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INTERNATIONAL PROPERTY RIGHTS INDEX 2024

LEGAL HOSTILITY AND RISKS TO RURAL PROPERTY IN COLOMBIA: THE CONSEQUENCES OF LEGISLATIVE REFORMS

CASE STUDY

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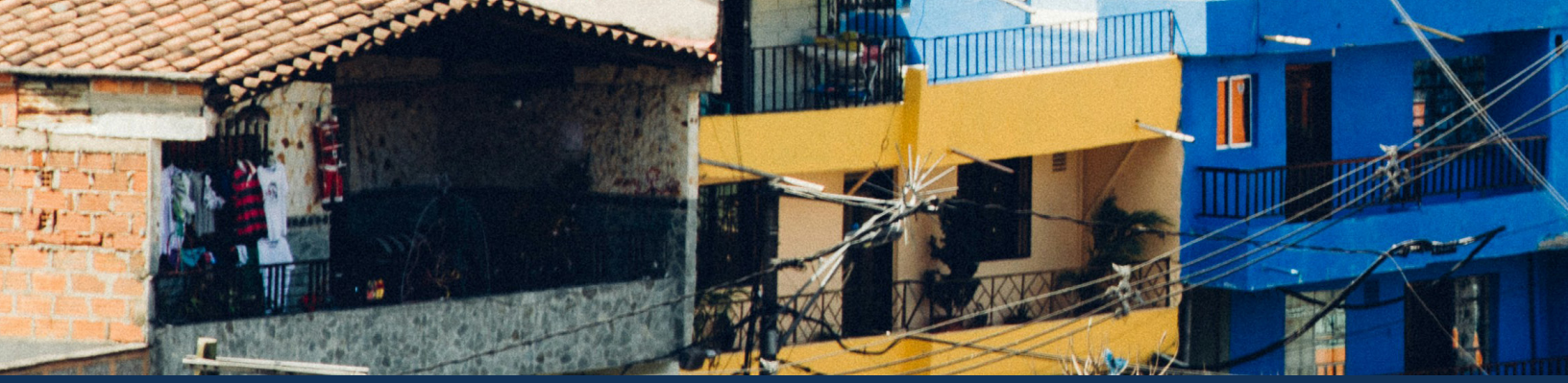


INTRODUCTION

The evolution of legal intervention on property rights in Colombia, especially in the rural sector, reflects the growing distrust of the State in free and decentralized mechanisms for land allocation. The legislative reforms promoted between 2022 and 2024 impose additional restrictions that limit the full exercise of these rights without effectively addressing the real issues of property. This has diminished landowners' ability to produce, transfer, use, and transform land. Furthermore, these reforms have increased transaction costs and introduced new risks to landowners' interests, hindering the efficient exchange of resources and restricting citizens' autonomy.

This study is based on three key concepts: property rights, transaction costs, and Coase's theorem. Transaction costs are costs and barriers (measured in money, time, or information) that hinder or prevent voluntary exchanges. Cooter and Ulen (2016) classify these costs into three main categories: *search costs*, *negotiation costs*, *and enforcement costs*. When these costs are high, the possibility of exchanges is reduced, delaying the efficient allocation of resources and negatively affecting economic development.

Coase's Theorem, based on the analysis of transaction costs, holds that when these costs are low or nonexistent and property rights are clearly defined, parties can negotiate and reach efficient agreements without the need for state intervention of a redistributive nature[1]. However, when transaction costs are prohibitive, the result is that efficient negotiations do not occur, preventing the optimal allocation of resources. In such cases, the parties may attempt to reach agreements informally or even outside the law, which could lead to the violation of rights and inefficiency in the use and allocation of resources, and even trigger chaos regarding resources and cycles of violence.

This theorem presents an ideal vision in which, under perfect conditions, property rights would be assigned to those who value them most, without the initial distribution of those rights affecting the final outcome. However, in contexts where transaction costs are high, as in Colombia, this dynamic is limited, justifying the need for an analysis of normative intervention.

1. See the Normative Coase Theorem and the Normative Hobbes Theorem in Cooter and Ulen (2016).

In the Colombian Civil Code, property is classically defined as the *ownership, possession, enjoyment, and use of goods*, whether material or immaterial. Cooter and Ulen (2016) expand this concept by understanding property as a set of rights over scarce resources, which allow autonomy and the free disposition of those resources[2]. This approach is essential for the analysis of Coase's Theorem, as it emphasizes the importance of private negotiation in determining who holds rights over which resources and how they can be used.

Nonetheless, the Colombian Political Constitution, as the supreme norm, imposes limits on private property due to its social and ecological function, which reinforces the role of the State in regulating these rights and legitimizes any form of redistributive intervention over property. Article 58 of the Constitution, while affirming the guarantee of private property, establishes that in cases of conflict between private and public interest, the latter will prevail. Within this constitutional framework, successive governments have operated, increasingly establishing redistributive, and since 2022, even prohibitive interventions on property[3].

High legalization costs act as barriers to the development, access, and creation of a modern and efficient land market in Colombia. Ghersi (1987) notes that these costs perpetuate informality, leading to what Hernando de Soto calls *invisible capital*—assets that cannot be formalized or integrated into the market to generate wealth. This situation perpetuates a cycle of exclusion and limits development opportunities (De Soto, 2012; Ghersi, 1987).

In this paper, we identify four key issues related to land property rights in Colombia: **1) the underutilization of land, 2) informality in land tenure, 3) excessive intervention in land possession and use, and 4) the limited guarantee of possession, exacerbated by violence in various regions**. We will focus on the first three issues, with special emphasis on the third, analyzing the recent reforms implemented since the beginning of the 2022 legislative period. The fourth issue has been addressed in other ICP documents, which go beyond the scope of this paper (Chacón et al., 2021).

2. Cooter and Ulen's approach is more closely aligned with Anglo-Saxon legal systems than with Romano-Germanic ones.
3. Article 58: Private property and the other rights acquired in accordance with civil laws are guaranteed and may neither be disregarded nor infringed by subsequent laws. When in the application of a law enacted for reasons of public utility or social interest, a conflict between the rights of individuals and the interests recognized by the law arises; the private interest shall yield to the public or social interest.

1

UNDERUTILIZATION OF PRODUCTIVE LAND (FOR AGRICULTURAL OR OTHER PURPOSES)

In Colombia, there is an imbalance between available land and its effective use. According to the Rural Agricultural Planning Unit (UPRA, 2022), the country has 114 million hectares, of which 37.6% corresponds to the agricultural frontier (42.9 million hectares). However, 34% of the land remains uncultivated or without economic use, equivalent to 39 million hectares; this represents a considerable underutilization of available resources with the proportion of uncultivated land nearly equal to cultivated land.

Although we disagree with the concept of the agricultural frontier established by the 2016 Peace Agreement, these data serve as a reference for one of the possibilities of land use. To assume that land has only one purpose implies a deliberate exercise in economic planning that can inhibit private projects with alternative uses.

According to UPRA, it is estimated that 18.4 million hectares have the potential to be adapted for agriculture, but only 1.1 million hectares are currently being adapted by private initiative. This reflects an underutilization rate of 94%, suggesting the existence of economic or structural barriers (such as legal issues, lack of infrastructure, financing, and incentives) that prevent private investment in large-scale agriculture.

According to UPRA data (2023), Colombia has, on average, utilized only 2% of its agricultural frontier for production. This indicator is derived from dividing the number of productive hectares by the total number of hectares. From an economic perspective, this suggests a missed opportunity for productivity that could enhance the rural economy. The low utilization rate of land suitable for cultivation suggests the absence of markets and rights necessary to originate them.

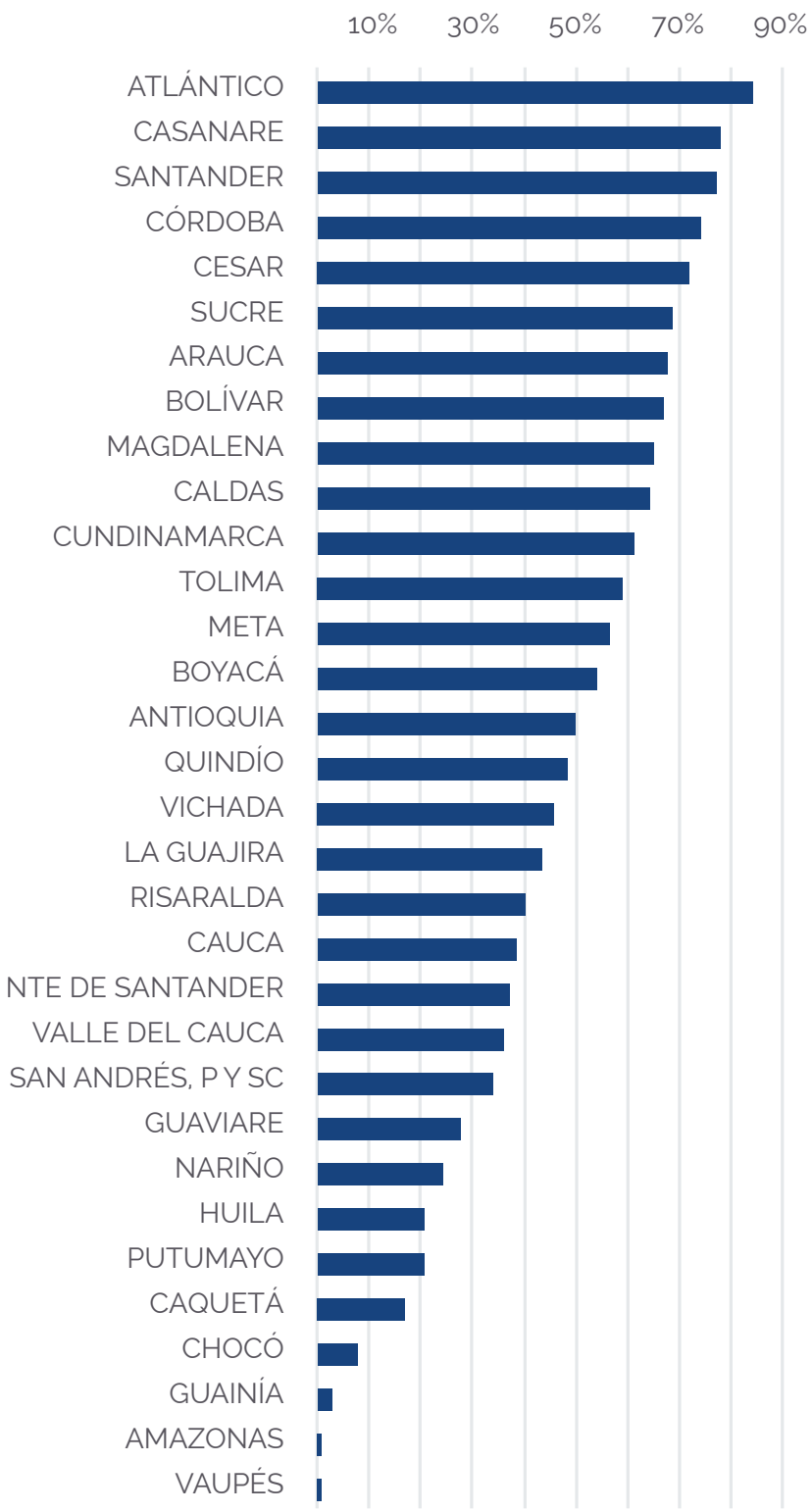


Figure 1. Unutilized Agricultural Potential by Department - Colombia 2023

Source: UPRA, 2023

In economic terms, the activation of these hectares could generate employment, improve agricultural value chains, and significantly contribute to the country's agricultural GDP.

The increased participation of private projects also highlights the need for public policies that incentivize investment in these areas, such as infrastructure improvements.

2

INFORMALITY OF LAND TENURE

According to UPRA (2023), 52% of land plots in the agricultural frontier of the departments are informal. This informality hinders access to property rights, incentives, and recognition necessary for the economic development of these regions.

The government defines land tenure informality as "the absence of a valid title of transfer of ownership (public deed, award resolution, court ruling, among others) registered in the real estate registration folio and appearing in the certificate of tradition and liberty" (UPRA, 2021, p.13).

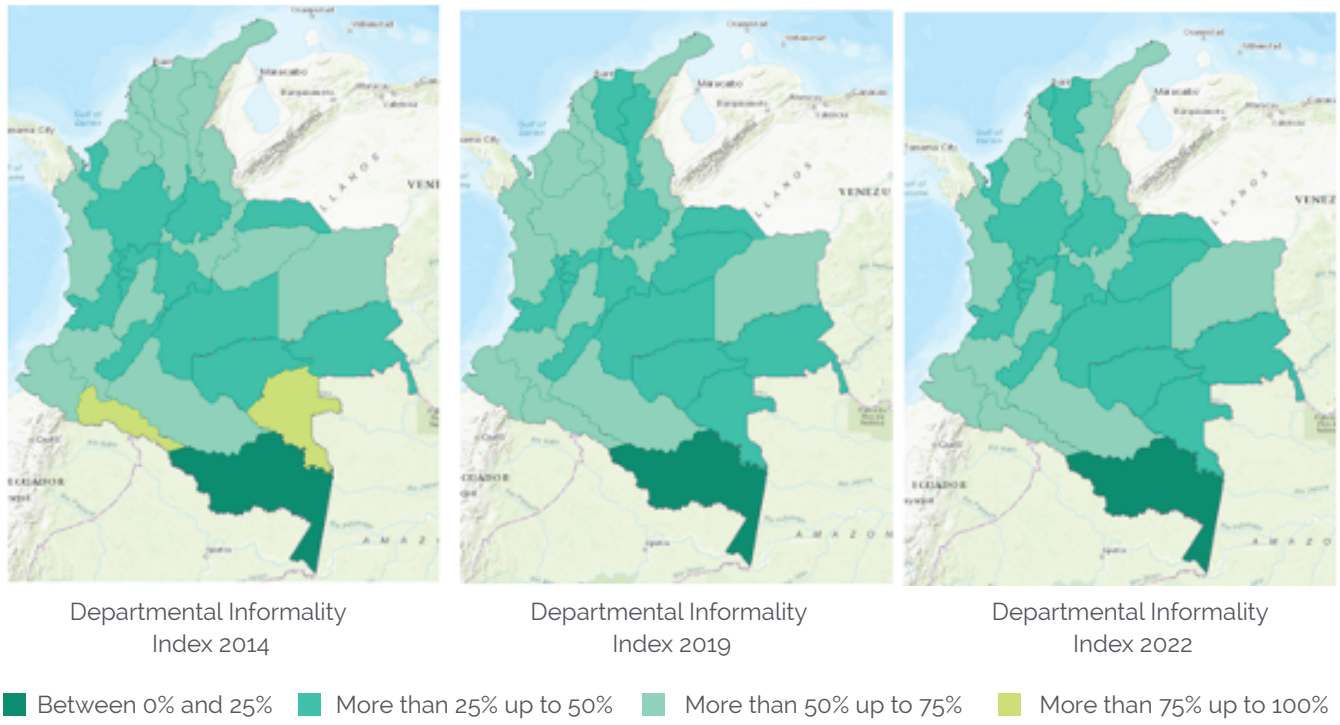


Illustration 1. Land Informality Index by Departments in Colombia 2014, 2019, 2020

Source: UPRA, 2021

The informality index, understood as the percentage representation of the number of informal land plots relative to the total number of plots within a given unit of analysis, shows that the most representative departments in terms of land tenure informality are, in order: Putumayo with 68.11%, followed by Nariño with 66.84%, Cauca with 65.86%, La Guajira with 63.2%, and Boyacá with 62.35%, as shown in the following graph.

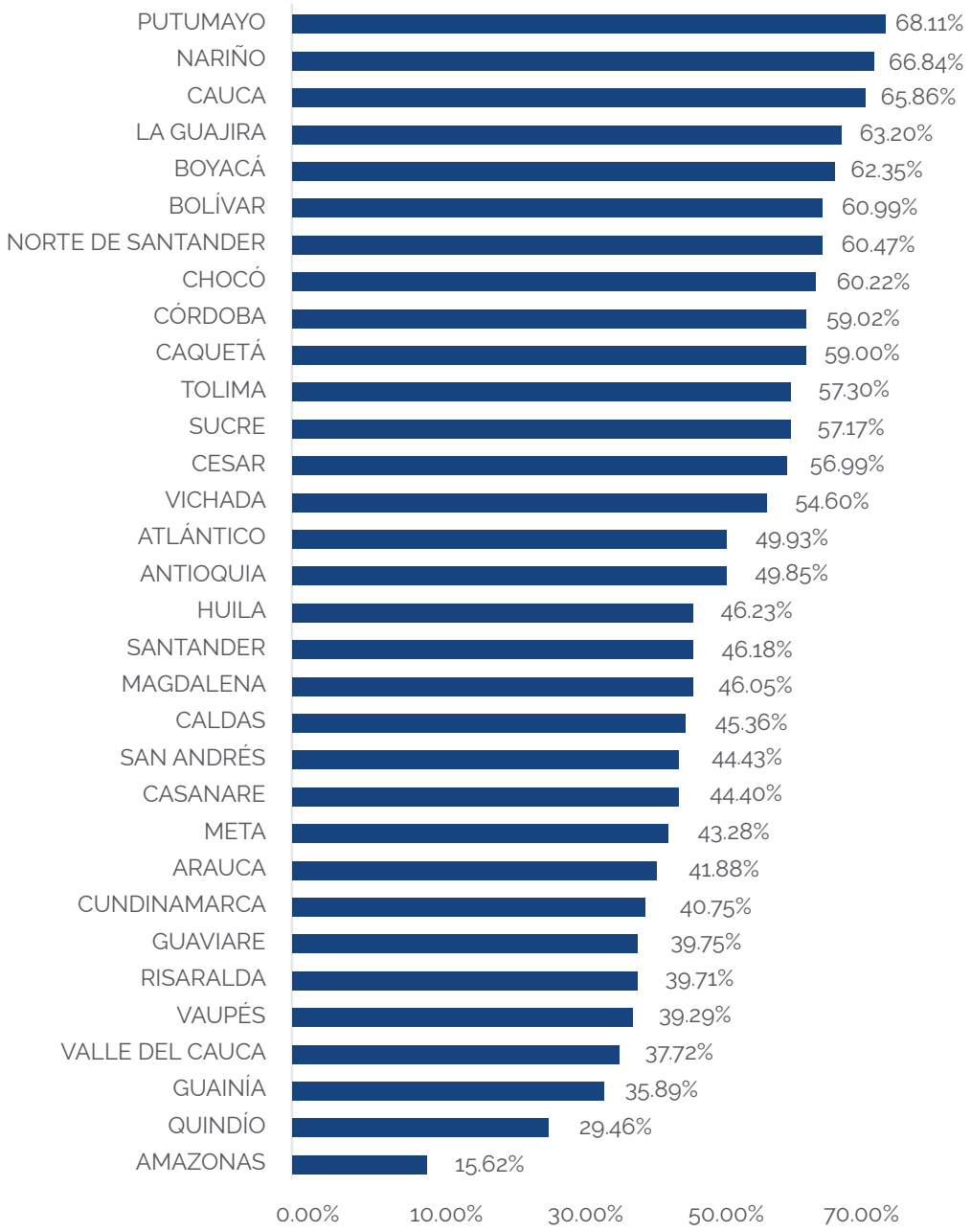


Figure 2. % of Informal Land Plots in Colombia by Department

Source: UPRA, 2022

When observing the informality index not by the number of land plots but by area, the departments that stand out are Guainía, Caquetá, and Meta. This is because the index, when viewed in terms of area, accounts for the percentage of informal hectares relative to the total hectares.

In these departments, although the number of informal land plots may not be as high, the extent of affected land is significantly greater. It is common to find large plots of land without regularized legal status.

In the departments of the Amazon and Orinoquía regions, such as Guainía, Caquetá, and Meta, land use is concentrated on large tracts of land; this causes informality when observed in terms of area to affect a greater proportion of the total surface. These rural areas with low population density tend to have larger land plots, making land informality in terms of hectares more relevant. For example, in Guainía, informality reaches extensive areas in contrast to more fragmented departments like Putumayo or Boyacá.

Additionally, in departments such as Amazonas, the structure of collective ownership, such as indigenous reserves, drastically alters the index results compared to the rest of the country. These regions also have a high presence of illegal armed groups, which confirms De Soto's (2012) position regarding the submission to informal rules through the use of violence to control land ownership.

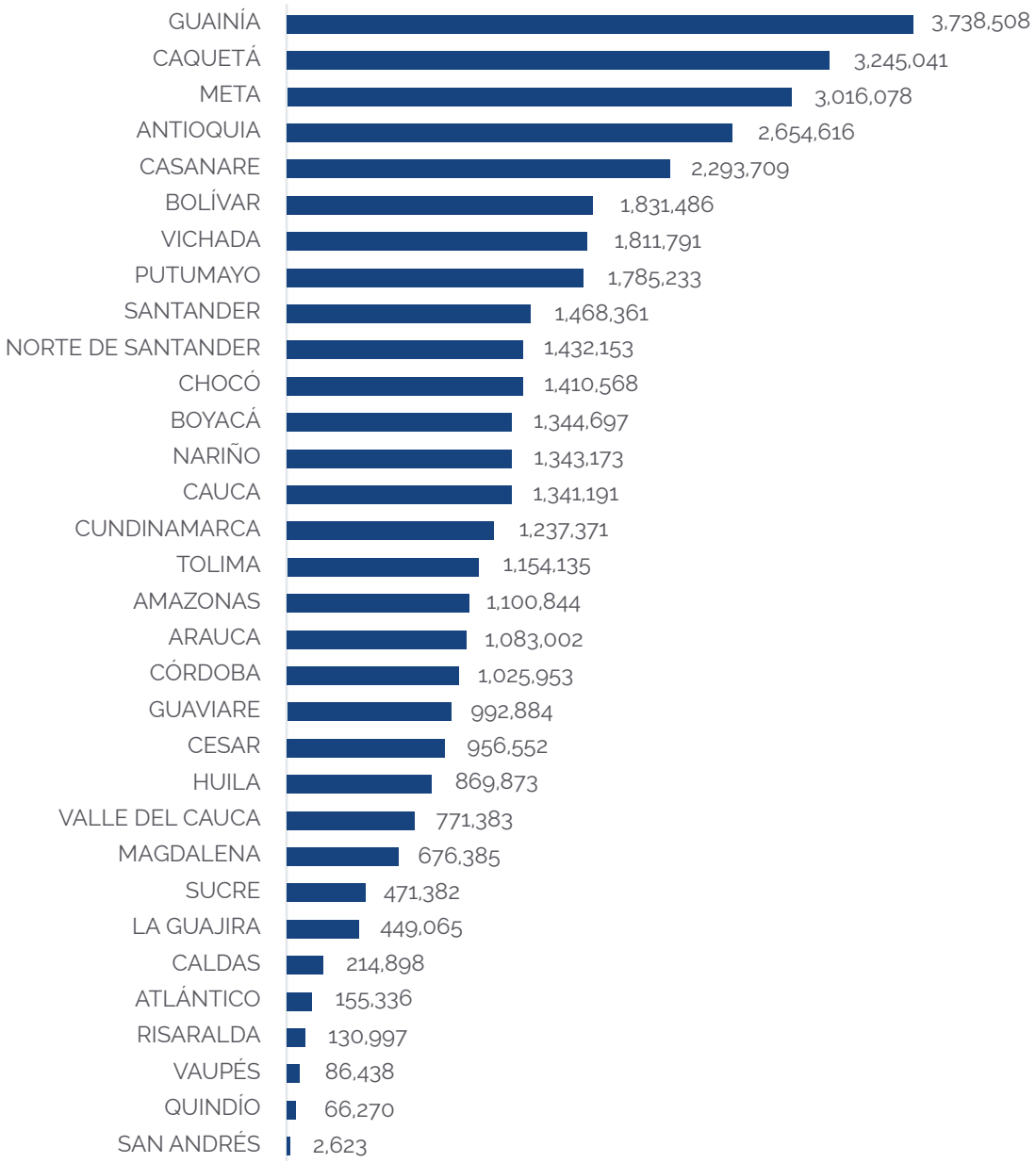


Figure 3. Informality by Area (Hectares)

Source: UPRA, 2022

Although the data reflect a marginal decrease in land tenure informality, with the informality index reaching 54.31% in 2014, 52.70% in 2019, and 52% in 2020, the pace of progress remains slow. This means that more than half of the land plots in Colombia cannot be formalized or fully utilized for their economic potential. This situation restricts access to formal credit, discourages investment in improvements, and limits the dynamism of the land market. Moreover, there are no policies in place to accelerate land titling. In fact, political activism in this area has instead been redirected toward weakening the limited existing titling, redistributing property, or defining its use through deliberate governmental planning.

This reality demonstrates a high proportion of *invisible capital*, described by Hernando de Soto as reflecting the high cost of legality and the barriers to entering the land market in Colombia (De Soto, 2012; Ghersi, 1987). More than half of the land plots, although possessing intrinsic value and having the potential to develop value through various uses and increase productivity, cannot be fully utilized due to the lack of legal and formal representation conferred by private property rights.

These lands cannot be integrated into the information network necessary for expanded exchange beyond small-scale trade, bartering, neighborhood, or community (local circles of mutual trust) limiting their ability to contribute to expanded production and agricultural or other value chains.

Land tenure informality not only fosters legal uncertainty and low economic development, but also triggers violence and reinforces the rule of the strongest. When legal rules are too costly, many will impose their own rules through their own force, operating in parallel to the State. According to De Soto (2012), in the absence of a formal titling system, de facto property is imposed through force, which incentivizes population displacement and the widespread use of violence. Without legal titles, the State is limited in its ability to protect property rights, as the lack of clarity and formalization in these rights creates space for violent appropriation to prevail.

De Soto (2012) argues that formalizing property is the primary tool for creating legal certainty and generating trust in the economic system. Without a definition of property rights, market development is undermined, and investment is discouraged. This prevents the formation of capital around assets, as informal land plots cannot be used as collateral to obtain credit nor be integrated into formal transactions. The lack of titles not only perpetuates poverty and exclusion, but also hinders wealth creation by obstructing the inclusion of vast sectors of the population into the formal economic circuit. For sustained and peaceful development to be achieved, titling, the formal recognition of property rights, and the physical protection of these rights are essential.

3

EXCESSIVE INTERVENTION AND HOSTILITY TOWARD PROPERTY IN SEVEN REFORMS

The regulatory environment for agricultural land ownership in Colombia has historically been unstable and insecure. Since Law 200 of 1936,—the first agrarian reform of the 20th century—not only was the government's role in property rights transformed, but it also unleashed a civil war that gave rise to guerrillas and self-defense groups (Molano, 2017). The government ceased to be the guarantor of the Civil Code, and, through mandate, set out to redistribute land that already had titling issues based on political criteria and objectives unrelated to the protection of property.

Law 200 aimed to redistribute land and place it in the hands of those who worked on it, rather than its owners. It was a reform with a socialist tint, adopting the labor theory of value as its evaluative criterion. The law did not seek to open the land market, but, through legal mandates, aimed to redistribute it to benefit laborers, tenants, and settlers. Additionally, state support for landowners in their claimed right to evict tenants and settlers using public force was eliminated.

This historical precedent is relevant. Although it has been labeled as a failure in the literature (Machado, 2017), President Petro's government has expressed its intention to revive Law 200 of 1936. This intention has been reflected in legal provisions over the last two years, which have generated high legal volatility complicating business management in rural areas and preventing the creation of more opportunities for the lawful, peaceful exercise of property and the generation of value for rural inhabitants.

In the last two years, legal uncertainty has critically worsened. The following are the main recent regulatory changes affecting the legal environment for rural investments, aggravating the business landscape in the Colombian rural sector, and making it a hostile and high-risk environment for private property and new investments.

PEASANT AS A RIGHTS HOLDER AND PRIOR CONSULTATION

Legislative Act 01 of 2023, amending Article 64 of the Political Constitution of Colombia "*by which the peasantry is recognized as a subject of special constitutional protection*" has opened the possibility of considering *prior consultation* with peasant communities for investment projects impacting rural areas. Furthermore, Decree 1004 of 2024, which creates the National Mixed Commission for Peasant Affairs, establishes the institutional framework for carrying out these consultations.

With *prior consultation*, the community's predominance over individual landowners in land regulation increases transaction costs. These include both search and negotiation costs. Determining ownership and land use becomes more complex when multiple actors are involved, compared to when decisions are made solely by landowners. This increase in transaction costs creates frictions that make it difficult to carry out voluntary exchanges quickly, flexibly, and efficiently, affecting market efficiency.

From Coase's perspective, *prior consultation* would create a barrier to negotiation, reducing the mobility, transfer, and valuation of property. Transactions would tend not to occur, which limits the efficient allocation of resources. This is evident in the case of investment projects in rural areas, where high transaction costs—exacerbated by the need for prior consultations with ethnic communities—have hindered the development of significant initiatives, such as wind farms, irrigation districts, and infrastructure projects, including roads and access routes.

The addition of peasant consultations further complicates matters, introducing more actors and raising coordination and negotiation costs.

However, when decisions in a property rights negotiation are not solely dependent on the parties involved but must be consulted with the community, transaction costs tend to increase significantly. In some cases, these costs can become prohibitive, making negotiations difficult or even impossible. This process can result in the invisibility and devaluation of property rights, as prior consultation introduces complex dynamics that affect the feasibility of certain agreements. Moreover, by suppressing the general and abstract nature of property rights, the process prevents individuals from pursuing their own interests and goals, imposing a concrete approach determined by the government distorting and limiting the information that generates value in the market.

According to the economic theory of property rights, Legislative Act 01 of 2023 introduces complexities that run counter to the principle that clear rights over resources lead to economic efficiency by reducing transaction costs and facilitating negotiations. However, adding more layers of negotiation beyond the will of the directly interested parties—as is the case with community consultation—can increase transaction costs and create obstacles to investment, negatively impacting efficiency and promoting the suboptimal use of rural resources.

AGRICULTURAL JURISDICTION AND ITS COMPETENCIES

Another piece of legislation that introduces hostility to the development of private property in rural areas is the Statutory Law on Agrarian Jurisdiction, which was approved by the Congress of the Republic on June 17, 2024, and is currently under constitutional review.

The expansion of the powers of the Agrarian Jurisdiction, as proposed in the bill, could significantly increase transaction costs and lead to legal uncertainty. Although the Final Peace Agreement aimed to create an institutional framework to resolve conflicts related to land tenure (Point 1.1.8—a problem that is already challenging), the bill goes far beyond this purpose, granting agrarian judges the power to intervene in contractual, environmental, and registry matters.

This fragmented approach could result in the creation of specific interpretations and rules for each case, rather than generating clear and general rules about property, which, from Coase's perspective, increases legal uncertainty and hinders the efficient resolution of conflicts. The lack of uniform rules complicates negotiations between parties, as actors lack clarity about property rights and potential legal solutions. This raises transaction costs, as parties must dedicate more resources to seeking information, resolving disputes, and interpreting legal frameworks.

Along with this normative development, there is another one related to Bill 183 of 2024S, *which determines the competencies of the agrarian and rural jurisdiction, establishes the special agrarian and rural procedure, and other provisions*, filed on August 27, 2024.

While the Agrarian Jurisdiction and its competencies are ratified, the new bill defines the integration and composition of the special judicial offices to settle agrarian controversies. To date, the functional competencies attributed to those judges and magistrates have not been raised, with the aggravating factor that the Superior Council of the Judiciary created 5 judicial circles with 41 positions created through the agreement AGREEMENT PCSJA23-12132 without mentioning its scope.

The hostility lies in the fact that the bill is not limited to designing the judicial offer; but it extends to defining principles and substantial and procedural norms of agrarian law with purposes beyond guaranteeing property, relativizing its function. The bill replicates pre-existing norms, generating legal redundancy, and exposing concepts already defined for discussion by Congress without need.

It is of concern that according to the chapter on principles of the bill, the judge will not apply concrete norms and defined rules of the game in order to rule on the law, but may instead rule on the basis of ethereal and abstract principles such as "good living".This gives rise to a series of conceptual gaps that will allow the judicial operator to make decisions based on merely subjective criteria that detract from any possibility of legal certainty for rural investments.

As if this were not enough, Article 34 of the bill implies that in the judicial process there is a presumption of truthfulness regarding all the statements made by the subjects of special constitutional protection; that is, any statement on the existence of facts or rights made by someone who holds such status is presumed to be true and does not require any kind of proof. In the procedural evidentiary debate, it is extremely serious that a party does not have to prove the facts or rights in dispute, and they are simply presumed to be true. We consider this principle to be highly detrimental to due process and private property.

The creation of agrarian jurisdiction without clear attributions demonstrates how the lack of definitions and competencies of judges can create uncertainty. This is consistent with economic theory that emphasizes that legal uncertainty elevates transaction costs and discourages investment. Security of property rights is essential to encourage investment and development, but this type of uncertainty can have the opposite effect.

FOREIGNIZATION OF THE LAND: XENOPHOBIA IN INVESTMENTS

Bill 309 of 2023C presented by the government on the limitation of foreign investment on property and foreign ownership of land was not approved in Congress and was withdrawn; but it is likely that this initiative will be presented again under a different form or will materialize together with the previous initiatives presented.

Specifically, this project contemplated prohibitions to foreign ownership, possession or property; it modified the foreign investment regime and transgressed international treaties ratified by the State in the last two decades. Although it was not approved by Congress, it did leave a precedent of disregard for the concept of private property, capital mobility, the impersonal nature of market mechanisms to value assets, and, in this case, land.

Restricting foreign investment is equivalent to vetoing property titles to those who autonomously and voluntarily wish to invest and generate value in the Colombian field. Instead of restricting foreign investment, incentives should be provided for the capitalization of land to increase productivity and improve living conditions in the field. Restricting foreign ownership and land investment actually puts at risk both the market and food security of those regions that could increase food production and thereby reduce food prices. Increased agricultural productivity supplies the domestic market and makes it possible to sell surpluses abroad. By increasing the production of agricultural products, the country can ensure its domestic supply and generate additional income through exports.

ABOLISH THE AUTOMATIC JUDICIAL CONTROL OF THE DECISIONS OF THE NATIONAL LAND AGENCY.

The National Development Plan Law intended to abolish (Article 61) the automatic judicial control of the decisions of the National Land Agency (ANT) in the agrarian procedures referred to in numerals 4, 5 and 7 of Article 58 of Decree Law 902 of 2017. These are the most important procedures for the definition of rural property rights. In other words, the modification contained in Art 61 of the PND implied that such judicial control would not be carried out in some strategically selected agrarian procedures:

1. Processes of clarification of ownership, demarcation, and recovery of uncultivated lands as provided in Law 160 of 1994.

2. Judicial extinguishment of ownership of insufficiently or inadequately used lands, as provided for in Law 160 of 1994.

3. Administrative forfeiture process, resolutory condition of the subsidy, reversion, and revocation of title to uncultivated lands, as provided for in Law 160 of 1994.

Although this provision was declared unconstitutional by the Constitutional Court through judgment C294 of 2024[4], the same text is included in Article 12 Paragraph 1 of Bill 183 of 2024 Senate of Agrarian Jurisdiction filed on August 27, 2024; that is to say, it seems that the National Government insists on making decisions on rural property without having automatic judicial control and giving rise to a wide margin of discretion in the ANT.

However, Article 61 of Law 2294 of 2023 did not exhaust its scope of application in the aspect declared unconstitutional. It also created the possibility for the ANT to pursue properties with more than two Family Farming Units (UAF), and, once inventoried, to verify that they are sufficiently exploited (that they are not idle properties). This aspect has been the subject of a draft regulation. This decree initiative has not been born to legal life, but its text submitted for citizen comments did create new grounds for the extinction of property causing an avalanche of citizen interventions; it extended the possibility of suppressing the right of ownership without compensation (extinction of ownership) for reasons not previously defined in the law. To date, this initiative has not been issued, but the warnings about its eventual issuance are of great concern.

The attempt to suppress judicial control in certain procedures related to rural property reflects a movement towards the concentration of power in a state agency without external control, which may erode legal security in private property. According to Cooter and Ulen (2009), the right to protect property is fundamental to incentivize investment and the efficient use of resources. By eliminating control mechanisms, the risks of arbitrariness are increased, which discourages productive use and investment in rural land.

4. The Constitutional Court declared unconstitutional paragraph 6 and paragraph 3 of Article 61 of the PND due to flaws in its formation process, particularly due to the violation of the principles of publicity, consecutiveness, and flexible identity.

COMMUNITIES AS CADASTRAL OPERATORS

On the other hand, Article 45 of Law 2294 of 2023 (PND) allows ethnic communities to be cadastral operators for the collection of statistical data for these purposes Ethnic communities are authorized to collect economic, physical and legal information on properties. The problem is that the draft decree regulating this article does not limit these functions to legally constituted titles such as indigenous reserves or collective titles of black, Raizal, or Palenquero communities, but also to areas corresponding to ethnic territorial aspirations or vacant land, putting existing property titles at risk.

This initiative poses risks, not because it assigns the cadastral operation to the communities, but because of the possibility of extending these competencies to areas in territorial dispute or to vacant properties. This can increase conflict, making it impossible to clarify property rights and increasing transaction costs for their protection and development. This normative modification will be detrimental to the definition of the cadastral information by an actor that disputes its property. The communities would be judge and party in the definition of such cadastral data.

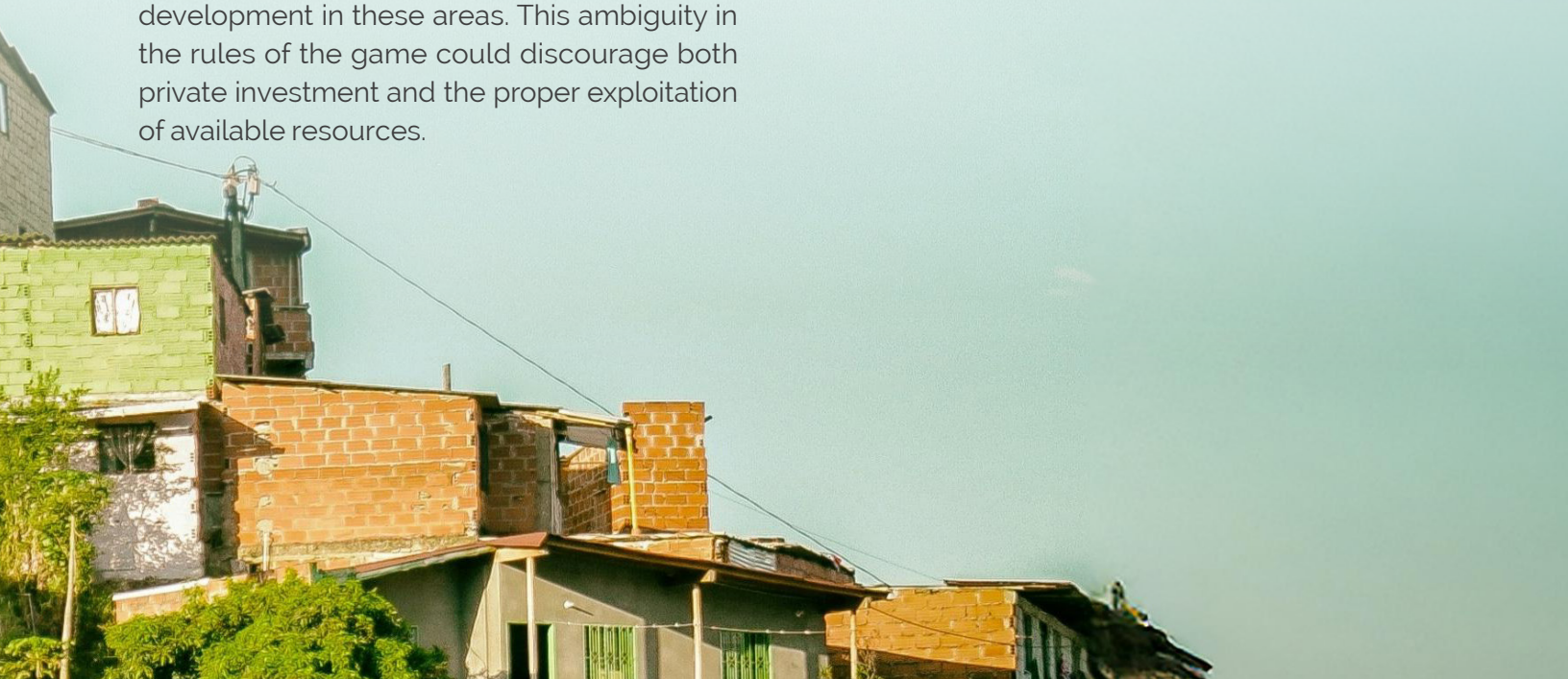
PEASANT RESERVE ZONES

Regulatory Decree 780 of 2024, which regulates Article 359 of Law 2294 of 2023 (National Development Plan 2022-2026), has as its objective to establish the procedure for the constitution, recognition and strengthening of peasant territoriality through the Territorios Campesinos Agroalimentarios (TECAM). This new figure of social organization of rural property is presented as an alternative to the Peasant Reserve Zones, but with a more political focus, since it eliminates the replacement of private property by collective property, and contemplates the creation of Peasant Government Boards. These Boards would be in charge of elaborating plans for a dignified life to be executed in these territories with public financing (art. 6 of the decree). Incentivizing collective property planning exercises and destroying value could arise from private initiative.

The creation of these new forms of territorial planning presents significant challenges. The complexity of the proposed regulatory framework could increase uncertainty and transaction costs associated with land use management and negotiation. The lack of clear and defined rules on property rights and responsibilities within TECAM may generate ambiguity, which in turn increases barriers to efficient economic development in these areas. This ambiguity in the rules of the game could discourage both private investment and the proper exploitation of available resources.

Moreover, the success of TECAM depends on trust and formal norms, but also informal norms in the sense of North (1993) that facilitate cooperation and exchange between the actors involved. The government is not known to be interested in studying the local governance of peasant communities or their forms of collective resource management in order to assume that this form of land use planning will conform to their uses and customs. If it is not possible to establish a clear, predictable, flexible, general, and abstract regulatory environment that can be adapted to the situations of time and place, it is likely that the lack of institutional trust will lead to underutilization of the land. Incentives will not be aligned with the principles of efficiency and optimization of resource use, thus evidenced by the tragedy of the commons and its typical governance problems mentioned by Ostrom (2009).

Consequently, if more precise and efficient mechanisms for the management of these territories are not implemented, it is possible that TECAM will face the same obstacles as previous agrarian reform initiatives, affecting both the productivity and sustainability of rural territories.



INCREASE IN PROPERTY TAXES

292/2023C is the bill that modifies the ceiling of the property tax increases to 300%, modifies the current limits of the CPI + 8% of Law 1995 of 2019, and modifies 100% of Law 44 of 1990. It passed its first debate in Congress and threatens to increase tax barriers and the cost of legality in the countryside, posing serious challenges from the perspective of formalization. This increase modifies the limits established in previous laws, such as the CPI + 8% of Law 1995 of 2019 and 100% of Law 44 of 1990, which may have negative implications for the regularization and formalization of property, especially in rural areas and communities with low economic capacity.

Such a high property tax increase may act as a significant barrier to property formalization. Informal landowners, who already face difficulties in regularizing their land, would be discouraged from becoming legal if they knew that tax costs would skyrocket once they formalize. In many rural or low-urbanization areas, landowners' ability to pay is limited, so such a drastic increase in the tax burden could perpetuate informality. In accordance with the principles of formalization, policies should be designed to facilitate inclusion in the legal system, not to complicate or make it more expensive.

The high cost of legality, following Ghersi (1987) hinders compliance. While it is necessary to update cadastral appraisal values to reflect the real value of real estate, doing so in a planned manner with a fixed cap, as this 300% increase would allow, may result in tax burdens that are unsustainable for property owners, especially those with lesser resources. For many, the cost of staying within the legal framework (payment of property tax) would become prohibitive, which could lead to an increase in the number of defaulters or even a setback in formalization, as many would prefer to remain in informality to avoid these tax burdens.

Regulations will be adopted by the Geographic Institute Augustín Codazzi (IGAC) with respect to Article 49 of Law 2294 of 2023. These regulations, which will define the methodology to increase the cadastral appraisal at a national level, will be crucial to understand the real impact of this tax reform. If the methodology generates disproportionate increases in the cadastral appraisal, the consequence will be an exponential increase in taxes which will negatively affect property owners especially in low-income areas. The management of this process requires a balance between adjusting values to the reality of the real estate market and not imposing a tax burden that limits formalization or makes compliance unfeasible.

4

KEY POLICY SUGGESTIONS & CONCLUSIONS

A legal system that guarantees private property rights, protecting people and their legitimately acquired property, is a central element of free economy and civil society; and it is the foundation for the development of any economic sector, including agriculture. Property rights, in addition to the material possession of goods, are constituted by the titles to them. Hernando de Soto has pointed out titles guarantee the possibility of assigning productive functions to that property, such as accessing credit, leasing, mortgaging, being identified and creating confidence in the financial system, and above all, allowing the accumulation of capital.

A market economy that allows individuals and companies to generate value, be efficient, productive, and competitive is not possible without a solid and predictable legal structure that protects property rights and that does not establish specific provisions on their use or impose prohibitive transaction costs.

Property rights, no matter in whose hands (be they peasants or foreigners), are a guarantee of the development of legal markets. Restricting them, expropriating or limiting their scope, or worse, giving interpretative discretion to a judge as to who should and who should not own them based on sources other than law, is an attack on the principle of equality before the law and economic freedom. These regulations impede the flow of capital, technology, and knowledge needed to advance agricultural production.

Protecting property rights is key to building peace in rural areas where land conflicts have been historic. A sound legal framework can reduce tensions and promote social stability.

Increasing property taxes to the point of making them impossible to pay is not a viable policy in Colombia, where half of the land has no legal title. Instead, the government should offer tax incentives to landowners who formalize their land to accelerate the titling process.

Ensuring that policies approved by Congress on peasants as subjects of rights, food sovereignty, and prior consultations do not contravene the commitments of free trade agreements and the legal security of property rights in the sense of the civic code. These maintain the continuous flow of agricultural products and the international competitiveness of the sector.

The implementation of the Foreign Owners, Holders and Holders Information System (SIPTE) should focus on transparency and efficiency, avoiding bureaucracies that discourage investment.

Maintaining the tops of CPI + 8% of Law 1995 of 2019 would be a prudent measure to avoid an abrupt jump in property taxes. This moderation would allow for a gradual adjustment of cadastral appraisals and a fiscal update more in line with taxpayers' possibilities.

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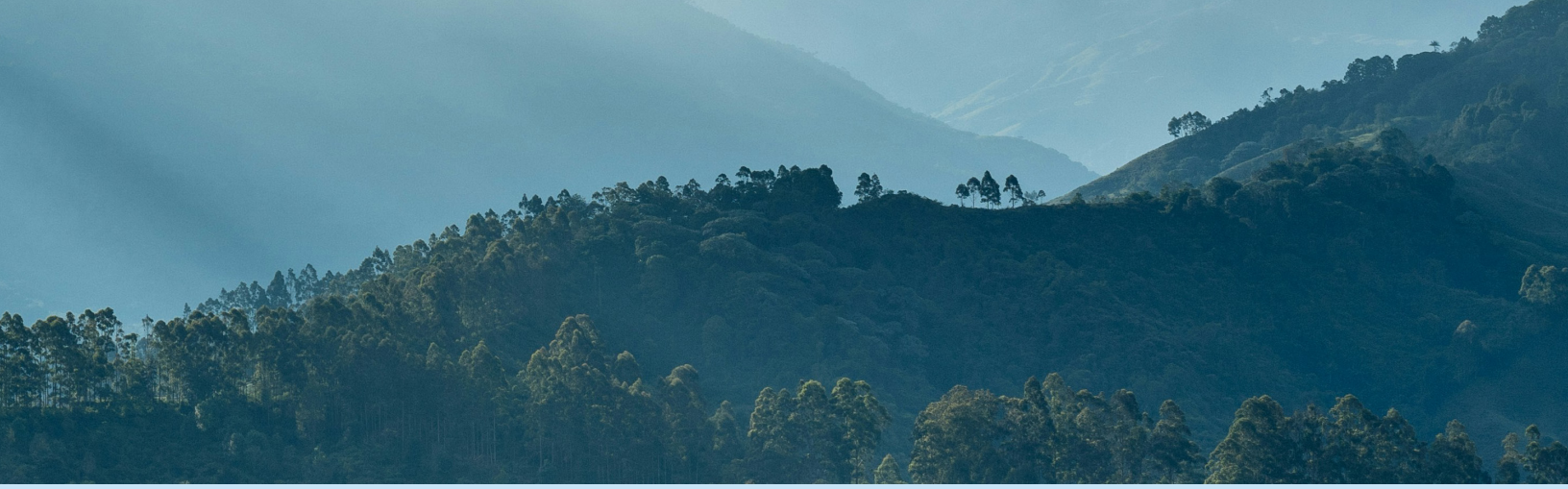

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