

# Editorial Note

The articles presented in this Special Issue express an interest in bringing together a conceptual, normative and empirical enquiry on the issue of land restitution in transitional justice. The increasing number of transitional justice experiences around the world has brought more international attention to victims' rights and redress for past violations. While victim reparations programs around the world include a number of measures such as monetary compensation, health and educational services, housing benefits, symbolic reparations, apologies and more, the explicit inclusion of restitution of land and property as part of an overall program of victim reparations seems to be more the exception than the rule. This observation led a group of researchers at the Norwegian Centre for Human Rights to develop the research project 'Land restitution in transitional justice' in 2008–2009, with funding from the Royal Ministry of Foreign Affairs of Norway, aiming to explore the issue of land and property restitution from the perspective of victim reparations in transitional justice. Right from the start, we considered it necessary to approach this issue from different angles, and the dialogue between different disciplines can be observed throughout the articles in this Special Issue, which presents the results of the project.

The first article by Jemima García-Godos provides a conceptual clarification of restitution in the framework of transitional justice, with an emphasis on the particular challenges that land and property restitution programs face in securing the right to restitution. The contribution by Malcolm Langford and Khulekani Moyo is an explicit, legal exploration of the various sources in international customary law, in order to assess whether the claim of a right to restitution can be sustained. They do so by differentiating legal sources contextually for the articulation of the right to restitution; they conclude that a right to restitution for displacement – sustained by international customary law – only arises in instances of armed conflict and, to a lesser extent, where there is systemic and arbitrary eviction of specific groups such as indigenous peoples.

Stephen Karanja's contribution explores the emerging transitional justice process in Kenya and the limits of restitution in resolving enduring land conflicts and displacements. The Kenyan experience is most interesting because it attempts to address issues of historical injustice into the framework of a transitional justice process. Although not part of the original research project, Anne Hellum and Bill Derman's contribution enriches this Special Issue by focusing on the gendered outcome of South Africa's land restitution programme and how the relationship

between individual rights and group rights is constituted in laws, policies and practice. The restitution programme was part of a set of measures implemented in the new South Africa seeking to unmake race, class and gender injustices established during apartheid rule. Given that rural women's right to restitution in South Africa has been accommodated as part of group claims, the authors explore different measures put in place to ensure equality within the claimant communities.

The main empirical country case in the 'Land restitution in transitional justice' project was Colombia, where an ongoing process of transitional justice has embarked on the issue of restitution of land and property. To understand the complexity of the Colombian case, and the scope of restitution, two articles are devoted to this case. The contribution by Francisco Gutiérrez introduces us to the overall issue of inequality and uneven access to land in Colombia, by exploring the development of property rights and how this particular factor can hinder or promote a restitution agenda. The final article, by Knut Andreas Lid and Jemima García-Godos, explores the practices of restitution being implemented and developed in Colombia, within the framework of the ongoing transitional justice process, simultaneously raising questions about the limits and possibilities of transitional justice mechanisms to address issues of distributive justice.

Kenya, South Africa and Colombia are but a few of a number of cases that could have been chosen for our research. In choosing our cases, we aimed to explore the issue of restitution at different stages of transitional justice processes; Kenya at an initial stage, Colombia under current implementation, and South Africa as a case where restitution has been completed. If the reader is left with a sense of wanting to learn more about land restitution and how it relates to transitional justice in other cases around the world, then the purpose of our research – to spark and expand interest in this issue – will have been achieved.

Jemima García-Godos, Guest Editor