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Trapped Between Promise and Reality in Colombia's Victims' Law: Reflections on Reparations, Development and Social Justice

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Colombia's 2011 Victims' Law aims to return land to millions of internally displaced people and assist survivors in the difficult process of rebuilding their lives through individual and collective reparations. This article analyses the expectations, experiences and needs of two *campesino* communities involved in this process. Drawing on nine months of fieldwork using ethnographic and participatory visual methods, the article critically engages with transitional justice theory on transformative reparations, and identifies key lessons for the Colombian government to make the Victims' Law live up to its promise of transforming survivors' lives and restoring their trust in the state.

Keywords: reparations, transitional justice, social justice, development, displacement, Colombia

'Well the government should take us, as displaced persons, a bit more into account and help us with those things, those needs that we endure. But nothing, I don't know, they say they will bring projects but we never hear anything' (interview [with Cecilia](#), 2016).

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This comment by Cecilia seems to contrast with the message sent by the Colombian government about the transformation of lives through its ground-breaking Victims' Law (Portilla Benavides and Correa, 2015). This law has been hailed as one of the most complex and integral reparation programmes worldwide (Sikkink et al., 2015). Nevertheless, as other authors have also remarked, its implementation lags behind (García-Godos and Wiig, 2018), showing the complexity of putting ambitious transitional justice measures into practice. Transitional justice (hereafter also referred to as TJ) is a set of measures aimed to help states transition from conflict or repression towards democracy and achieve reconciliation by addressing large-scale and serious human rights abuses through efforts to establish truth, justice, reparations, and guarantees of non-repetition (Teitel, 2003). This article will focus on the third pillar of TJ: reparations.

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Reparations aim to offer survivors of human rights violations redress through a combination of material and symbolic measures. They are moreover regarded as an instrument for acknowledging the injustice done, thereby reintegrating survivors as equal citizens and rights-holders in a political community. This way, reparations are seen as a political tool for re-establishing relationships of trust between citizens and the state (De Greiff, 2009; Roht-Arriaza and Orlovsky, 2009).

Reparations originated in private law, reflecting principles of corrective justice. Gradually their application extended towards international law and human rights law. Reflecting their original corrective principles, *restitutio in integrum* ~~or the (restoration to original condition) restoration of survivors to their situation prior to the human rights violations~~ has traditionally been the guiding principle of reparations, aiming to restore survivors to their situation prior to the human rights violations. But since returning survivors to their previous situation is often impossible or undesirable (Viaene, 2010; De Waardt, 2013), it is increasingly recognised that restitution is not sufficient. In the last decade, and thanks to the

progressive jurisprudence of the Inter-American Court of Human Rights, reparations have expanded to encompass five different measures: restitution; compensation; rehabilitation; satisfaction; and guarantees of non-repetition (Uprimny and Saffon, 2009; Moffett, 2017). They should combine material, financial and symbolic, as well as individual and collective measures, as identified by the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation (2005), whose unanimous adoption is a clear indication of the wide acceptance of reparations as a standard response to human rights violations (Buyse, 2009; Moffett, 2017).

Based on the challenges of implementing reparations in highly unequal societies, the concept of transformative reparations has gained currency in the last decade. This assumes that reparations should address the structural causes of conflict, removing the conditions that enabled or caused the violations to give survivors a new starting point for the future, instead of returning them to a situation of poverty or discrimination (Lambourne, 2009; Rubio-Marín, 2009; Uprimny Yepes, 2009; Brett and Malagon, 2013). This means combining the redress of harm with the building of a more equal and inclusive society (Uprimny and Saffon, 2009). The Inter-American Court of Human Rights recognised this principle in its Cotton Field judgement, stating that reparations should aim to transform pre-existing contexts of structural discrimination to prevent violations in the future, therefore broadening reparations to include the design of public policies to challenge discrimination (Rubio-Marín and Sandoval, 2011). Colombia's Victims' Law uses this transformative approach.

The last decade has known intense debates about how reparations could promote this more inclusive society, and whether this should be achieved mainly through symbolic recognition of victims as equal citizens, or through efforts of socio-economic redistribution. The latter position suggests that reparations should encompass development measures. Some authors believe that although reparations should be aligned with development, the two should not be confused since in contrast to reparations, development is a basic state obligation to all citizens (Roht-Arriaza and Orlovsky, 2009; De Greiff, 2009; Waldorf, 2012). Providing development as reparations would fail to acknowledge the specific wrongs done, making reparations lose their reparatory element and normative distinctiveness by addressing

victims and non-victims alike (Urban Walker, 2016). Other authors in contrast argue that by leaving socio-economic harms and structural violence unaddressed, TJ fails to engage with the underlying causes of conflict, therefore providing uncertain guarantees of non-repetition (Laplante, 2008; Miller, 2008). Laplante (2008) therefore suggests that if conflict has affected people's right to development, development should be considered a form of reparation in itself. The common approaches, actors and contexts of transitional justice and development have also been pointed out (Colvin, 2008; Dixon, 2017). Bringing the fields of development and reparations together thus presents both tensions and opportunities.

This article aims to contribute to this debate. Therefore, while recognising the importance of other aspects of Colombia's Victims' Law, such as its contribution to collective memory, the article contributes empirical data about the law's reparation and restitution process, since this seems to offer the best tool for addressing socioeconomic issues (De Greiff, 2009; Gready and Robins, 2014). Conflict survivors moreover often prioritise economic needs, preferring compensation over retributive justice (Waldorf, 2012; Robins, 2013). Unmet expectations about reparations can however cause disappointment, as exemplified by cases such as Peru or Guatemala, where survivors have felt revictimised by reparation attempts (De Waardt, 2013; Crosby, Lykes and Caxaj, 2016).

In light of these debates, the aim of this article is twofold. First, it aims to examine the effects of the gap between the expectations and reality of reparations, taking the Victims' Law as case study. It evidences that in spite of promises of comprehensive reparation measures, the limited reparations actually received caused disillusionment for many, contrary to the civic trust that reparations aim to promote. Second, it explores how the Victims' Law could be implemented in a way to actually deliver upon its promises of transformation. The article proceeds by briefly explaining the context and methods used for this research. It continues to describe the harms caused by displacement and the resulting reparation needs, to then analyse how the contrast between the promise and reality of reparations jeopardises survivors' trust in the state. It concludes by outlining strategies to help reparations respond better to survivors' expectations, making transformative reparations which bridge reparations and social justice a reality.

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Context and Methods

Colombia has been the site of one of the world's longest internal armed conflicts, in which different paramilitary and guerrilla groups have battled each other and the state from the 1960s onwards. Whereas paramilitary groups officially demobilised in 2005, and the [Fuerzas Armadas Revolucionarias de Colombia \(FARC, Revolutionary Armed Forces of Colombia\)](#) FARC-guerrillas signed a peace agreement with the government in late 2016, peace negotiations with the [Ejército de Liberación Nacional \(ELN, National Liberation Army\)](#) ELN-guerrillas are still on-going. The conflict has caused immense harm to the civilian population, with over 200,000 people killed and tens of thousands disappeared (Centro Nacional de Memoria Histórica, 2013). According to the National Victim Register, 7,011,027 people were registered as victims of internal displacement by 1 November 2016 (García-Godos and Wiig, 2018).

In 2011, Colombia adopted the Victims' Law (Law 1448) to redress these harms. The Victims' Law provides land restitution, together with agricultural, social and infrastructural projects to those internally displaced after 1991. Land restitution is a rare TJ measure, whose inclusion is largely thanks to the struggle of internally displaced people (IDPs), their organisations and the Constitutional Court (Uprimny and Saffon, 2009; Sandvik and Lemaitre, 2015). To those who suffered human rights violations after 1985 the law offers humanitarian assistance (periodic monetary transfers and prioritisation in accessing social services) to create the preconditions to receive reparations, which include compensation accompanied with a dignification letter, rehabilitation, satisfaction and guarantees of non-repetition – responding to the UN Basic Principles described above. Groups who suffered collective damages can receive collective reparations. The Victims' Law is therefore a progressive reparations programme that integrates humanitarian assistance, development measures and reparations. Reparation and restitution are implemented by the newly created Land Restitution Unit (LRU) and Victims' Unit (VU). The Victims' Law moreover adopts a transformative approach to reparations, by intending to 'eliminate patterns of discrimination and marginalisation [...] to prevent repetition' and 'restore or

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reconstruct a stable and dignified life project for the victims' (Ministerio de Justicia y del Derecho, 2011, art. 5). It moreover applies a differential focus which provides measures to respond to the 'particular situation and degree of vulnerability' of certain groups of victims due to their age, gender, sexual orientation or disability victims' (Ministerio de Justicia y del Derecho, 2011, art. 13).

This article describes the experiences with the implementation of the Victims' Law in two remote rural communities of small-scale *mestizo* cattle farmers in the municipality of Chibolo, in Colombia's Magdalena Department. In the 1990s, this area became a stronghold of the paramilitary [Bloque Norte](#), who displaced these communities in 1997. Their land was used as a strategic base by the paramilitary, who brought in sympathisers to keep the land occupied. The villagers returned without state accompaniment ten years later. Since 2012, they have been included in the Victims' Law process, being eligible for land restitution, individual and collective reparations. As pilot cases of this process, which received several presidential visits to publicise state efforts and commitment, they are a good case to compare the promises of the Victims' Law with reality. Civil society lawyers' organisation Corporación Jurídica Yira Castro, which accompanies these communities, introduced the researcher to these communities.

Research took place here between August 2015 and April 2016, with a return visit in May 2017. Data was collected using a combination of methods. Ethnographic research, including participant observation, semi-structured interviews and focus groups provided an important source of data about the lived experience of TJ. This was complemented with participatory visual methods with women in both communities in order to capture their opinions. The images included in this article, representing some of their most urgent needs, were taken by some of these women. For a more in-depth gendered analysis of the Victims' Law's reparation process, see author ([Weber](#) 2018). A total number of 32 participants of both communities – nine of whom were male – took part in the (visual) interviews and focus groups, and an additional fifteen semi-structured interviews were conducted with TJ stakeholders, representing state and civil society. Interviews were held after informed consent was obtained. The research was approved by the Coventry University Ethics Committee on 5 July 2015. Pseudonyms are used throughout the text to

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protect the participants' privacy. An exception was made for the names accompanying the images, with the explicit consent of the community photographers.

Displacement: Losses and Needs

In order to understand the role reparations could play in transforming survivors' lives and rebuilding their trust in the state, I first describe the losses caused by displacement, and what survivors identified as their greatest needs as a result. Many people in Chibolo mentioned the material losses they suffered. Almost all houses were burnt down by the paramilitary, and it was striking how people remembered with much detail the number of cows and farm animals lost, reflecting how animals are a way of measuring wealth in farming societies (Roht-Arriaza and Orlovsky, 2009). Beyond their economic impact, these losses also reflect the loss of a way of life and the rupture of a process that provided economic and social stability (Jiménez Ocampo et al., 2009). The influence of displacement on family relations was often mentioned in conversations and interviews. Several women preferred not to return, illustrating how displacement often leads to family breakups among Colombian **IDPs** (Jiménez Ocampo et al., 2009). The stress, hypervigilance and sadness produced by displacement often caused illness.

Attachment to the land goes a long way in explaining the impact of displacement. For *campesinos* (farmers), land is more than a material property; it represents an important emotional and cultural attachment (Grupo de Memoria Histórica, 2010; Meertens and Zambrano, 2010). Furthermore, the living conditions during displacement were generally difficult. Some found work in the countryside, but working on other people's land, cultivating crops they were unfamiliar with, was challenging. Others moved to the cities, implying a radical change in lifestyle, with insecure working and housing conditions. Like other IDPs (Sliwa and Wiig, 2016) most people did not have adequate skills to find well-paid jobs in the cities, and struggled to feed their families. German commented: 'My future will be in the countryside. Because it's the only work I know how to do: cultivating my crops, milking the cows. Because when I go to [...] the city, over there I am useless' (interview [with German](#), 2016). Most people preferred life in the

Comment [u1]: Acronym style?

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countryside, because ‘you consume what you produce’, whereas in the city everything costs money. In an interview Felipe agreed: ‘Well the land is our life really. Because from the land we get what we need to eat, to dress, for everything’ (interview [with Felipe](#), 2015). Through land dispossession, this sense of self and identity became a strategic target of war (Nordstrom, 1997). Even though returning to their land enabled people to resume this way of life, they had to do this without any resources, and ten years older.

This meant that the participants’ most urgent needs were defined by the different elements needed to rebuild their lives and life projects. For most people, including Pablo, this meant they preferred measures other than monetary compensation: ‘I do not demand so many things. Just that they help us in the countryside. I don’t even have a house! I wish they would give me a house, because the money, one takes it and it’s gone...’ (interview [with Pablo](#), 2016). Celia also mentioned the need for housing: ‘First of all, that they would give us a house. Because we don’t have a house and you know that the displaced people have never had a house’ (interview [with Celia](#), 2016). This was also reflected by images produced in the visual research process (Figure 1), showing houses almost falling apart, with no security conditions and often too small for large families.

[Figure 1 here]

Many participants mentioned the need for running water. The laborious task of fetching water from the community wells became an everyday process once there was no more rainwater to drink. Animals walked freely around these wells (Figure 2), where people also used to bathe, with health risks as a result.

[Figure 2 here]

Also the need for accessible roads was emphasised, since the rainy season frequently damaged the dirt roads, preventing the successful commercialisation of the milk produced in the communities, while also posing risks in cases of health emergencies.

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Other participants stressed the need for other non-monetary assistance, such as loans, education and health care, as well as other public services such as electricity and agricultural support to make their *fincas* (farms) profitable again. Together, these measures could create new possibilities and make people more resilient. This suggests that reparations should not just restore the things lost, but enable people to acquire a better situation in the future, as the term *transformative* reparations suggests. In theory, the Victims' Law responds to these needs, by offering a combination of different measures, as described above. As a result, both communities had a collective reparation plan, which for example included the reconstruction of schools and health centres – if these existed previously – and commemorative activities. Public services and infrastructural projects, including the installation of electricity and running water, and the paving of access roads, were ordered by the land restitution judges. But reality was different.

The Reality of Reparations in Chibolo: Transforming Lives?

The above-described attachment to the land explains why land restitution is the aspect of the Victims' Law process valued most by the participants. This was also the most advanced element in these communities. By May 2017, most land in the communities had received restitution sentences. Land titles - which were accompanied by productive projects consisting of money to construct a corral for the cattle, clear land for cattle grazing, dig a well for the cattle to drink, and purchase cows and working tools, as well as technical support for working with these assets - were regarded as a guarantee of non-repetition. Because of fear of another displacement, people only dared to invest in their land once they had received their land titles, which moreover enabled them to obtain loans instead of selling part of their land in order to make the rest of it profitable again, as some people were forced to do. Land titles thus enabled people financially and psychologically to make a new start on the land.

Unfortunately, the land restitution was very slow. Land restitution is a complex process involving many beneficiaries and many state institutions. Other research (García-Godos and Wiig, 2018) has confirmed the vision of the LRU employee interviewed for this research (interview [with Claudia](#)

[González, 2015](#)), that land restitution proved much more complicated than imagined due to the complexity of cases, the amount and severity of opponents of restitution and resulting conflicts on the ground. This complexity was not effectively communicated to the participants in Chibolo, who were promised restitution sentences within a couple of months, followed by housing and infrastructural projects. In reality, the process took far longer, with the last members of these communities only receiving a land restitution sentence in early 2017 – five years after the land claims were made – while errors in the restitution sentences meant that many had not yet received their land titles and accompanying support when this article was written.

Participants moreover emphasised that receiving land titles was only one step towards recovering the life project that was hampered by displacement. After ten years of paramilitary control, most land was completely overgrown while some it was used for forestry projects, making it [inept-inappropriate](#) for cattle grazing. Restoring it to its original conditions proved a long and costly process. Although the individual productive projects aimed to mitigate this, several participants mentioned that these were not sufficient, especially because not all plots of land were encountered in the same state upon return from displacement. The absence of a strategy to address the specific state of the land – and the lack of a more general prioritisation strategy on the basis of victims’ needs, as evidenced by [Pham et al. \(2016\)](#) – might reflect budgetary constraints, but also raises questions about the commitment to combating socio-economic and other inequalities by the Colombian government, as described in more detail below. This equal treatment of unequal situations caused jealousy, as one of the community leaders expressed:

[The director of the LRU] comes to visit the land, and goes to visit Roberto and the father of Juan García. Those were *fincas* that the paramilitary maintained with pasture the whole time. [...] But why doesn't he come here, to see what was lost because of the displacement? Look, this is an example. Like this, many plots of land here, from this part they are full of bush. A productive project of 20 million pesos, is that going to be sufficient to repair a plot of land like this? (focus group [1](#), 2016)

These challenges were compounded by climate change. Recent years have been characterised by drought (Figure 3). People lost harvests of corn and *yucca* (manioc), while even animals did not always survive the lack of drinking water, making economic recovery from displacement slower or even impossible. This caused hardships and fear of losing that which had just been regained, as Eloisa explained:

For two years the climate has been like this, so we lose animals because of the summer (drought). [...] The same animals they have given us. Aha, so how will we end up? One or two more years like this, and we will be in the same situation again. With nothing. Again working with our hands, with our nails-(interview [with Eloisa](#), 2016).

[Figure 3 here]

Only about half of the community members had received individual one-off compensation payment. Although participants indicated that compensation was helpful to improve their living conditions, they found monetary compensation insufficient to transform their living conditions. This would require the provision of the crucial elements for a life plan, such as education, employment and the provision of basic living conditions. Yet the infrastructural projects ordered in the land restitution sentences, including the provision of running water and electricity, had not been implemented by the time this article was written. The implementation of the collective reparation plans was equally slow and troublesome. Although it should be recognised that the Victims' Law's mandate runs until 2021, and the reparations scenario in Chibolo might look very different by then, more rapid progress would nevertheless have been expected with the Law's implementation in these pilot cases, which were meant to showcase the Law's success.

Where do Things go Wrong?

It is this clear that many of the Victims' Law's promises have not yet materialised. Yet delivering them is not solely within the VU's control. Humanitarian assistance, for example, should consist of periodic⁴ monetary transfers and survivors' prioritisation in accessing social services. The VU however lacks the authority and resources to manage state institutions such as the Ministries of Health and Education, which are often badly represented in rural isolated locations such as Chibolo and lack effectiveness in providing the social services promised (Firchow, 2013; Portilla Benavides and Correa, 2015; Pham et al, 2016). Therefore, humanitarian assistance is limited to a few monetary transactions which are not sufficient to create minimum living conditions. Similarly, the implementation of the infrastructural services included in the land restitution sentences depends on local authorities, which in the Magdalena department have been known for their historical corruption (Grupo de Memoria Histórica, 2010). This means that the LRU cannot fully control this process either, causing frustration for the involved LRU employee (interview [with Claudia González](#), 2015).

As a result, reparations are largely limited to humanitarian assistance and reparations through compensation payments, the delivery of land titles and the accompanying productive projects for each family – aspects of the Victims' Law's mandate directly controlled by its institutions. This illustrates that although the Victims' Law in theory offers a progressive and comprehensive approach to reparations, in practice the institutional framework does not allow its institutions to fulfil this mandate, simply because the implementation of many of the promised measures are outside of their remit. There are no structures in place for these institutions to enforce the implementation of these measures. The Victims' Law thus promises more than it can deliver.

The focus on compensation payments and other quantifiable measures is not uncommon to reparations programmes in any case, since these give clearer evidence of straightforward success than longer-term development measures (Buyse, 2009; Aroussi, 2018). This is perhaps unsurprising in the political context of TJ in Colombia, where president Santos connected his presidency to paying the country's debt to the victims through reparations – and later peace with the FARC. This provoked strong opposition from ex-president Uribe, still a powerful force in Colombian politics, who always denied the

existence of armed conflict. An interviewee from a research organisation in the TJ field agreed that the Victims' Law being Santos's flagship programme might have prompted the government to do its utmost to show measurable results.

A more fundamental question is what sort of development is promoted by the Colombian state. There are several indicators that the governments' vision of development is a neoliberal one, which does not support small-scale farming. The lack of prioritisation of delivering infrastructural and welfare services to the countryside, together with the lack of support for farmers struggling to keep their heads above water during severe drought suggest this. So do certain provisions in the Victims' Law. For example, in the case of land now used for agro-industrial projects, the land claimant can be made to sign a contract with the new occupant, to receive a wage for the use of the land (Amnistía Internacional, 2014). The promotion of such agro-industrial projects was also reflected by the government's 2010-2014 Development Plan, which prioritised mining over smaller-scale, more traditional forms of agricultural production focused on local economies (Planeta Paz, 2012). It thus paves the way for a development model based on industrialisation and agricultural modernisation, leaving little space for local autonomy, culture and knowledge (Escobar, 1992). Enabling small-scale farmers to rebuild their lives might thus not be the government's priority.

The effects of the slow or in-existent implementation of the promised reparation measures has effects on survivors' perceptions of the state and their place in society, which can provide important insights for states' designing reparations programmes, as will be discussed in the following section.

Effects of the Mismatch between Promise and Reality

The received reparations have so far been insufficient to structurally improve the living conditions of most villagers in Chibolo. Although returning to the land and receiving formal recognition as landowners was of crucial importance, making a living on the land is difficult. Some women were not sure whether returning to the land had been the right choice. They felt that they sacrificed the future of their children,

who benefitted from the higher quality of education and health care in the cities. Some participants wondered whether they should sell their land and go elsewhere, or wait and see if things improved.

German struggled with this dilemma too:

I pass my time here alone. Alone, alone. And sometimes, look I tell you honestly [...] I would like to sell this piece of land, although it hurts because I have always been someone from the countryside. Since I was very young I was using the machete, growing my crops. And it hurts if I'd sell this piece of land, because I love it! [...] But unfortunately, I feel lonely and depressed here. (interview [with German](#), 2016)

This shows that the reality of land restitution does not correspond to the expectations created.

People in Chibolo held high expectations based on the collectively designed collective reparation plans and the measures ordered in the land restitution sentences. These high expectations were reinforced by the government, especially after President Santos's visit to the communities in 2012. Participants often mentioned the President's visit and his promises about the speed of land restitution and the other benefits they would receive. Visits like these form part of a communication strategy that costs millions of pesos and transmits a message of state commitment to the transformation of survivors' lives (Portilla Benavides and Correa, 2015). In 2016 for example, the VU budget for implementing information technologies and improving attention and communication channels was 145,000 million pesos (approximately £37.15 million), compared to 85.364 million (£21.88 million) for the implementation of integral individual and collective reparation measures together (Unidad de Víctimas, 2016). The fact that in spite of these promises, the state's support has been insufficient to structurally improve living conditions gave people the feeling that 'the *campesino* is of no value to the government'. Repeated broken promises about land restitution and the installation of water and electricity made people in a community meeting in May 2017 exclaim that they had been 'restituted with lies'. Clara considered 'a fair reparation that they would see

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the needs that one has here in the countryside' (interview [with Clara](#), 2016). Echoing Cecilia (in this article's opening quote), Luz also described her disappointment with reparations:

Well, that the government would be more interested in the displaced persons. They say they are repairing the displaced but we don't see it. [...] We left without anything, we returned without anything and we are in the same position still. They give assistance, of course they do. But that's not a reparation. I mean, a fair reparation, so that one can have a dignified life.

Here for example there is no electricity, there is no water, there is no housing. (interview [with Luz](#), 2016)

Luz's comment expresses the desire to be taken into account by the state and be respected as equal citizens. Therefore, for reparations to transform survivors' situation and give them the conditions for a dignified life, a tangible demonstration of their inclusion as equal citizens is needed.

In contrast to their alleged goal of promoting civic trust and integrating survivors as equal citizens in society, reparations can have the opposite effect and create distrust, if expectations about them are not met. Marta's comment reflects this:

He (Santos) was going to give us peace, he was going to give us the (land titles) and he was going to give us... but he never remembered us. [...] He said that in two years there would be land titles, but now we are seven years onwards and there is not one land title here [\[in her part of the village\]](#)[†]. So we don't know what is happening to Santos. They have tricked us, they have fooled us! (interview [with Marta](#), 2016)

This feeling of being 'duped' by reparations was also evident in other contexts (Crosby, Lykes and Caxaj, 2016) and can influence people's perception of state legitimacy, especially if ~~everyday the state fails to~~

[†] Marta referred to the specific part of the village where she lived, which had not received land restitution by the time of the interview. ~~REMOVE ALL FOOTNOTES - ADD TO TEXT IF NECESSARY~~

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provide for their basic needs ~~continue to be unmet~~ (Robins, 2013). Well-intended rhetoric, like the increasingly popular discourse of transformative reparations which the Victims' Law draws on, can thus do damage (Sriram and García Godos, 2013). To avoid disappointments which can ultimately affect civic trust, the VU should diminish the gap between expectations and reality, by designing more feasible reparation plans based on the prioritisation of budget and needs, and a communication strategy that gives survivors a more realistic idea about the time frame in which reparations will be implemented. This is even more crucial since the massive number of survivors registered – over 8,6 million by June 2018 (Unidad de Víctimas, 2018) makes it practically impossible to provide reparation to all registered survivors within the Victims' Law's ten-year mandate (Sikkink et al., 2015). Beyond the need for more honest communication strategies, reparations could be designed in a different way, to better enable the transformation of survivors' situation, as will be discussed in the next section.

Matching Promise and Reality: Connecting Reparations and Social Justice

The villagers' desire for a dignified life dovetails with the needs indicated by other survivors in Colombia, many of whom live in regions with little or no state presence (Firchow, 2013; Rettberg, 2013). As explained above, the Victims' Law in theory responds to survivors' more general need for dignified living conditions, by combining reparations with measures of humanitarian assistance and development (Dixon, 2016). Nevertheless, in practice the Victims' Law is unable to deliver upon those broader efforts of creating dignified living conditions. As described, beyond land restitution, periodical monetary transfers for humanitarian assistance and compensation payments are the main focus of reparations (Portilla Benavides and Correa, 2015).

This prioritisation of compensation payments over public service provision is reflected in the attitude of the then Director of the VU's Reparations Area. She recognised that the conflict had damaged people's access to basic rights such as education, making it difficult to separate social services and reparations. Nevertheless, she insisted that in spite of victims' 'reinforced right to access education',

primary and secondary education for children is a basic right, which cannot be part of reparations (interview [with Iris Marín](#), 2016). But in spite of nationwide free education, the quality of and access to primary education in Colombia are of a low standard, especially in the areas affected by conflict (Firchow, 2013; Rettberg, 2013). The same goes for other public services such as health care. As described above, it is exactly the lack of respect for these basic rights that makes people feel they are treated as second-class citizens. These services should therefore be prioritised to allow transformative reparations to address underlying structural inequalities. Therefore, instead of warning against the blurring of reparations and development, reparations should be part of wider development and social justice measures.

As explained above, several authors have warned that mixing development and reparations would diminish the symbolic message sent by reparations (Roht-Arriaza and Orlovsky, 2009; Waldorf, 2012). Although development in itself is indeed a basic right and therefore not reparatory, its reparatory potential can be enhanced by its ‘symbolic delivery’ through the explicit recognition that these services were provided in response to the state’s failure to protect a specific group of people from being harmed in a particular way. On the other hand, it should also be questioned whether the symbolic elements of reparations, often perceived as key elements of reparations’ political project, are necessarily prioritised by survivors. For example, the participants in Chibolo repeatedly indicated that they prioritised public services such as electricity and water over symbolic measures such as commemorations, which would make no difference to the living conditions in the communities. One of the community leaders clearly expressed the need for measures to improve their situation over non-material reparation measures:

What else could lift one’s spirit, improve one’s situation, than that they fulfil the rights that one has? So they want to somehow give us this measure (psychosocial assistance), to keep the people happy [...] Well, they should analyse: the roads, the land titles, so many things, that is what keeps us desperate. That is what makes us unhappy. So they should not give us bullshit. (focus group [2](#), 2016)

This shows that symbolic and material reparation measures, commonly seen as distinct measures, are in reality intertwined. It has previously been suggested that material reparations can lend credibility to symbolic reparations, whereas material reparation without recognition of the harm done can be seen as blood money (Moon 2012; Moffet, 2017). This research has however showed that the absence of material reparation in itself sends a symbolic message. In Chibolo, the absence of the conditions for a dignified life makes people feel treated as second-class citizens, making the symbolic message of recognition of equal citizenship sent through the Colombian state's dignification letter seem empty words.

As the community leader cited above rightly points out, a precondition for real inclusion this is that people's basic citizen rights are guaranteed, to 'eliminate patterns of discrimination and marginalisation', and to enable survivors to 'restore or reconstruct a stable and dignified life project' as the Victims' Law itself points out. Basic social and infrastructural services are preconditions to give people the autonomy to freely choose their own life project based on their cultural values. I therefore agree with other authors (Uprimny Yepes, 2009; Cahn, Haynes and Ní Aoláin, 2010) that transformative reparations should combine reparative – symbolic recognition of the harm done and survivors' inclusion as equal citizens – and distributive – social and infrastructural services – elements. This would allow reparations to be transformative, while at the same time preventing them from losing their 'normative distinctiveness' (Urban Walker, 2016).

To make this a reality, and avoid more unmet expectations, requires a different prioritisation of state resources. The researchers of Harvard University who evaluated the Victims' Law recommended the VU to spend its budget on its core business of providing reparations, since beneficiaries do not understand the difference between reparations and humanitarian assistance, while the latter consumes a large part of the VU's budget and staff time (Sikkink et al., 2015). Going a step further, to truly combine reparations and development services, less investment should be made in humanitarian assistance and compensation altogether, since these produce little structural change, and spending on costly media campaigns to disseminate reparation and restitution success should be reduced. This would allow for a stronger

budgetary effort to strengthen those state institutions – especially at the local level – responsible for delivering services such as health care, education, infrastructural and agricultural support, which could contribute to the more equal and inclusive society that transformative reparations aspire to (Uprimny and Saffon, 2009). Furthermore, better institutional coordination channels and accountability measures are needed to make sure that all institutions fulfil their share of the promises of the Victims’ Law. This however presupposes that the state is genuinely interested in a development model that allows space for local understandings and configurations of development (Escobar, 1992).

Finally, it is important to recognise that reparation needs differ across conflict experiences and over time. ‘Pragmatic pluralism’ (Shaw and Waldorf, 2010: 22) suggests that people select those strategies which in the given political and historical context are most likely to guarantee survival. Priorities are therefore likely to change over time, requiring a flexible approach to reparations. A way of applying such an approach in reparation processes in and beyond Colombia would be to change the way in which (collective) reparations are planned. Instead of designing a one-off, all-encompassing reparation plan, repeated rounds of consultation could be held with survivors to define which symbolic or material reparation measures, including public services, they would prioritise given the particular time and available budget. Perhaps once their basic needs are fulfilled, people will indeed request the symbolic measures in which they now seem less interested. Such a flexible and on-going process could be more closely connected to the available budget, which is especially important given the growing number of individual and collective victims. This could result in shorter-term and more realistic reparation goals, and thus prevent disillusionment caused by unmet promises.

Conclusions

This article has compared the experiences of the Victims’ Law’s land restitution and reparation process with the needs and expectations of survivors in two communities in Colombia’s Magdalena department.

Although participants expressed the need for a dignified life, their hopes have so far been [unfulfilled](#).

as the comprehensive reparations promised in practice have mainly boiled down to land titles, insufficient agricultural assistance and compensation, thus far failing to structurally transform their situation. Although the Victims' Law does envision a progressive and far-reaching reparations programme which includes development measures and thus seems to put the ideals of transformative reparations into practice, in reality the Colombian state has insufficient capacity and no adequate framework in place to deliver such ambitious reparations. The institutions created to deliver reparations do not control the institutions responsible for the public social and infrastructural services promised by the Victims' Law. Those institutions in turn are little effective and badly represented in rural isolated locations such as Chibolo, which are most in need of basic public services. This means that the Victims' Law thus promises more than it can deliver.

This article has described that when high expectations about TJ are unmet, survivors can feel 'fooled', ultimately damaging their trust in the state and contradicting the goals of reparation as a political project. The experiences described in this article show that to live up to their promise of transformation, reparations should go beyond the delivery of a compensation cheque, and instead encompass wider measures of symbolically delivered social and infrastructural services. To make this happen, the state should shift the focus of its reparations. More modest ~~accompany~~ investments in its reparations infrastructure should be accompanied with a larger effort to strengthen the institutions responsible for social, infrastructural and agricultural services, to actually enable survivors to have a future which is no longer characterised by structural inequalities.

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Figure 1. The Need for Housing



Photograph by Alexandra, Chibolo (January 2016).

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Figure 2. The Need for Clean Water



Photograph by Aura, Chibolo (January 2016).

Figure 3. Drought



Photograph by Mari, Chibolo (February 2016).