy that can or should be transferred to other countries or situations. Rather they statues as examples of attempts in specific contexts. Although these reforms cannot be transferred as a package, some important ingredients can be highlighted for land redistribution and development. For example, the importance of an autonomous state, equal rights and opportunities for economic development has been emphasised (Gunnarsson et al. 2008:23-25). Land policies have different impacts depending on who is getting access, security and what land is distributed- from and to whom. Moreover, as mentioned above, the process depends on for example state autonomy and legal rights, which in Colombia's case have been lacking.

The Colombian government's intention, commitment, and ability to promote and implement a successful land reform can in some aspects be questioned. The main problems in Colombia are related to implementation of land redistribution and that insecurity hinders resettlement. In general implementations of land reforms in Latin America have been hindered by lack of long-term rural development and decentralisation not reaching remote areas (Griffin et al. 2002:296). When political power is centralised, poor people in rural areas are often excluded. In order to tackle such conditions, CLEP promotes that efforts should start at grassroot level (UN

2009:3). Working at grassroot level, people in rural areas can get the opportunity to influence their own situation through inclusion. Yet, this is not the easiest task in a society shaped by deep inequalities with strong influence of strong elites (ibid 2009:18). Land reform must be supported by further strategies for rural development, such as better access to credit, improved infrastructure and strengthen of human capital. In the past, land reform has often occurred as a result from political pressure by for example peasants rather than a strategy for rural development (Deininger 1999:6). In Colombia, it can be argued that one reason behind a row of unsuccessful attempts of land redistribution is that there has not been budget enough for compensation (Gruszczynski & Jaramillo 2003). Between 1998- 2000 the state failed to overcome the gap between demand and response because of weak strategies, lack of political prioritisation and capital. Even though the financial response increased during the same period, the budget was not enough to cover the people concerned (Meertens 2002: 9-10).

Even if a number of legislations and frameworks have been adopted to meet the issue with conflict and land, the situation is problematic and complex. Different researches have tried to describe the obstacles facing Colombia. Due to the long lasting conflict and political insecurity in the country, great worry and mistrust among the civilians have emerged (Meertens 2002:10). The Colombian government has long been an actor in the on-going conflict and their involvement has for example resulted in limited recordings of incidents of violence (Kay 2000:20-21). The general widespread mistrust within the country has had negative impact on the effectiveness of programs for prevention and restitution (Meertens 2002:10).

The case with Colombia demonstrates that land redistribution and enforcement of land rights to reduce inequalities and increase stability is easier in theory than practise. Because of violent acts and geographical expansion of forced displacement, these can now be seen throughout most of Colombia's municipals (Acción Social 2010:8). Though, according to Organisation of American States (OAS), some of the regions have been worse off than others. Some of the worst off are Antioquia, Bolívar, Magdalena, Norte de Santander, Cauca, Meta, Caquetá and Chocó (OAS 2008:20) (see table 1.). Since asset of land is important in the conflict and function as an instrument for displacement, protection of land rights is an important element in the process of peace building in Colombia (Acción Social 2010:14). Even if

measures, such as demobilisation, have been taken in order to reduce the level of IDPs, security has not improved significantly and the number of IDPs is still high (ibid 2010:6). According to OAS, actions taken to demobilise armed groups in Colombia has not been enough to stop the violence (2008:1).

In order to deal with the large amount of IDPs, the government emphasises return for IDPs as a strategy, which is included in the Victim's Law (2011). One reason why this strategy is promoted is due to the cost since it is less costly to restore people's original home than resettle them somewhere else. Return of IDPs is also a strategy for the state to demonstrate their presence. However, these efforts may not include the will of the ones concerned (Springer 2006: 31). Lack of security, access to land and jobs combined, result in not wanting to return. According to previous studies only a minority (less than 20 %) wants to return to their old communities (Meertens 2002:11). Large landowners and illegal groups make it difficult and insecure for IDPs to return. For example, large landowners have in many cases formed coalitions with armed paramilitaries in order to secure large amount of land. The structure with large landowners in cooperation with powerful armed groups controlling land threatens peasants and is a deterrent factor for IDPs to seek compensation or register their loss of land (Springer 2006:26). The violence has made it harder for returns and re-establishment programs to succeed (Meertens 2002:10). However, a number of people have been returned with governmental support to areas supposed to be secured. For example, returns have been promoted in several departments such as Chocó, La Guajira, Nariño, Antioquia and Sucre, viewed as secured areas and where armed conflict has ended. Although, secure return are hard to guarantee and return of IDPs without enough security can resolve in further displacement (IDMC 2011:55) Further, when new occupiers would have to be removed, conflict could rise as a consequence (Pons-Vignon, N & Solignac Lecomte 2004:28). Another problem facing secure returns is the great use of antipersonnel mines in Colombia. For peasants it can result in having to leave land and also making it problematic to return. In Colombia personal mines are being used among illegal groups and especially FARC (Mines Action Canada 2010:14), which aggravates the situation for peasants, and decreases effective use of land.

4.4 Implementation of Land Redistribution

For land redistribution to be implemented and effective, well-functioning institutions are needed. When re-settling IDPs it is important that institutions are established and land rights included (UN-HABITAT 2008:17).

It has been demonstrated that institutions are extremely limited in Colombia and even though measures do exist that should protect for example property rights, they have not proven very successful. INCODER, along with the police are being criticised for being ineffective in supporting IDPs (Springer 2006:33). The ineffectiveness within INCODER and the high levels of corruption within the institute has resulted in paramilitaries being able to get their hands on land intended for IDPs (Elhawary 2007:9). INCODER is the institution in charge of issues regarding rural property and is also in charge of the registration for loss of property through the unified property register. Here IDPs are supposed to register loss or confiscation of property (Springer 2006:32). Due to IDPs not getting registered, official and non-official numbers of IDPs differs significantly. Not registering is often a result of lack of trust in authorities (Meertens 2002:3). Moreover, women are not often shown in the register and therefore face more challenges. As a consequence, many measures have been taken in order to improve the protection of the rights of women. Yet, more rights for men have been protected than for women (Acción Social 2010:41).

Another challenge land redistribution faces is the informality when it comes to property. Due to a large amount of informal ownership of land in rural areas, along with issues of registration and combination of different types of land ownership, it has been hard to implement previous laws and regulations for land control in Colombia (Acción Social 2010:14). Additionally, diffuse property rights and the insufficient land administration system has made it possible for illegal and violent eviction of property (Gruszczynski & Jaramillo 2003). Inadequate institutions for handling land registration and administration have resulted in the Colombian government not having effective control over the national land (Acción Social 2010:11). The state also lacks presence in remote areas due to high costs as well as control of large areas of land by illegal groups (Kay 2000:20-21).

Violence makes the implementation of land redistribution and supportive institutions even more problematic. The insecurities violence brings, limits their sufficiency and

expansion. Because of limitations within institutions in charge of land related connections, there is a problem of reaching rural and remote areas where many peasants do not get formal titles of land or do not get their property registered. This differs in comparison to larger or medium size owners where formal titles and registered property is more common (Gruszczynski & Jaramillo 2003).

Insufficiency when it comes to protection of IDPs, has led Acción Social to start a project to restore property and secure rights for IDPs, supported by the World Bank, Sida and USAID (Acción social 2010:21). This was followed by a report published in 2010. The report discusses the issue with land and how to secure and protect land rights for the large amount of IDPs in Colombia. The project was divided into three phases from 2003- 2012; 1) land rights protection, 2) scale-up of land rights protection measures and 3) land restitution. Up until April 2010, all but one department in Colombia had applied protective measures in order to secure land rights. The departments that have indicated the most significant results are: Antioquia (17.58%), Bolívar (11.11%), Meta (8.86%) and Tolima (5.27%). These regions concur with those where the project has worked on strengthening regional institutions capacities (Acción Social 2010:43). This confirms the need of functioning institutions for tackling problems in Colombia and providing land redistribution programs.

4.5 Access to the Legal Framework

The rule of law accessible for everyone, that the UN promotes, may at first glance appear obvious and the outline by CLEP looks adequate but it faces challenges. In Colombia for example, implementation of LEP can be questioned since IDPs are frequently being denied their rights. In following paragraphs we look deeper into how the absence of access to given rights is demonstrated in Colombia.

When there is an ineffective system of law there is also a greater loss of security (De Soto 1989:172). Legal access has been discussed as a mean for development where it could give the poor protection and assure their interests and rights. When a large part of the population is excluded by the rule of law, as can be seen when it comes to IDPs, the society in whole is disfavoured. It is then harder for the government to meet the national needs when there is a great amount excluded in the process of economic development (CLEP 2008:10-11). Access to the legal framework could also benefit equal rights and opportunities. For example, lack of rights may result in abuse from

authorities through for example discrimination and eviction of land (CLEP 2008:3). This can be seen in Colombia where there are highly advanced laws to protect IDPs, though they are often being ignored (Springer 2006:27). Further, not having legal right to land makes it more problematic getting it back after being deprived since no documentation of rights connected to the land can be presented. The legal framework should, in its ideal form, protect and include everyone and provide equal rights (CLEP 2008:3). Women's right to land is most often established through custom and not by law. Therefore it is necessary to put it in to legal practice. However, legal reforms are often insufficient when it comes to ensuring women's right to land. Legal reforms will have to include profound changes at institutional, social and individual levels in order to truly include all people (Palmer et al. 2009:38). According to CLEP, to succeed, deep systematic change and institutional reform must take place. Here CLEP also stresses the importance of need to work from the bottom up (CLEP 2008: 9).

In Colombia, illegal confiscation of land indicates lack of capacity to protect people. This also results in little faith and confidence in the states ability to act. Conflict, does not only result in loss of resources such as land, it affects people's capabilities to secure their rights. Not only are the people in Colombia being deprived of land but they are also denied the ability to defend their rights because of illegal groups (Bruce et al. 2007:9). Previous enforcements of laws concerning the right to land and protection clearly show how theory is not the same as practise. Even if attempts through for example implementation of laws have been made, they have not shown expected results. It is not given that access will give the poor knowledge about their rights and without knowledge of legal rights people cannot claim those rights. Information of what and how to access rights, ought to reach those excluded. Regarding IDPs, it seems to be a limited amount that knows their legal right to regain land (IDMC 2011:45). As mentioned, the Commission emphasises the need of extensive changes in power when it comes to the relationship between the state and the poor, as well as between the public and private. Since the Colombian state is having problems reaching the poor in remote areas, structures improving the relationship should be strived for. Inequalities, which characterise Colombia, further marginalise the poor and enable them to access the legal system (CLEP 2008:43). To make use of the full potential of legal empowerment, institutions need to be improved in such ways that they are more open, comprehensive and liable. As previously

discussed the lacking institutions in Colombia aggravates the IDPs possibility to access given rights. It is important to realise that it is a process, and changes in one area can generate additional changes, which can help poor to improve their situation further (CLEP 2008:75). Looking at previous laws and plans in Colombia, attempts have been tried to change structures and for example strengthen IDPs' rights. However, those attempts have maybe not been as profoundly as CLEP suggests. The situation with an on-going conflict places the need of access to legal framework in a different perspective. Implementing a legal framework in a context where illegality is widely spread out will be problematic due to the insecurity it brings.

4.6 Inequalities in Access to and Ownership of Land

Inequalities in access to land are apparent in Colombia, which affect institutions and can be linked to conflict and displacement. Looking at history, extreme inequalities in Latin America have continued through the development of political and economic institutions that have reproduced and continued unequal distribution of wealth, political influence and human capital (WB 2003:171). The patterns of inequalities and uneven land distribution can be traced back to the history of Spanish colonisation (ibid 2003:171). For example, surveys from the beginning of the 1990s show that 63% of farmers in Chile, Colombia, Honduras and Paraguay did not have legal rights to land (WB 2003:336). In Colombia concentration of land has increased during the last 10 years. In 1996, the percentages of large landowners with properties larger than 500 hectares were 0.4% but owned around 44% of the rural land. In 2001 this group of landowners had increased to around 61% (Acción Social 2010:9). These inequalities in land increases due to violence and because the best agricultural land has been used for livestock to graze upon (Deininger 1999:8).

Looking at previous laws and regulations, Colombia has a long history of attempts to decrease inequalities in access to land through land reforms as well as to decrease violence in rural areas. Land redistribution is one strategy among others to reduce inequalities and is one of current initiatives taken by the Colombian government. It is a tool to reduce such inequalities by giving access to land to those in need. Access, control and ownership of land are meant to give the poor stronger voice and increased income (UN-HABITAT 2008:3). However, unfortunately, land reforms of the 20th century in Latin America has not proved to change the existing inequalities and historically it has been hard to carry out a land reform in Latin America because of

landed elites (WB 2003:331-32).

In Latin America, history shows that inequalities, notably in interaction with weak institutions, can cause serious harm to development processes. Thereby strengthening institutions can be important in order to spur development and decrease such inequalities. The World Bank is a major actor on the international arena that emphasise the importance of functioning institutions in order to decrease inequalities (ibid 2003:30-31). However, stability in Colombian institutions are effected by violence and great social inequalities (OAS 2007:20). The Bank agrees on the need to broaden access to public services and reform welfare state run by elites, which is spread out in the Latin American region (WB 2003:31). The correlation between insufficient institutions, inequalities and insecurity makes the situation challenging in Colombia. Powerful and rich elites, which dominate the politics and economics, often shape countries policies, which flourish inequalities that are further enhanced by non-working laws and institutions. Letting the elite stay at the top could generate in vast costs. In the long run it may deteriorate the states power, limit economic growth, deepen and increase instability. This does not only affect the poor but the whole society, including the elite, through insecurity and restricted opportunities (CLEP 2008:43).

The mistrust and discontent among the Colombians can be revealed at different levels of the society. In the Colombian context, paramilitary groups have historically had strong ties to economic and political fields as well as to drug-trafficking. In the 1970-80s many paramilitary leaders became landowners and used violence in order to protect the interest of drug business (OAS 2007:18). These groups have been a threat to the society, especially to people in rural areas. In order to enforce profound changes the state needs to be autonomic. And autonomic state should not be involved with elites and other groups with special interest (Gunnarsson et al. 2008:34-35). However, the opposite can be seen in the involvement between illegal groups and state defenders. For example, it has been found that state polices have cooperated with paramilitaries in order to protect private interest. Such relations weaken the validity and authenticity of state institutions (Springer 2006:34-35).

The situation in Colombia shows multifaceted relations between land, inequalities and conflict. Many argue that the issue of land is the underlying factor of the conflict in Colombia (Deere & León 2001:174, Kay 2000:21). In order to secure stability where

there are inequalities of land distribution and land rights, land redistribution is considered to function as a tool (Pons-Vignon & Solignac Lecomte 2004:32). Yet, the relationship between inequalities and conflict is a well-debated topic (De Luca & Sekeris 2010:120) where the opinion of how these relates and interact differs. While there are some who argues that there is a clear relationship between land issues and conflict (De Luca & Sekeris 2010:120), it is not certain that land related problems would result in conflict (Kay 2000:21). Though, according to UN-HABITAT, social problems linked to unequal distribution of land tend to lead to social conflict and violence if structures are not being changed (UN-HABITAT 2008:15). Nevertheless, there is not a general linear relationship between land inequalities and conflict (De Luca & Sekeris 2010:120). Because of difficulties with measuring inequality and violent conflict, no firm conclusion can be stated on the relation between the level of inequality and violent conflict (Pons-Vignon & Solignac Lecomte 2004:19). In this discussion it is important to notice that land is only one way to measure inequalities (ibid 2004: 22). Moreover, it is a wide discussion with many aspects, which is too complex and extensive to include in this study. Though, issues related to land cannot be fully excluded in the discussion of conflict in Colombia. For example agrarian reform is a central issue in peace talks between the government and the guerrilla group FARC (Deere & León 2001:174). Finally, it is being argued that conflict in Colombia is linked to land issues and demonstrate that those issues can explain the country's violent history (Kay 2000:21).

A link can be seen between municipalities with high land concentration (measured by the Gini-coefficient for land ownership) and displacement in Colombia. Small landowners do not often have capacity to protect them self or their land, which makes easier for illegal groups or/and large landowners to overcome territory and cause displacement (Acción Social 2010:9,11). Indigenous people are further exposed due to marginalisation and more often faces inequalities in land access. It is common that indigenous people posses a lower position in the society and therefore faces difficulties when it comes to gaining political power. For indigenous people the struggle over land has been long and is still on-going. Lack of political and economic influence has resulted in problems of retaining and securing land and it has often been seized to benefit large agricultural estates (Pons-Vignon & Solignac Lecomte 2004:28). Displacement affects the social and economic constellation in communities.

When people are threaten by eviction and enforced to leave their property, efficient use of resources declines, access to food becomes more insecure, and poverty deepens. At the same time as inequality increases, the informal part of the economy and mistrust in state institutions follows the same direction. Moreover, displacement may also destroy already founded relationship in communities. Loss of such relationships affects the whole community economically (Acción Social 2010: 8-9).

4.7 Land Rights and Stability

The connection between a functioning land system and stability will here be discussed in order to get an understanding for the relevance of providing land to the poor in Colombia. It has been presented that there is a correlation between illegal activities, violence, and changes in land property and economic growth in Colombia, this in accordance with several researches. A relation can be seen between areas with challenged property rights and violence (Gallo 2010:425).

Lack of efficient control of property and lack of formal property rights generate incentives for illegal activities. This has for example resulted in deprivation of peasants and marginalised groups and made it possible for illegal farming (Acción Social 2010:11). Coca may be the most economic favourable crop when remote areas are not being reached by state benefits (Gallo 2010:425). In general, coca is more profitable and gives more harvest a year than many legal crops. Additionally, market access and transportation are being provided (Holmes et al. 2008: 106). These factors are important to be considered in remote areas where the states control as well as the states means to provide for the peasants lacks. De Soto discusses the importance of titling. He argues that by offering legal titling of land to the poor in Amazonas, they are provided with an alternative to coca production and sale. When peasants' land is not formal it is hard for the government to offer a solution or change (De Soto 1994:4). For example, informality makes it more problematic for the government to locate and reach peasants. However, it can be questioned whether legal titling could reduce illegal activities or not since the illegal market and its actors possess great power in Colombia.

Further, a relation between the absence of a strong and present state and illegal activity can be seen in Colombia. Production of coca has increased and spread out (see appendix 3) in regions where there is lack of state presence. The state has been

unable to use legal measures against such illegal activities. In state absence, property rights can be challenged and produce incentives for further illegal activities (Gallo 2010:425). When the state does not have strong power to enforce law, other groups and community institutions may enhance power. However, when the state is strong and community institutions are weak, it is hard for people to claim land on customary rights (Meinzen-Dick 2009:3). Implementation of property rights concerns both formal and social processes where the enforcement ought to be supported by other arrangements for example courts, police and financial institutions in order to provide security (Feder & Feeney 1991:137). It is crucial to provide security in order to be able to assure land rights for poor peasants. Colombia has not been able to broaden the enforcement of property rights even though it is a country where political rights have increased and democracy improved through political participation. (Gallo 2010:416). Violation of property rights has resulted in abuse of additional rights (ibid 2010:428). Further, insecurity brings additional obstacles, which have negative effects on the society. When there are insecure conditions for peasants, for example through lack of titling, they are less likely to invest in their land. One without titling of land gains less support from economic benefits. In the context of great amount of displacement, lack of formal titles worsens the situation for people in rural areas who have no way of reclaiming land (Gruszczynski & Jaramillo 2003).

To support and assist poor people, power relations must be considered in any reform of property rights. There will always be winners and losers when reforms take place. It is then important to be able to handle situations where there are powerful groups who are on the losing side since they may hold enough power to oppose and hinder reforms (Meinzen-Dick 2009:6).

4.8 Access to Land before Ownership?

Ownership of land and the benefits it may bring is well discussed. Is land ownership needed in order to develop a modern economy and bring stability in land rich areas? That could be a study itself but yet worth mentioning. While discussing ownership it is important to not just focus on the ownership itself but include and/or emphasise control and access of land.

In the context of Colombia one could question if ownership of land is most relevant or if the discussion should focus on access and security. As IDMC mentions, many of

the IDPs owned land before being displaced, but yet got deprived (IDMC 2011:36). When there are strong and influential groups dominating large areas of land, peasants control and access weakens and diminishes (Elhawary 2007:5-6). The theory of property rights cannot be fully sustained in a context shaped by conflict, when the right to own and occupy land is not respected. For example, peasants may own their land but are at times required to grow certain crops, such as coca, in order to gain security from dominating groups. If property rights are to be effective, one should also have control over what is being produced, and how the land is cultivated. For example women may own land but not as often control it (Deere, 2001:7). Therefore, there is a need for discussing the control of land and not only the ownership.

Property rights do not only meet obstacles in the context of conflict but also in those areas in Colombia where there are lack of formal ties to land. When property rights are being discussed or implemented it often takes form of formal private ownership. Yet, formal private ownership has met criticism for presuming that a change to formal and private is the main track to a well functioning property system. It is important to notice that different forms of titling coexist and can function dynamic and parallel in a society. Moreover, these structures are not static but adapt to the context and its processes (Nyamu-Musembi 2007:1462-3). Property rights must be understood in the context of its legal framework. Other laws or practices do also influence, such as different normative frameworks. Formal titling will not be implemented on blank; it will meet a situation where other practises and relations are already functioning (ibid 2007:1461). Therefore it is of significance to adapt and include existing norms.

Informal titling is common in rural areas in Colombia; especially among indigenous people where norms and cultural aspects are deeply rooted and do not necessary include private ownership. It is noteworthy that 50% of the rights protected by Acción Social project did not have formal ties to land (Acción Social 2010:41). Ethnic minorities are only 5% of Colombia's population but around 30 % of registered IDPs identified themselves as belonging to a minority (IDMC 2011:7). In the department of Chocó, 75% of the population are Afro-Colombians and the department have had the highest numbers of displacement. Further the region is also exposed to high rates of extreme poverty (Springer 2006:19). Indigenous people more often have stronger community bonds and thereby tend to flee together when submitted to violence (IDMC 2011:30). Indigenous people are main targets for illegal groups due to their

reservations' geographical importance. Because of cultural and traditional relation to land, displacement often results in devastating consequence since those bonds may be lost (Springer 2006:17-18). In order to protect community owned land, legislation has been established. Yet, it is hard to make sure that legal rights to collectively owned property are being respected by land greedy groups, such as paramilitaries (ibid 2006:34). Even though other numbers have been presented, one source states that only 31% of land left due to displacement had legal titles and because of informal bonds illegal seizure has been enabled (Elhawary 2007:6). In order to provide those with informal land tenure with juridical safety and stability, Acción Social addresses the necessity of supplementing strategies for land titling (2010:41). However, informal titling makes secure land rights challenging to implement (ibid 2010:35).

5. Results

Relating back to our research question, *how land redistribution could be carried out in the context of an internal conflict in Colombia*, we show following results. While studying land redistribution in Colombia, we have encountered various obstacles with the implementation during the internal conflict. In previous chapters we have tried to present how the relation between the conflict and efficiency of institutions. Because of highly insecure conditions the state have to tackle other issues when redistributing land. For example illegal groups have made it hard for the government to reach remote areas, as has the country's geographical conditions. Corruption with great influence by elites and infiltration of paramilitaries in institutions is another issue facing Colombia. This has decreased the states legitimacy and caused mistrust, which hinders implementation.

In theory, land redistribution may seem like an effective strategy but by looking at Colombia it have in general not proven very successful in practice. Even if redistribution of land has functioned in some countries it is important to notice that it is drawn to time and place and therefore it is not given that it should work in the Colombian context. The Colombian government's attempt to, for example, implement laws in order to secure land rights have had limited success because of institutional shortages and miss-guided programs. Areas with expansion of illegal activities and displacement have resulted in difficulties for the Colombian government to reach and provide security and assistance to. Illegal groups disturb law and order, which reduces

the security measures for restitution. As a consequence, safe returns for IDPs are hard to guarantee. The fear of being displaced once more makes the situation worse for those who regain land. The fact that the conflict is widespread and displacement can be seen throughout the country makes land-related issues more challenging but also very important. In areas where institutions have been strengthened, more protective measures of land have been successfully taken.

The linkage between land issues and violence in Colombia and that land is the predominant factor in explaining the country's violent history can be agreed upon. Guerrilla groups, such as FARC, have one of their ground ideas in unequal distribution of land access as well as social inequalities. However, a relation between access to land and conflict is harder to prove, at least to what extent. We have not found to what degree inequalities of land distribution affects the internal conflict. Therefore we question if land redistribution would have a direct impact on the armed conflict in Colombia. Nonetheless, looking at the complex Colombian context it would be hard to reach peace and assure equal rights for people without considering the distribution of land. On one hand, addressing issues of land is necessary in order to reduce conflict. On the other hand, the land issue itself will not solve the conflict. In order to confront the conflict measures must be taken from multiple angles where a broad agenda for land access and rural development could help the process.

When land is entwined with various political, economic and social structures, the relation between land and conflict becomes complex. In Colombia land has become a resource in conflict. The analysis has shown that illegal groups and paramilitaries have used land in order to regain power, which have affected the development process and caused a large amount of displaced persons. Moreover, production of illegal crops has increased the value of land, which makes it more attractive for interested parties. Due to involvement of coca production in the conflict, land suitable for farming becomes more important for coca producers to maintain. This in turn, can oppose redistribution of land because their great interest in land. When strong illegal groups deprive peasants' land, the legal framework of property or land rights matters little. The question regarding legal rights to land becomes less relevant in the context of conflict when there are not state capacities or institutions to secure those rights. There must be institutions that can function to address and control land related issues where

for example INCODER has failed to deliver.

Our findings have shown that insecurity has resulted in lack of efficiency of land policies. The fact that the Colombian state has not been able to resolve the conflict that has been going on for decades, weakens peoples trust in the state that should be the driving force behind a reform in accordance with LEP. Access to the legal system is being hindered by the conflict and mistrust. Legal empowerment through laws can be difficult when they are not being complied and there is low trust in the state and institutions.

The conflict causes an overall insecurity in the country and clearly makes it harder to redistribute land. In areas where violence is prevalent peasants will less likely invest in land, especially small-scale farmers since they are more often targets of seizure of land. It is being argued that tenure security and settlement of land related disputes are significant factors in order to resolve the great humanitarian issues in Colombia along with reaching peace. Land is an important asset in the conflict and can be an important asset in the peace process as well.

A visible outcome of the conflict is the IDPs, who continue to carry the discussion of access, titling and security forward in Colombia. In the latest Victims' Law the Colombian state acknowledges legal rights to land but have problems to ensure them. Being deprived of land also means that human rights are being neglected. We have looked at legal empowerment through distribution of land. By redistributing land to IDPs, they receive incentives for economic activities through secure land rights. IDPs get the opportunity to access the legal system through registration of land, which gives them certain rights. By including IDPs in the new Victims' Law, efforts are being made including all in the system of law. The question is still about implementation and how it would work in uncertain situations surrounded by powerful groups. Legal access may appear formal but they must be extensive and sustained.

In many cases IDPs do not know how to claim given rights, which undermines the sufficiency in the legal process. For example, being scared of or not knowing how to register lost land aggravates the possibility for IDPs to claim land. The right to own,

control and use land within the legal framework is not being guaranteed. If these rights were to be guaranteed and respected in front of the law, inequalities could surely decrease. However, the actors in the conflict do not have the peasants' best interest at heart.

Legal access to land is included in a broader context intertwined with several social and political elements. However its affect on people differs. Women more often have less access to land than men, and thereby loose legal rights. In this context legal access to land could decrease gender inequalities. By providing property rights and access to land for women could increase women's capabilities and decrease inequalities both economic and social. Further, it has been difficult to protect land rights for indigenous people and other marginalised groups who make up for a disproportionate percentage of IDPs. However, if succeeding in providing these groups with land and support, it could help them climb out of poverty and thereby decrease inequalities. The number of people living in poverty increased after being displaced and losing land, which indicates that land is an important asset in an economic perspective to decrease poverty. Legal rights to land can work as recognition for peasants in rural areas and increase the voice of marginalised groups. However, in regard to increased stability we have not find evidence in Colombia that legal access would lead to decreased violence. Though, it is important to notice that neither reforms nor results happen over night. Rather it can establish a ground for further transformation and development.

6. Concluding Remarks

The established inequalities in Colombia along with ineffective institutions and unsuccessful attempts by the government have collectively facilitated conflict, exclusion and displacement. This study emphasise that land is still an important element in the development process. However, in the context of armed conflict land redistribution may not show expected results. Without security, institutional support and reliance on state capacity to provide secured legal rights, redistribution of land will most likely not improve the situation for peasants. Therefore a broader strategy for rural development is needed to meet additional problems facing peasants. Neither property rights nor legal empowerment will matter significantly, if there are not

sufficient institutions that can implement or sustain those rights. We have tried to argue that unequal access to land results in unequal opportunity in a society where people depend livelihood on land. Inequalities are important to address but its effect on stability is not as evident. Land appears important to include in the peace processes since it is a central asset and factor in the conflict. By redistributing land, inequalities can decrease and in the long run stabilise the situation in rural areas. Even if attempts have been made to improve the situation in Colombia, land is still very unequally distributed and the conflict is still alive.

7. Future Research

The land issue combined with conflict in Colombia is a wide issue and while carrying out our study, further questions appeared that could be used for future studies or to supplement this study. Here follows suggestions for further research.

During research, importance of functioning state institutions has reoccurred. CLEP promotes a *bottom-up* approach where grassroot organisations play a vital role. Therefore it would be interesting in future research to look deeper into different institutional levels and how grassroot organisations and non-governmental organisations could influence and support state institutions.

We have not focused on the economic aspect of redistribution of land. In Colombia illegal activities are spread out and contribute to the economy. Another interesting subject to examine could be how the process of lost and recovered land affects the informal economy.

Land mines have only been briefly mentioned in this study but could make an interesting research due to its extension in Colombia. Mines affect people in rural areas both through insecurity and insufficient use of land. From this perspective one could ask, how land mines affect land rights and/or access to land.

In our study we have found that women's situation is particularly exposed. For example, ownership and access affect women and men differently, as do conflict. Therefore a future study could include women's perspective further and be complemented with gender theory.

8. References

Books and Reports

Acción Social (2010). *Report on Land protection programme* [Online] Pdf. Available: http://www.accionsocial.gov.co/documentos/Tierras_Doc/Workshop%20On%20The%20Protection%20Access00f%20Land%20Rights%20And%20Patrimony.pdf Accessed [2011-11-29]

Baranyi S; Deere, C; Morales M. (2004). *Land & development in Latin America: openings for policy research*. North-South Institute [Online] Pdf. Available: <http://idl-bnc.idrc.ca/dspace/bitstream/10625/1453/3/120075.pdf> Accessed [2011-11-29]

Binswanger-Mkhize, H.P; Bourguignon, C; Brink van den, R. (2009) Introduction and Summary. I: Binswanger-Mkhize, H.P, Bourguignon, C, Brink van den, R. (edt.). *Agricultural land redistribution : toward greater consensus*. Washington, D.C.: The World Bank.

Bruce, J; Garcia-Bolivar, O; Hanstad, T; Roth, M; Nielsen, R; Knox, A & Schmidt, J (2007). *Legal Empowerment of the Poor: From Concepts to Assessment*. [Online] Pdf. Available: http://pdf.usaid.gov/pdf_docs/PNADM500.pdf Accessed [2012-02-15]

Chernick, M (1999) Negotiating peace amid multiple forms of violence: the protracted search for a settlement to the armed conflicts in Colombia. I: Arnson, C (edt) *Comparative peace processes in Latin America*. Washington, D.C, Stanford University Press, p. 159-199.

Commission on Legal Empowerment (CLEP) (2008). *Making the Law work for everyone* [Online] Pdf. Available: http://www.undp.org/legalempowerment/report/Making_the_Law_Work_for_Everyone.pdf Accessed [2011-12-05]

Deere, C & León, M (2001). *Empowering Women*. Pittsburgh, University of Pittsburgh Press

Deininger, K. (1999). *Making negotiated land reform work: Initial experience from Colombia, Brazil, and South Africa*. [Online] Pdf. Available: http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2000/04/05/000094946_99031911113060/Rendered/PDF/multi_page.pdf Accessed [2011-12-04]

Denscombe, M. (2009) *Forskningshandboken: för småskaliga forskningsprojekt inom samhällsvetenskaperna*. Lund : Studentlitteratur 2. uppl.

De Soto, H (1989) *Den andra vägen: marknadsekonomi för Latin Amerika*. Stockholm: Ratio

Gunnarsson, C; Rojas, M; Andersson, M (2008). *Tillväxt, stagnation, kaos*. Finland: SNS Förlag

Kerr, E. (2010) Introduction. I: Peace Brigades International (PBI) (edt) *Forced displacement in Colombia: a crime and a humanitarian tragedy*. Special Edition No. 14, p. 3-8 [Online] Pdf. Available: http://www.peacebrigades.org/fileadmin/user_files/projects/colombia/files/colompBIa/100210_boletin_desplazamiento_2010_ENGLISH.pdf Accessed [2011-11-31]

Holmes, J; Gutiérrez de Piñeres, S; Amin Curtin, K (2009) *Guns, drugs, and development in Colombia*. Austin: University of Texas Press.

Internal Displacement Monitoring Centre (IDMC) (2010). *Building momentum for land restoration, Towards property restitution for IDPs in Colombia* [Online] Pdf. Available: [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/54571CACDA5BACF3C12578230047B627/\\$file/Colombia_SCR_Nov2010.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/54571CACDA5BACF3C12578230047B627/$file/Colombia_SCR_Nov2010.pdf) Accessed [2011-11-08]

Internal Displacement Monitoring Centre (IDMC) (2011). *COLOMBIA: Property restitution in sight but integration still distant* [Online] Pdf. Available: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/B56EC6497EDCB5B1C1257902004D1A2E/\\$fi](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/B56EC6497EDCB5B1C1257902004D1A2E/$fi)

[le/Colombia+-+September+2011.pdf](#) Accessed [2011-11-29]

Lipton, M. (2009). *Land Reform in Developing Countries. Property Rights and Property Wrongs*. Oxfordshire, Routledge

Mines Action Canada (2010). *Landmine monitor* [Online] Pdf. Available: http://www.the-monitor.org/lm/2010/resources/Landmine_Monitor_2010_lowres.pdf Accessed [2011-11-29]

Organization of American States, (OAS) (2007). *A report on the demobilization process in Colombia* [Online] Pdf. Available: <http://www.cidh.oas.org/pdf%20files/Colombia-Demobilization-AUC%202008.pdf> Accessed [2011-12-01]

Sen, A (2005): *Utveckling som Frihet*. Uddevalla, Daidos AB

Solimano, A. (2000) Introduction and synthesis. I: Solimano. *Essays on Peace and Development: The Case of Colombia and the International Experience*. Washington, D.C, USA: World Bank Publications, p. 1-8.

Springer, N. (2006). *Colombia: Internal Displacement – Policies And Problems*. [Online] Pdf. Available: <http://www.unhcr.org/refworld/pdfid/44bf463a4.pdf> Accessed [2011-11-15]

Palmer, D; Friccka, S; & Wehrmann, B (2009). *Towards improved land governance* [Online] Pdf. Available: www.unhabitat.org/pmss/getElectronicVersion.aspx?nr=3216&alt=1 Accessed [2011-12-10]

Pons-Vignon, N & Solignac Lecomte, H- B. (2004). *Land, Violent Conflict and Development* [Online] Pdf. Available: <http://www.oecd.org/dataoecd/29/50/29740608.pdf> Accessed [2011-11-19]

United Nations (UN) (2009). *Legal empowerment of the poor and eradication of poverty* [Online] Pdf. Available: http://www.beta.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/legal-empowerment/report-of-the-secretary-general-on-legal-empowerment-and-poverty-eradication-a-64-133/A_64_133_EN.pdf Accessed [2011-11-30]

UN-HABITAT (2008). *Secure land rights for all* [Online] Pdf. Available: http://www.sida.se/PageFiles/22932/Secure_land_rights_for_all_2008.pdf Accessed [2011-11-20]

World Bank (2003). *Inequalities in Latin America and the Caribbean: Breaking with history* [Online] Pdf. Available: http://www.eclac.org/ilpes/noticias/paginas/7/29107/Inequality_Latin_America_complete.pdf Accessed [2011-11-22]

Yin, R (2009) *Case study research: design and methods*. London : SAGE, cop. 4. ed.

Articles & Papers

Alchian, A. & Demsetz, H. (1973). The Property Right Paradigm. *The Journal of Economic History*, Vol. 33, No. 1, The Tasks of Economic History. pp. 16-27. [Online] Pdf. Available: <http://www.cos.ufrj.br/~mvboares/econinst/artigos/tprp.pdf> Accessed [2011-12-21]

Borras, S. (2006). The Philippine Land Reform in Comparative Perspective: Some Conceptual and Methodological Implications. *Journal of Agrarian Change*, Vol. 6 No. 1, January 2006, pp. 69-101. [Online] Pdf. Available: <http://onlinelibrary.wiley.com.ludwig.lub.lu.se/doi/10.1111/j.1471-0366.2006.00115.x/pdf> Accessed [2011-11-20]

Deininger, K. & Squire, L. (1998). New ways of looking at old issues: inequality and growth. *Journal of Development Economics* Vol. 57 1998 259–287. [Online] Pdf. Available:

<http://qed.econ.queensu.ca/pub/faculty/lloyd-ellis/econ835/readings/deininger.pdf> Accessed [2011-11-28]

De Luca, G. & Sekeris, P. (2010). Land inequality and conflict intensity. Springer, *Public Choice*, 150:119–135. [Online] Pdf. Available: <http://www.springerlink.com.ludwig.lub.lu.se/content/el4hp26710386661/fulltext.pdf> Accessed [2011-12-01]

De Soto, H. (1994). *The missing ingredient, What poor countries will need to make their markets work*. [Online] Pdf. Available: http://www.housingfinance.org/uploads/Publicationsmanager/9406_Dev.pdf Accessed [2011-11-16]

Elhavy, S. (2007). ODI *Between war and peace: Land and humanitarian action in Colombia*. [Online] Pdf. Available: <http://www.odi.org.uk/resources/download/1912.pdf> Accessed [2012-01-05]

Feder, G. & Feeny, D. (1991). Land tenure and property rights: Theory and Implications for development policy, *The World Bank Economic Review*, vol. 5, no 1, pp 135- 153 [Online] Pdf. Available: <http://www.jstor.org/stable/pdfplus/3989973.pdf?acceptTC=true> Accessed [2011-12-01]

Gallo, C. (2010). Institutions and the adoption of rights: political and property rights in Colombia. Springer, *Theor Soc* 39. p,415– 431. [Online] Pdf. Available: <http://www.springerlink.com.ludwig.lub.lu.se/content/h86660405531633n/fulltext.pdf> Accessed [2011-12-19]

Griffin, K; Khan R, A; Ickowitz, A (2002) Poverty and the distribution of land, *Journal of Agrarian Change*, vol. 2 No. 3, p 279- 330 [Online] Pdf. Available: <http://onlinelibrary.wiley.com.ludwig.lub.lu.se/store/10.1111/1471-0366.00036/asset/1471-0366.00036.pdf?v=1&t=h13qceja&s=8c1e29b53e5f1d2bf43ec455d8052f64dd6917ce> Accessed [2012-01-11]

Gruszczynski, D.M & Felipe Jaramillo, C. (2003) Integrating land issues into the broader development agenda: Colombia. I: Groppo, P (edt) *Land reform, Land settlement and cooperatives*. FAO, Special Edition 2003/3: p. 73-103. [Online] Htlm. Available: <http://www.fao.org/docrep/006/y5026e/y5026e07.htm> Accessed [2012-01-04]

Kay, C. (2000). *Conflict and Violence in Rural Latin America* [Online] Pdf. Available: <http://repub.eur.nl/res/pub/19057/wp312.pdf> Accessed [2011-12-01]

Meertens, D. (2010). *Forced Displacement and Women's Security in Colombia*. Disasters, Vol. 34, No. 2, pp. 147-164. [Online] Pdf. Available: <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-7717.2010.01151.x/pdf> Accessed [2011-11-11]

Meertens, D. (2002). *Colombia: Internally Displaced Persons and the Conditions for SocioEconomic Reintegration*. WRITENET Paper No.12 [Online] Pdf. Available: <http://www.unhcr.org/refworld/pdfid/3de62e427.pdf> Accessed [2011-11-14]

Meinzen- Dick, R. (2009). *Property rights for poverty reduction?* [Online] Pdf. Available: http://www.un.org/esa/desa/papers/2009/wp91_2009.pdf Accessed [2011-11-11]

North, D. (1991). Institutions. *Journal of Economic Perspectives* vol. 5, no.1, pp. 97-112 [Online] Pdf. Available: <http://classwebs.spea.indiana.edu/kenricha/classes/v640/v640%20readings/north%201991.pdf> Accessed [2011-12-14]

Nyamu- Musembi, C. (2007). De Soto and land relations in rural Africa: breathing life into dead theories about property rights. *Third World Quarterly*, Vol. 28, No. 8, 2007, pp 1457 – 1478 [Online] Pdf. Available: <http://www.tandfonline.com.ludwig.lub.lu.se/doi/pdf/10.1080/01436590701637334> Accessed [2011-11-27]

Sokolof, K. & Engermann, S. (2000) History Lessons: Institutions, Factors Endowments, and Paths of Development in the New World, *Journal of economic perspectives vol 14, nr3 p. 217-232* [Online] Available:
<http://www.isid.ac.in/~tridip/Teaching/DevEco/Readings/06Institutions/01Sokoloff&Engerman-JEcoPerspectives2000.pdf> Accessed [2012-01-15]

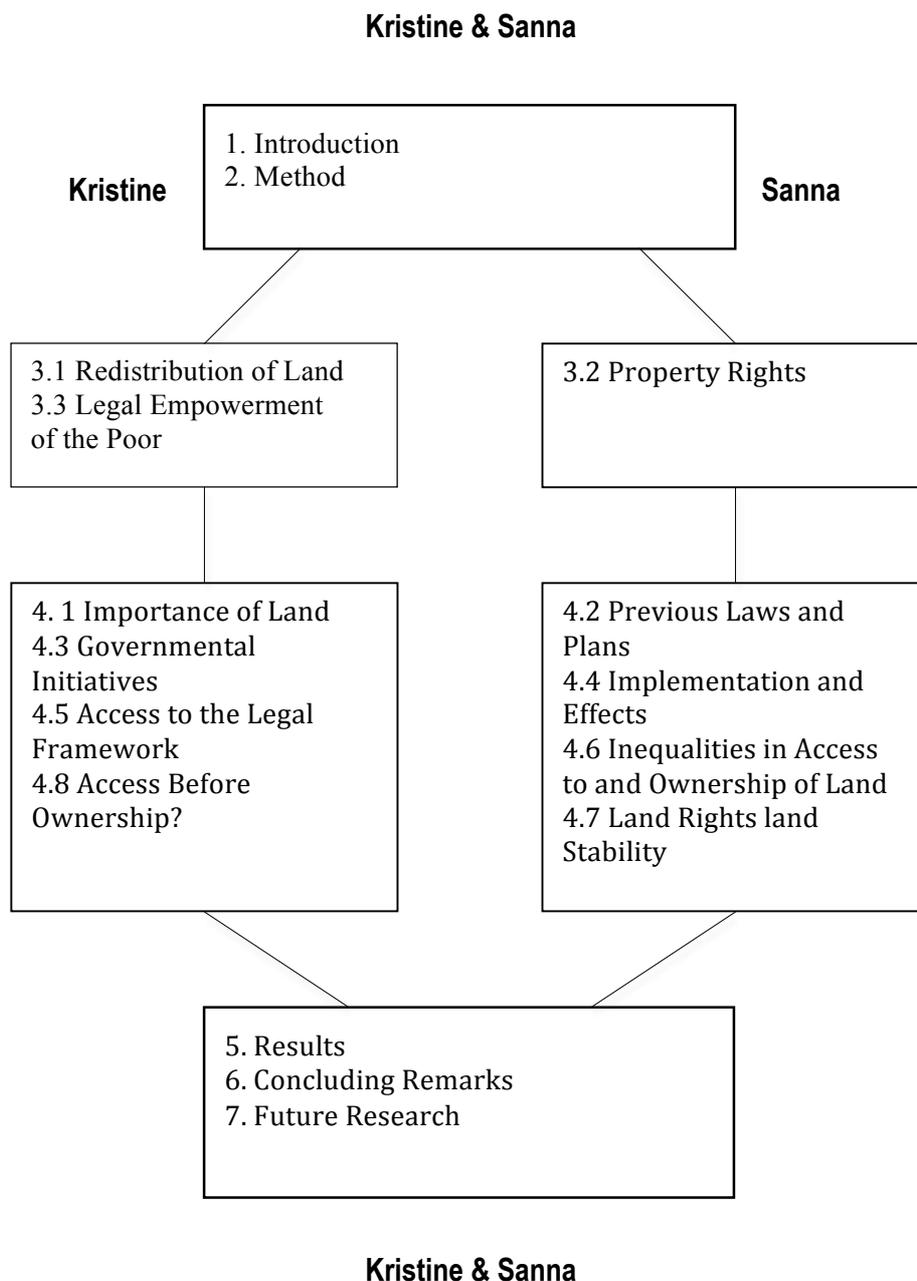
Web pages

UN, The Universal Declaration of Human Rights. <http://www.un.org/en/documents/udhr/> Accessed [2011-11-30]

Appendix

1.

We have chosen to collaborate on this paper because of mutual and complimentary interests and previous knowledge on land and inequalities in Latin America. Even if we are accountable for different sections in this paper it is a collaboration where we have followed each other's work and it is therefore not completely separate.



2. Article 17

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Source: UN, The Universal Declaration of Human Rights.

<http://www.un.org/en/documents/udhr/> Accessed [2011-11-30]

3. Areas where farming of coca is spread out. The orange fields show places growing coca in 2007.

