The Legal Contention for Baldíos Land in the Colombian Altillanura

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ABSTRACT

This article describes the process of legal contention between civil society, political parties, and state institutions for the baldíos lands in the Colombian Altillanura region in the last two decades, a region considered the country's "last agricultural frontier." The article focuses on the dual and sometimes contradictory roles of the state institutions, both as facilitators of baldíos grabbing and as guarantors of the peasants' legal land rights. It analyzes the different attempts by the Colombian government to remove the legal limitations to land accumulation and the resistance put up by civil society and the political parties, which resorted to the existing legal mechanisms to deactivate those attempts. The results reveal the two-sided role of the state: while the government introduces legal changes to facilitate baldíos grabbing, state bodies are actively denouncing and sanctioning illegalities or ruling in favor of peasants deprived of their lands.

Keywords: Large-scale land acquisition, legal contention, baldíos land, Colombia

The study of land dispossession in Colombia has received considerable attention in the last decade, as land issues have been brought to the center of the political agenda with the introduction of the Land Restitution Law in 2011 and the Peace Agreement signed in 2016 between the government and the Revolutionary Armed Forces of Colombia (FARC). The struggles for access to land have been recognized as one of the main causes of the armed conflict, which has left 7 million rural people displaced and more than 8 million hectares of land abandoned and dispossessed.

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Much of this land is or was ownerless, therefore declared state-owned and is known locally as baldíos, the use of which is regulated by law. Currently, there are no public records of baldíos, nor is there an updated cadastre system. The diversity of irregularities in the allocation process prevents knowing the exact number of existing baldíos or how many have been illegally appropriated. Moreover, the current illegal acquisition of these lands by both Colombian and international investors has become a pivotal element of political contention amid peacebuilding and land restitution processes and embodies an interesting research case of land grabbing.

The main features of land dispossession in Colombia have been studied, with significant findings about the mechanisms used, the actors involved, and national and local socioeconomic and political dynamics, especially through specific case studies. As Grajales (2013) has pointed out, violence has been a common element in land grabbing in Colombia and is also related to political actions and economic development. Many researchers have analyzed how the expansion of commercial palm oil, banana, and sugar cane plantations, with governmental incentives as a part of agricultural growth, have been preceded by violence and forced displacement of local people in some regions (Maher 2014; Grajales 2013; Gómez et al. 2015; Ballvé 2013; Hurtado et al. 2017; Correa et al. 2018). In a similar vein, Vélez-Torres et al. (2019) analyze violent land use grabbing—that is, without radically changing land property—in the sugar cane sector, carried out by industrialists through alliances with landowners.

Nevertheless, "nonviolent" land-grabbing methods have also come to light, such as private transactions with private investors and corporations involving illegal land titles, purchases made well below the market price, and intermediaries (CNMH 2010; García and Vargas 2014; *Verdad Abierta* 2012, 2013a, b, 2016). In many of these cases, public organizations and notaries have been involved in these transfers, which have been called "administrative land dispossession mechanisms" (Peña-Huertas et al. 2017). However, these methods have been developed after clearing the lands of their original occupants using coercion or violent events. From a political ecology approach, Ojeda et al. (2015) argue that the violent forms of land dispossession are produced and maintained by everyday dynamics, made invisible by official narratives, such as the necessity of agribusiness for the development of rural territories to overcome the limitations of unproductive peasant economies. These narratives are also present in tourism and ecotourism development projects, which exclude rural communities from their territories under "green" pretexts (Ojeda 2012). Many of these land-grabbing strategies have involved armed groups, drug cartels, political and economic elites, and national and international companies.

In many cases, the state has played a central role in creating legal and political land-grab mechanisms, modifying the legal framework for land deals and designing and implementing productive development projects as public policies. These activities notwithstanding, state institutions have also played a role in assisting, protecting, and compensating those affected by land grabbing. This is precisely the

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double focus of this article, which analyzes this contradictory role of the state, pointed out by Borras and Franco (2013) and Hall et al. (2015). Moreover, deeper insight into the political reactions of those affected by land dispossession requires further research. Grajales (2015) and Baquero (2015) made important contributions analyzing the land claim in the Bajo Atrato region and the land restitution process, respectively. A knowledge of the type of responses that have emerged and the alliances and actors involved could be helpful in determining the dynamics of political disputes and their effectiveness in either reversing land deals or getting better terms of participation by farmers in the agribusiness set-up when land deals occur, as Borras and Franco (2013) and Hall et al. (2015) have shown.

Despite the many studies, little attention has been paid to land grabbing of state-owned land in Colombia, especially lands that were allocated to poor farmers during agrarian reform processes or were occupied and exploited by landless rural people with the expectation to be awarded as foreseen in the Agrarian Reform Law. Both the Colombian Constitution and the Agrarian Reform Law lay down clear criteria to prioritize the allocation of that land; for instance, by setting limits to the maximum area that can be awarded. The baldíos play a key role in the current context, since the national agrarian structure has been historically characterized by high land concentration bolstered by the massive dispossession of rural communities in the armed conflict period. These public lands were expected to nourish the Land Fund created under the Rural Comprehensive Reform (*Reforma Rural Integral),* which, as the first point negotiated in the Peace Agreement, aimed to improve land distribution and the living conditions of the rural poor (including those dispossessed of their land during the armed conflict).

This article combines these elements and analyzes the dual and contradictory role of state institutions in land-grabbing cases. First, it describes the introduction of changes to the national agrarian legal framework to remove the restrictions on baldíos transactions and explores the connections between these legal reforms and the dominant discourses and recommendations of international organizations advocating the easing of land transfers. Second, the article analyzes the resistance mechanisms adopted by some civil society organizations to avoid these changes and the state responses to them.[1]

Although baldíos grabbing has occurred in other regions in Colombia, this analysis focuses on the high plains of the Orinoquia region called Altillanura, where large-scale land acquisition occurred in the international context of land rush and brought the current land grabbing to the core of the national agrarian debate. This region was considered by previous governments as the "last agricultural frontier" (DNP 2014) and, as such, the target of the productive transformation of agroindustrial production. In short, this study focuses on the most controversial points in the legal and political disputes in the current cases of illegal and massive land grabs in Colombia.

The method used to carry out this research is based on the compilation and analysis of the Colombian policy and legal frameworks, such as agrarian laws, court resolutions, and legal cases involving land grabs; judicial processes; and

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reports by official bodies on irregular land allocation, including reports by NGOs. We also study the USDA agricultural reports, which actively followed the process of legal change, and review journalistic platforms, such as *Verdad Abierta* and *Rutas del Conflicto,* which were created to bring out the historical and legal facts on the armed conflict and human rights violations. Since the massive purchase of lands in the Altillanura became a national scandal in the media, we also examined the process of legal complaints and political disputes over legal changes to learn firsthand the interests and positions of those involved in the land grabs.

The article is structured as follows. The next section provides the theoretical land-grab framework of mechanisms used by the state in land deals. Section 3 presents the method followed to develop this study. The following section introduces the baldíos' legal framework and its importance for giving land to the rural poor, and section 5 describes the history of settlements and land dispossession in the Altillanura region. Section 6 gives the chronology of the milestones in legal processes involving the baldíos, and the concluding section highlights the main findings.

Facilitating and Preventing Land Grabbing: The Contradictory Role of Legal Regimes

Global Large Scale Land Acquisition (LSLA) has soared in the last 15 years as a consequence of several factors, some linked to the 2007–2008 food price crisis (Borras et al. 2012; Cotula 2012). Influential actors such as the World Bank classified countries according to whether it had "available" or underutilized agricultural land (Deininger et al. 2011). In this context, some states were active in identifying available, underutilized, or marginal lands (Borras and Franco 2013), mainly associated with agricultural frontiers. Far from being available or empty lands, however, these are spaces where different rural communities—ethnic groups—have lived and obtained their livelihood and are often rich in natural resources. They also have key features, such as undefined property systems—usually customary tenure or informal land tenure—and they lie in remote areas with no infrastructure and few or no services, in many cases with production systems that do not respond to market imperatives.

From a broader perspective, as Edelman et al. (2013) state, these areas have been created and shaped by historical processes, with preexisting population patterns, particular land tenure and systems of use, and a history of land struggles. These features draw attention to the need for considering the historical processes of territorial and state formation where land accumulation and dispossession preceded the current land grabbing, such as on most of the so-called agrarian or agricultural frontiers (Rausch 1993; Ballvé 2012, Grajales 2020). LSLA usually occurs in regions historically excluded from development and progress, where states have never been present or are not recognized and often use coercion (Gómez et al. 2015; Grajales 2013). As Oya (2013a) has pointed out, investors usually go for the best land in terms of productivity, natural resources, and ease of improving the infrastructure.

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One of the key issues in recent land-grabbing research has been the role played by national states. As Borras et al. (2012) and Wolford et al. (2013) have concluded, the state is frequently involved in facilitating land investments through different means, from identifying marginal lands to creating mechanisms to make them available to investors. Under political discourses that justify LSLA as a priority for economic development and eliminating poverty, governments have introduced policies and legal frameworks to facilitate land deals (Borras et al. 2012).

Changes in the legal framework are usually carried out to facilitate land dispossession, such as the Special Economic Zones (SEZs) Law in India, where, according to Levien (2012), the state took farmers' lands and made them available to investors in the name of industrial development and employment creation, but the process finally resulted in the dispossession of rural poor and land commodification (2012, 942). In Cambodia, Touch and Neef (2015) found that the 2001 Land Law meant the privatization of public lands (more than 70 percent of the total territory), allocating them to Cambodian and international investors through Economic Land Concessions (ELCs). The Terra Legal program in Brazil, as Oliveira (2013) describes it, created for assigning property rights over public lands in the Amazon region to prevent land grabs, is transforming this region into a transition zone with transport infrastructure to benefit the land designated by the state for agribusiness (*El Cerrado*). All these cases show how governments can reassign property rights, either by taking over land and declaring it of public interest or by legalizing ownership to favor large investors.

In this context, the analysis of political reactions from those affected, or "reactions from below," as Borras and Franco (2013) analyzed based on Li (2011), varies across communities, and land deals do not always lead to the expulsion of communities. Expulsion or reincorporation depends on an investing company's needs. If it needs land but not labor, the residents are expelled, but if their labor is required, they could be employed in the new agribusiness or be integrated through alliances between smallholders and companies, as in the case of palm oil in Honduras described by León (2019). In the first case, the political reaction of those expelled depends on whether or not they have received compensation. In the second, the political reaction of the people employed or incorporated will be to obtain better terms. All these authors found uneven responses to land grabs, since different communities and territories have different social and political conditions. These responses also depend on the capacity of the different groups—which may be differentiated by class, ideology, and interests—to establish alliances against or for land deals (Hall et al. 2015).

One of the relevant points to consider in political disputes is the influence of the legal frameworks, both national and international—such as the Human Rights Declaration. These legal tools are used by both sides of the political dispute over land grabs. Edelman et al. (2013, 1523) maintain that these features of the legal system involve two functions: they provide measures that enable land deals while making political and legal responses possible, and they are based on international trade and investment laws and internationally recognized human rights. In other

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words, social movements invoke human rights in legal struggles related to land deals, while investors and their allies claim the priority of trade and investment laws (Edelman et al. 2013, 1524).

Both international investment law and human rights law protect different, and presumably competing, property claims, resorting to different commercial and noncommercial considerations and embodying different levels of legal protection. This contradiction also applies to states, which use legal regimes to enforce land property and agricultural investments and at the same time pass laws to defend people's rights. This is precisely the case of the legal measures included in the Colombian Agrarian Reform Law and the Land Restitution Law to prevent baldíos land accumulation and prioritize its allocation to landless people.

Contradictions are inherent to the nature of the state. Studies from the anthropological and political literature (Abrams 1988; Sharma and Gupta 2003, cited by Torres 2007) delve into the need to demystify the state as a monolithic and ahistorical apparatus acting cohesively and following common objectives. They introduce the cultural dimension, involving people to understand state formation, which is only possible in relational terms.

Based on these theories, Bolívar (2010) worked on deconstructing the state-society dichotomy within the state-centric theories of politics to show that some dynamics of the Colombian regional political violence are expressions of the territorial and social struggles inherent in the state formation or reconfiguration process. She also highlights that this separation between state and society has retarded the ability to describe and understand the ambiguous relations between civil servants and citizens and between agencies and local people. In addition, Torres (2007) describes how the state authority is organized by everyday processes (social and political relations) in Putumayo Province, an area of recent colonization in Colombia. Ballvé (2012) analyzes state formation in Urabá as a result of the convergence of paramilitary and counterinsurgency actions and governmental reforms aiming to make these spaces attractive to investment.

As Wolford et al. (2013, 189) claim, states do not operate with one voice, and it is necessary to unbundle their many messages to analyze the processes of government and governance. States have multiple actors, factions, and interests that usually are in competition for political influence. This work draws on these studies, showing how different actors inside and outside the state institutions act both against and in favor of agrarian legal changes, using different legal and political strategies and making alliances that embody competing interests deriving from a legal and political contention.

Methodological Process

This analysis is based on a historical reconstruction of the political struggle to modify the legal framework regulating the access to baldíos land. This reconstruction requires a double task. First, it implies the identification of the key actors in their respective frames of intervention (government, parliament, lobbies, courts, etc.), the arguments

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and discourses they mobilize, and the decisions they make and their corresponding actions. Second, it means paying attention to the chronological order of events, so that it considers the cause-effect relationship of events and the evolution of actors' discourses and strategies.

Reconstructing the political, legal, and judicial processes required utilizing a broad diversity of documentary sources: legislation, parliamentary debates, court rulings, official and unofficial reports, media, and other sources. Triangulating those various sources allowed for a detailed and sound reconstruction of the chronology of events, the arguments under dispute, and the outcomes of such processes. Table 1 shows the documentary sources used for this research and the nature of the information provided by each one.

From these several sources, journalistic platforms and the national press were of particular relevance. The media became a playing field where the actors involved tried to legitimize their respective discourses and decisions, making more visible the arguments at play. In addition, media coverage allowed the actors to disclose land investments and transfers, which led to legal investigations and gave rise to new information on that process. The media sources helped to identify some key documents, reports, and judicial sentences used in this analysis.

The Baldíos' Legal Framework: Protecting Peasants' Access to Public Land

The baldíos are defined as ownerless land within the national borders, which therefore belongs to the state.[2] Their origin goes back to the Spanish colonial era, when the original occupants' rights were not recognized and the land was declared as belonging to the Crown. Later, at the beginning of the Republican period (1821), 80 percent of the national area was considered baldíos and was commonly used as a payment to promote demographic and productive occupation. Land was granted to individuals and companies—both nationals and foreigners—in exchange for the construction of infrastructure and the setting up of agricultural companies. This gave rise to a model of high land concentration and consolidated the neglect of the original occupants' rights (Restrepo and Bernal 2014). The allocation of these lands has been regulated since 1873. Villaveces and Sánchez (2015) identify more than 60 associated legal regulations. In 1961 Law 135 (the Agrarian Reform Law) established the maximum area that could be awarded to individuals as 450 hectares.

Since 1991 the Colombian Constitution has reaffirmed privileged access to these lands by peasants and agricultural workers, who become subjects of special protection by the state (CGR 2014b). Following this principle, Law 160 of 1994 establishes low-income peasants' priority to be assigned baldíos and sets up the Family Agricultural Unit (UAF in Spanish) as the maximum area that can be assigned.[3] This law specifically prohibits the concentration of this land in areas above one UAF and declares null and void any private contract that consolidates ownership in estates exceeding one UAF.[4]

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Table 1. Documentary Sources

Type of Source	Name	Key Contents
Governmental bodies (development)	Ministry of Agriculture and Rural Development (MADR)	Information about UAF and baldíos accumulation
	National Planning Department (DNP)	Governmental planning guidelines and development tools (ZIDRES)
	Colombian Institution for Rural Development (Incoder)	Information about baldíos allocation
Governmental bodies (transitional justice)	Victims Unit	Information about people displaced
	Land Restitution Unit	Information about land dispossession
	National Center of Historical Memory (CNMH)	Reconstruction of the history of armed conflict including figures about violent acts
Parliament	National Congress	Draft laws (2007–2016)
		Parliamentary debates (from Congress members' YouTube channels 2013–2017)
Public control bodies	General Comptroller's Office (CGR)	Information about illegal accumulation of baldíos
	Superintendency of Corporations	Sentences against illegal appropriation of subsidies
Judicial institutions	Constitutional Court (CC)	Sentences regarding the validity of agrarian law changes
International organizations	U.S. Department of Agriculture (USDA)	Global agricultural Information Network reports. Including orientations for agriculture development policies
International NGOs	Oxfam (International)	Reports on the impact of cases of corporate grabbing and the impact of policy measures (e.g., ZIDRES)
National NGOs	Comisión Colombiana de Juristas, Corporación Yira Castro	Plaintiffs of the ZIDRES Law
Grassroots organizations	Organización Nacional Indígena (ONIC), Asociación Nacional de Zonas de Reserva Campesina, Proceso de Comunidades Negras, Congreso de los Pueblos, Fensuagro	Plaintiffs of the ZIDRES Law

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Table 1. Documentary Sources (*continued*)

Type of Source	Name	Key Contents
Online journalistic platform	VerdadAbierta.com	Investigative articles about the situation of rural communities facing the armed conflict and land dispossession
	La Silla Vacía	Focuses on national politics
National press	*El Espectador, Portafolio, El País, Semana*	Document processes of legal contention through time and shows positions of different actors

Source: Prepared by the authors.

The UAF thus became the main legal basis for avoiding land concentration, gave priority to peasants and the rural poor, and also specified that this land could only be transferred between small farmers. It also included mechanisms to identify any former baldíos and to recover any such land improperly transacted or occupied. However, many strategies have been created by individuals and official institutions in order to sidestep the UAF restriction and accumulate and grab baldíos or former baldíos. This has been facilitated by the high levels of informality in land ownership. In this sense, Peña-Huertas and Zuleta (2018) show how the institutional design of procedural laws constitutes a legal barrier—through high costs, the discretion of the institutions, incomplete information, and complex procedures—for peasants trying to obtain the legal titles when they have been awarded.[5] For this reason, only 53 percent of the baldíos allocated between 1960 and 2014 have been duly registered (2018, 7).

The legal and political contention for the baldíos lands lies in the fact that, in the absence of a land redistribution policy, has been the main instrument for land distribution to farmers and ethnic groups. In the Peace Agreement these lands were proposed to feed the National Land Fund with 3 million hectares to distribute in the postconflict period. Table 2 shows that the state awarded more than 23 million hectares to peasants, 31.5 million hectares to Indigenous groups, and more than 5 million to Black communities. Other forms of state land distribution, such as direct purchase, expropriation, and subsidized credits, have only awarded less than two million hectares in the same period. More than 39 percent of the total land awarded was in the Altillanura region (Incoder 2014).

Setting The Stage for Land Grabs: Informal Tenancy, Armed Conflict, and Dispossession in the Altillanura

The Altillanura is a part of the Orinoquia region in eastern Colombia and comprises seven municipalities: three in the Meta Department (Mapiripán, Puerto Gaitán, and

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Table 2. Total Allocated Land in Colombia, 1900–2014 (hectares)

Target Population	Before 1961	1961–1993 (Law 135/ 1961)	1994–2014 (Law 160/ 1994)	Total Baldíos Allocated
Baldíos allocated to peasants	4,808,700	12,736,239	5,511,723	23,056,662
Reserves for Indigenous communities		31,590,540		31,590,540
Black communities		5,116,373		5,116,373
Total (allocated baldíos + Indigenous reservations)				59,763,575
Total allocated land other than baldíos 1961–2014				
Land acquired by the state through direct purchase, expropriation or confiscation, voluntary negotiation, and awarded by Comprehensive Land Subsidy				1,920,638

Source: Prepared by the authors from Incoder. Data of 2014.[6]
Note: This information is not totally reliable. The Comptroller General of the Republic (2014b) reported inconsistencies in the data generated, in the management information, and in the land allocation process.

Puerto López) and four in the Vichada Department (Puerto Carreño, Cumaribo, Santa Rosalía, and La Primavera) (see Map 1). It represents 10 percent of the national area, 13.5 million hectares, of which 4.5 million have high agricultural potential (DNP 2014), one of the government's key reasons for denominating this region as the "last agricultural frontier." In 2017 the cultivated agricultural area in the region barely reached 198,528 hectares (31 percent maize, 22 percent palm oil, 13 percent soy, 10 percent rubber, 9 percent sugar cane) (MADR 2017).

Due to the level of soil acidity and the investment required for making it productive, it has been claimed that only large investors are able to develop the region (DNP 2014; Oxfam 2013). This is one of the most biodiverse regions in the country, with the largest water resources, owing to the rivers Meta, Vichada, and Guaviare, as well as to groundwater. It has a low-density population (1 inhab/ km^2), with high levels of poverty (90.5 percent of Multidimensional Poverty in 2005) (DNP 2014).[7] Productive activities revolve around economic enclaves associated with the exploitation of natural resources (e.g., mining). In short, this land seems to meet all the conditions that justify the introduction of legal changes to stimulate their entry into production, according to the governmental and corporate discourse.

This region has historically been colonized by landless peasants, who arrived from the center of the country looking for land to cultivate, employment in local industries, or simply escape from the civil violence during the 1950s; and also by absentee cattle

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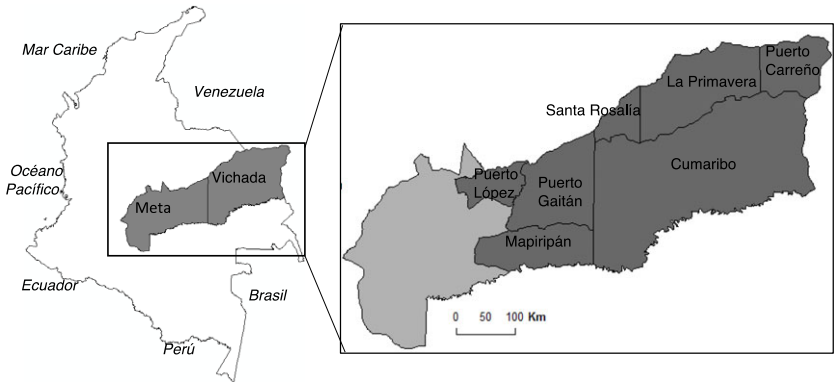
Map 1. Colombian Altillanura Region. Source: Prepared by the authors.



ranchers, who managed to accumulate vast tracts of land. Under this colonization rationale, the formalization of land entitlement was not important for new settlers. Even when the baldíos were legally awarded between 1980 and 1990, the high cost of land registration in order to obtain the legal title to prove ownership was impossible for many peasants (Peña-Huertas and Zuleta 2018). Together with the weak state presence in the region, this led 70 percent to 100 percent of the occupants to forgo registering their ownership in five of the region's seven municipalities, according to UPRA (2016).

The conditions in the Altillanura make it an attractive region for various armed groups. The FARC guerrilla group settled here in the 1960s, and emerald dealers and drug traffickers in the 1980s seeking land to invest in brought paramilitaries from the center of the country to protect their properties. During this period, many plots were bought or taken by force from the original settlers. In 1997, paramilitaries from the north of the country arrived in Mapiripán, committed a massacre, and started another period of violence and dispossession. Between 1995 and 2016, almost 59,000 people were displaced by violence (Registro Único de Víctimas 2017).

Among these violent acts, between 1988 and 2012 The Centro Nacional de Memoria Histórica (CNMH) (2013) reported 18 massacres, 84 selective murders, and 9 attacks on civilian populations. During these periods, many plots changed hands many times. After the paramilitary demobilization in 2005 and the continuation of the military antidrug policy (National Consolidation Plan), violent actions were significantly reduced and land transfers rose (mainly by illegal means) to obtain ownership titles. After various transfers, many dispossessed plots were sold to large companies and private individuals to grow palm oil, soy, or maize, or to use for extensive livestock farming or simply for speculation.[8]

Between 2002 and 2005, the Ministry of Agriculture launched a megaproject aimed to attract foreign investment, called "The Renaissance of the Orinoco River Savannas: A Colombian Mega-Project for the World." This included enhancing

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infrastructure and soil productivity. It attracted the first agroindustry projects by national companies (Grajales 2020).

However, the large investment projects collided with the legal framework. Indeed, the UAF regulation prevents, at least in theory, the legal accumulation of land. This legal constraint has been criticized by political and economic discourses from top politicians, agricultural associations, and agribusiness corporations that defend large-scale land investments in the region, among them the Colombian Farmers' Society (SAC by its initials in Spanish), the biggest association that grouped large farmers (landholders). Its president declared, during a conference with economic journalists,

> "We will try to ensure that the UAF disappears, to the extent that investment by businessmen is required in areas such as the Altillanura" (*El Tiempo* 2010).

These positions were also shared by the GAIN reports from the U.S. Department of Agriculture.

> The UAF, or Family Agricultural Unit, creates the largest barrier to the development of commercial, large-scale agriculture in Colombia . . . . One proposed solution to the UAF issues for the Altillanura is the Business Development Zone, a sort of a free-trade zone for agriculture that would provide incentives to investors and be exempt from the UAF. (USDA 2009, 7)

> The current law states that land provided by the government is not negotiable until 12 years of occupation and any purchase cannot be performed for more than one UAF. This law was conceived to reduce inequalities in the rural areas and the uneconomical division; but it is generating conflict with large-scale agricultural projects and investments in the area of biofuels, grains and oilseeds. (USDA 2010, 1)

These arguments do not consider the role that violence and land dispossession have played in making the land available for these investments. Interestingly, some companies have found a way to get around this legal constraint. The same USDA report cites the case of the "Mónica Semillas" company, which was "forced" to create seven companies so that each one could purchase one UAF (USDA 2009, 4).

The Legal Struggle for the Baldíos in Altillanura

To meet the demands of larger investors and their own expectations of agroindustrial development for the Altillanura region, the Colombian governments in the last 20 years have been looking for new legal mechanisms to remove the UAF restriction. Nevertheless, the succession of attempts to introduce these institutional changes has collided with news and reports showing the abuses behind certain large investment projects and has also contributed to the intervention of other state institutions (e.g., the parliament and courts of justice) that have prevented legal reforms.

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The first legal attempt was Law 1152 of 2007, the Rural Development Statute, which aimed to facilitate private registration of land that had been abandoned due to forced displacement. The option for peasants to access land and public subsidies was subject to an agreement with private investors. This law was appealed in the Constitutional Court by lawyers linked with NGOs and backed up by Indigenous organizations. The court finally declared it unconstitutional for failing to comply with the rule of prior informed consent of rural communities (CC 2009).

In the new government of Juan Manuel Santos (2010–14), the land policy agenda changed direction with the implementation of the Victims and Land Restitution Law in 2011 and the beginning of the Peace Dialogues with the FARC in 2012.[9] The same year, the media revealed the massive purchase of land in the Altillanura, thanks to the report of a left-wing political party (Polo Democrático Alternativo, PDA), which disclosed that agrarian state subsidies aimed at the capitalization of rural producers on an individual basis were actually granted to companies that all belonged to the Mónica Semillas holding. Each "virtual" company owned an estate without overcoming the UAF constraint and could apply individually for a state subsidy. The Notaries and Registries Inspector investigated the company's purchases and found that all the land had land reform precedents, meaning that it had been illegally sold (*El Espectador* 2012). The company was forced to give back the subsidies (Superintendencia de Sociedades 2013).

However, the pressure on the baldíos continued. The second attempt was through the introduction of "special projects" of agricultural and forestry development in Law 1450 of 2011 (Santos's national development plan), which permitted concentrations of baldíos without any limit to the land extension and the right to purchase them with public subsidies. The same political party (PDA) appealed the articles regulating this possibility before the Constitutional Court, which declared them unconstitutional for being regressive on the land rights of rural workers and also for changing the priority in the allocation of baldíos, as they assigned this land without any limit to Colombian or foreign investors (CC 2012).

In the view of the supporters of this legal change, the court's decision blocked the development of the region. "The [court] decision, which seeks to protect small and medium-sized landowners, also calls into question millions of investments made in the country's eastern high plains and the possibility that Colombia could become a food power" (*Semana* 2012).

During 2011 and 2012, several news reports showed that international companies from Brazil (Mónica Semillas), the United States (Cargill), Israel (Merhav), and Argentina (Ingacot) and investment funds owned 313,000 hectares of soy, maize, and palm oil crops and forest plantation. Most of these land purchases were in the Altillanura after 2008 (*Portafolio* 2012). But national investors also ventured into buying more than 56,000 hectares, technologically supported by the Brazilian Agricultural Research Corporation (EMBRAPA) to improve soil productivity, as they had done in the Brazilian Cerrado region.

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In May 2013, the Ministry of Agriculture published a report that identified 13 cases (including 231 properties and 87,424 hectares) of baldíos irregularly assigned, 7 located in the Altillanura. Also in 2013, Oxfam published a report that had great media impact, showing how Cargill had purchased 52,576 hectares by means of 36 subsidiary companies, each purchasing one UAF. Most of the properties were transferred several times between 2010 and 2012 before being sold to Cargill at prices 33 times higher than the original ones. All the properties were initially baldíos, and the fragmented purchases circumvented the legal restrictions of Law 160. In addition, *Verdad Abierta* (2013a) published the history of violence and dubious transfers that involved the lands owned by Poligrow and La Fazenda agroindustries.

Yet despite these scandals and denunciations, the government made its third attempt at reform and in 2013 presented the draft bill for law 162, which proposed removing the UAF restriction and established the participation of small farmers by contributing their land to associative agribusiness projects without limits on extension. This was done in the midst of one of the longest national agrarian strikes against the government's economic policies, such as the Free Trade Agreements, considered these a threat to the national agricultural production. Therefore the president withdrew the proposal one month after its presentation in Congress, due to pressure from several peasant organizations, NGOs, and the PDA, which argued that the draft law aimed to legalize land grabs that had been denounced.

During the first half of 2013, the minister of agriculture resigned, followed four months later by the Incoder's deputy director (together with her team), who stated to the media her disagreement with the changes in the agrarian law (*Semana* 2013). A member of her team asserted to *Verdad Abierta* (2013b) that the actions taken to recover unduly appropriated baldíos stepped on so many toes that she had no choice but to resign. Grajales (2020) shows that theseresignations were directly provoked by the pressures exerted by the presidential cabinet and economic elites close to President Santos.

In 2014, the General Comptroller of the Republic (CGR), the highest-level institution of fiscal control, on the basis of the cases identified by the Ministry of Agriculture one year earlier, confirmed 14 cases (215,670 hectares) of illegal appropriation in the accumulation of UAFs in the Altillanura.[10] In these cases (see table 3), 6 companies (5 internationals; e.g., Cargill) were granted public subsidies irregularly.

The report concluded that the Incoder had not respected Law 160 of 1994, as it had allowed the accumulation of baldíos land by private owners who did not fulfill the legal requirements. The CGR also argued that the government's attempt to modify the legal framework aimed to allow the privatization of baldíos, diminished the state patrimony, and changed the law's constitutional purpose, which was to give land access to the rural poor (CGR 2014a).

Despite the ongoing denunciations, the government made its fourth attempt by means of Draft Law 133 of 2014, which created the Areas of Interest for Rural and

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Table 3. Investigated Cases of Baldíos Grabbing

Case	Department	Number of plots	Number of Hectares
International Companies	Meta-Vichada	69	105,784
Mónica Colombia SAS			
Cargill			
Timberland and Wood Holdings			
Poligrow			
National Companies	Meta-Vichada	117	91,217.5
Riopaila-Castilla			
Luis Carlos Sarmiento Angulo Group			
La Fazenda			
Agroindustry El Guarrojo S.A			
Manuelita			
Political Elites and Private Individuals	Meta-Vichada	24	18,668.6
Minister Aurelio Irragori			
Ex-Minister Darío Lizarralde			
Carlos Aguel Kafruni			
Camilo Pabón			
Total		210	215,670.1

Source: Compiled by the authors from the CGR reports 2014.

Economic Development (Zonas de Interés de Desarrollo Rural y Económico, ZIDRES). These areas were defined as geographic areas isolated from urban centers, with poor infrastructure, low soil productivity, and high production costs, whose exploitation was not possible for family and peasant farming—a perfect description of the Altillanura's characteristics. This draft law sidelined land assignments and proposed land exploitation by means of concessions or long-term renting to companies without limit to acreage and with the possibility of concentrating both private and public land. The project included the expropriation of assigned peasant land that was not reaching the levels of productivity set up by the Agricultural Rural Planning Unit (UPRA).

Also that year, the Department of National Planning (DNP) presented the development plan for the region, "Policy for the Integral Development of the Orinoquia, Altillanura, Phase I," which included a diagnosis of the region

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highlighting its poor conditions and the vast amount of underutilized land. Simultaneously, some media (see *Semana* 2014) pushed the narrative that Altillanura land needed to be put in production to effectively contribute to regional economic development and that small producers were not able to assume the necessary costs. Grajales (2020) describes how many forums were organized by the private sector, rural corporations and associations, politicians, and the Center for Orinoco Studies (CEO) of the University of the Andes (the largest private university in Colombia) to promote the region's potential and private investors' willingness to overcome environmental and economic restrictions to make the region the food basket of the country.

Civil organizations (e.g., Oxfam 2014), PDA members, and academics denounced the draft law for neglecting peasant farming, prioritizing productivity over access to land, and replacing the term *peasant* with *agricultural worker*. These organizations also argued that the draft law legalized de facto previous irregular land grabs, as it did not address the historical problems of land rights formalization, the failures of entitlement processes, the restitution of land in areas with precedents of violence, and the illegal accumulation of UAFs reported by the Ministry of Agriculture. The Ministry of Internal Affairs withdrew the draft law in March 2015 (six months after its presentation in Congress), arguing that there was a lack of consensus and discussion with the communities involved (*Portafolio* 2015a).

Nevertheless, only one month later and without any consensus with the communities, the government initiated the fifth attempt to reshape the legal framework. The ZIDRES were proposed again within Draft Law 223 of 2015, proposing associations between peasants and companies. However, the entrepreneurs did not think much of this kind of association, as illustrated by this document from the USDA:

> Requiring firms to work through Colombia's land-owning campesinos may be viewed as too uncertain and difficult a proposition for international and Colombian agribusiness firms. Reservations over the stability of an agreement with small Colombian landowners given the country's land rights and title issues, security concerns and the perceptions of the political leanings of small campesino communities are all considered to be cause for caution. (USDA 2015, 4)

In the same document, the USDA expressed its preference for the ZIDRES—because they could prioritize investments—and its reluctance to return land to the original owners: "The success of ZIDRE program may provide a less distasteful resolution to the issues of agribusiness land ownership nullified and losing significant investments of time and money" (USDA 2015, 5).

After intense debate in the congress, the ZIDRES were finally approved in Law 1776 of 2016, which was hailed by the president of the republic as a great victory for rural development.

> This is the most audacious law in our history to secure rural development. We are now starting out on the path to becoming in the world's food basket. (*Semana* 2016)

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> All of the Altillanura, which, due to the conflict, has not had the necessary investment and development, is a great opportunity. The FAO director perfectly knows that the world is increasingly concerned because it is growing and needs to be fed . . . . There are few countries where there is a real potential to increase production, one of them is Colombia, all this region that we can turn into a food basket. (President's press declaration, *El País* 2016)

The criteria for selecting projects are basically their productivity and profitability (rate of return), since the ZIDRES, according to the law, aim to reinforce the internationalization of the economy, high competitiveness, equity, reciprocity, and the national interest. The peasants and the Indigenous people are forced—as the only alternative—to associate with agribusiness without any legal framework regulation. The ZIDRES zone can be granted long-term concessions or rented without any acreage limit. Additionally, the prohibition of UAF accumulation set by Article 72 of Law 160 of 1994 was not valid for cases of baldíos concentration created before 1994, thus legalizing the land grabbed before that year.

Two opposing political parties, together with four NGOs and six grassroots peasant and Indigenous organizations, brought an action in the Constitutional Court, seeking a declaration of unconstitutionality. They argued that

> . . . the law set a model that introduces relevant modifications in the agrarian model of Colombia, which will be based, from the passing of this law, on centralized territorial planning, on a regressive modification of the baldíos regime, on the promotion of a model of associations that erodes peasants' autonomy, on the prioritization of certain crops that modify peasant and small-scale economies, and on the granting of public incentives to these projects, all of which gives a disproportionally large advantage to agroindustries and to the detriment of the peasant economy (CC 2017).

However, in 2017, the ZIDRES law was declared constitutional by ruling C-077/17 of the Constitutional Court (CC 2017), with some restrictions: it obliged the ZIDRES to be consistent with local development plans, and it eliminated mandatory association of peasants with the companies. In other words, the court opened the way for the law's implementation.

Following its mission in 2018, the UPRA presented the potential rural areas identified to implement ZIDRES in the country, including more than 7.2 million hectares, slightly more than the agricultural area in use in 2014 (7.1 million hectares). It is not surprising that 67 percent of the potential ZIDRES area was located in Vichada and Meta (both in the Altillanura region).[11] Only five months later the first ZIDRES was mapped out and approved in Puerto López (Meta) in an area of 174,961 hectares (26 percent of the total municipal area) with 860 properties (MADR 2018).

In September 2020, the government presented a new Agreement Project to Delimit Enterprise Development Zones (ZDE). The ZDE is an instrument established in the Agrarian Reform Law 160 of 1994 (not used until now) that allowed the exploitation of baldíos through leasing contracts, long-term leases, and other means without involving the ownership transfer. The new agreement project

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aims to revitalize the ZDE by introducing changes, such as the inclusion of baldíos in any country region. Several organizations and Congress members contested this project for facilitating the baldíos allocation for persons and entities not eligible under the agrarian reform criteria. The new government agreement project contradicts the compromise with the Comprehensive Agrarian Reform included in the Peace Accord. It reduces the availability of baldíos to the National Land Fund, which has only 1 million hectares from the 3 million initially approved (Duarte 2020).

Discussion

This study focuses on the analysis of two parallel processes: the attempts to modify agrarian legislation aimed at changing the use and allocation of baldíos land and the attempts of civil society to avoid them by legal mechanisms. Both these processes are summarized in table 4.

The chronological sequence and analyses of the main milestones of the political struggle for the baldíos in the Altillanura provide additional elements that help understand the state's role in the land-grab mechanisms and the reactions of civil society and the people affected. We analyze actors, the alliances between them, and the resources employed in the legal arena on both sides.

Understanding Actors and Alliances Against Legal Grabbing

One of the key traits of the legal dispute for this land is that the origin of legal contention does not come from below. It is not poor people versus corporate and landed elites and the state—as Borras and Franco (2013) maintain—but (mostly national) civil and political organizations versus the corporate elite and the government. Local peasants and Indigenous communities from the Altillanura are fragmented, due to their isolation and lack of political capacity (Grajales 2020).

The actors mobilized against the legal mechanisms allowing land grabbing constitute a varied front.

- Those who led the political confrontation were mainly members of Congress belonging to the opposition party and members of national NGOs. National and international NGOs, such as Oxfam, Codhes, Planeta Paz, and Comisión Colombiana de Juristas, may have been motivated by their funding imperatives and mission (Oya 2013b) or the central role of the global land rush on their agrarian agenda (Grajales 2020).
- The investigations carried out by the Ministry of Agriculture control bodies, such as the Comptroller General, the Attorney General's Office, and the General Accounting Office, also backed these claims. The civil servants from official institutions, such as the minister of agriculture and Incoder, were professionally committed to aligning the enforcement of agrarian law and the rights of the rural poor. Moreover, some technicians from Incoder had a previous background in the NGO sector (Grajales 2020).

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Table 4. Attempts to Change the Baldíos Legal Framework and Reactions of Civil Society, 2007–2020

Legal Frame Modifications	Modifications	Civil Society Actions	Outcomes
2007 Law 1152 of Rural Development	Enabled registration of land abandoned by peasants due to violence to new owners and entrepreneurs, without any limits as to area Boosted productive alliances between peasants and entrepreneurs	Law contested in the Constitutional Court (CC)	Law declared unconstitutional by CC
2011 Law 1450 (Art. 60,61 and 62)	Enabled forestry and agribusiness projects with no limits as to area Enabled accumulation of lands with baldíos origins over the UAF restriction	Law contested in the Constitutional Court (CC)	CC ruled in favor of the civil society claims and declared the articles unconstitutional
2013 Draft Law 162	Allows UAF concentration Permits baldíos leasing contracts of more than 30 years Boosts partnerships between entrepreneurs and peasants, who provide their land Allocates baldíos above UAF restriction	Contested public actions by NGOs, peasants, and Indigenous organizations	Draft law withdrawn by President Santos
2014 Draft Law 133, Rural and Economic Development Zones (ZIDRES)	ZIDRES considers areas as Altillanura conditions (marginal lands) to be implemented Baldíos can only be leased but not allocated Land expropriation from unproductive peasants	Contested public actions by academics, NGOs, leftist Congress party, peasants, Indigenous organizations	Draft law withdrawn from Congress by the minister of internal affairs in March 2015.

(*continued on next page*)

Table 4. Attempts to Change the Baldíos Legal Framework and Reactions of Civil Society, 2007–2020 (*continued*)

Legal Frame Modifications	Modifications	Civil Society Actions	Outcomes
2015–16 Draft Law 233, Rural, Economic, and Social Development Zones (ZIDRES)	Same content as Project 133 with different name	Law contested in Constitutional Court (CC)	Approved as Law 1776/2016-ZIDRES Law
2017 CC-Sentence C-077/2017 CC declares ZIDRES Law constitutional	Some changes introduced: Nonobligation peasant-entrepreneur association Territorial institution participation in the ZIDRES configuration	Academics, NGOs, and peasant and ethnic organizations supported the lawsuit in the court	
2020 Agreement Project: Delimitation of the Enterprise Development Zones (ZDE)	Recovers a legal figure of Law 160 of 1994	Contested by NGOs, leftist Congress party, and academics through press declarations	The draft project is under consultation

Source: Compiled by the authors.

- Despite having few affiliates in the Altillanura region, some national organizations, such as the National Association of Peasant Reserve Zones (ANZORC), The Agrarian, Peasant, Ethnic. and Popular Summit, and the Colombian Rural Women's Policy Advocacy Table, joined NGOs and academics to support the pressure against baldíos accumulation by participating in public meetings and press conferences.

It is worth highlighting the role of judicial and control agencies with the Constitutional Court created in the Constitution of 1991, which act as its watchdog integrity. The court's deep interpretation of civil and human rights has influenced national public policy in a progressive direction (Grajales 2015). Initially, these agencies were active in investigating allegations and ruled in favor of peasant rights. They followed the laws, but only one allegation of illegal baldíos accumulation (Mónica Semillas) was sanctioned. Those cases that involved the giant national and international corporations remain without judicialization.

The Constitutional Court ruled in favor of changing the baldíos designation with small concessions for the plaintiffs, such as the nonobligation of productive alliances. This contradictory role of legal and judicial institutions at the center of the political conflict, according to Grajales (2015, 542), is similar to the country's situation in general, which is characterized by a combination of legal and illegal strategies presiding over the distribution of power and resources. Legal institutions are neither extremely progressive nor capable of hiding the cruelty of dispossession and repression.

Making Land Grabbing Legal

This analysis allows seeing the other side of the state, which managed to change the baldíos destination and avoid the judicialization of massive land accumulation. Actors on this side included members of the executive cabinet, top politicians, and government-aligned large rural associations and corporations. In addition, part of private academia joined in to build and defend the strategy. All these actors shaped and spread a narrative based on the economic potential of the Altillanura lands, which is not new, as was shown by Rausch (1993), and which was echoed by the most recent governments (particularly between 2010 and 2018), which declared the Altillanura the "latest agricultural frontier" of the country and a "world food basket."

In Grajales's terms (2020, 1142), frontiers are a policy narrative that is a strategic construction of a policy reality promoted by actors seeking to win (or not to lose) in public policy battles—causal stories suggesting actions and outcomes. The key aim of this frontier discourse is to shift the political focus of contention to the technical arena; that is, to center the debate on baldíos for *what* rather than baldíos for *whom*. In this way, technical strategies were launched, such as the government development plan for the region by the DNP and the creation of the UPRA, highlighting how these lands were underutilized by peasant economies unable to make them profitable.

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The press spread this development narrative, highlighting the USDA reports (*Portafolio* 2015b). Many policy forums were held (one titled "The Altillanura Is for All") to promote the economic opportunities of the corporatist model of the ZIDRES, with the participation of official institutions; members of the agribusiness association, such as the SAC, the National Federation of Palm Oil Growers (Fedepalma), the Colombian Federation of Cattle Ranchers (Fedegán); Congress members; corporations; and academics. Without any contestation inside the government and with the Peace Accord signed, these strategies succeeded in positioning the need to change the law to allow the region's development by large investors in a supposed win-win model. Meanwhile, the previous public land spoliation was legalized.

Conclusions

The agrarian question, the land struggle, and the phenomenon of land dispossession are not new in Colombia. They are rooted in historical patterns of economic and political struggle, violence, and inequality. Nevertheless, the global land rush framework has deeply modified the actors' narratives and positions, the legal tools they can resort to (e.g., an international regime protecting peasants' rights), and the echo this struggle has in the media and the society as a whole.

Moreover, it can be argued that precisely this general concern and attention has made more visible and traceable the legal and political contention within and beyond the state. This has helped to overcome the difficulties in identifying the competing forces within the state when there is an official discourse that tends to project an artificial coherence (Hall et al. 2015). In addition, the legal and political contention for the Colombian baldíos confirms the so-called pluralism of the legal regimes, in which the promotion of international trade and securing investment rights collide with the protection of human rights and justice.

This article contributes to the current land-grabbing literature in two respects. First, this analysis has indeed evidenced the multifaceted and sometimes contradictory role of the state institutions in the legal regulation of LSLA in the Colombian Altillanura, simultaneously pushing to liberalize large investors' access to land and trying to avoid it to protect peasants' rights. This intertwines with the complexity of separating state and society to understand the ambiguous relationships between citizens and civil servants (Bolívar 2010). As Hall et al. (2015, 477) claim, the borders between civil society and the state are dynamic and porous; state actors are often civil society actors and vice versa at different times or spaces, which demonstrate conflicting positions in and outside of the state. The linkages between economic elites and the government, or the NGO background of civil servants working in public organizations, illustrate this fuzziness.

Second, this research has shown that the baldíos issue has been largely a political contention between some outstanding civil society representatives, such as national NGOs, members of the opposition party, and the political and economic elite, not between the affected rural population and the state. In contrast to most of the

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land-grabbing literature on the role of the state, which focuses on the struggle between grassroots organizations and the economic elites and the state, this analysis deepens and visualizes the implication of Congress members as an opposition party in the legal contention that is not limited to conventional social interest representation. They are actively involved in different roles, such as leading investigations and debates on land-grabbing cases, supporting actions against legal land changes, and making alliances with groups of civil society claiming land rights for landless rural people.

This evidence shows Congress members' capacity and interest to balance the power relations in and outside the state regarding the land issues and the Altillanura region's development plans. This becomes an interesting case in the study of legal contentions revolving around the land question, as the involvement of the opposition parties eases and broadens the chances of participation and incidence of grassroots movements in the legal arena and, therefore, the very construction of the state. This is a strength that these organizations tend to underestimate but that, as this analysis shows, has the potential to counterbalance the action of government elites.

Finally, the changing outcomes of this legal contention show the tensions around the way the frontier lands are incorporated into the market economy, in an attempt to legalize previous land spoliation in the name of national development and peace.

Notes

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1. The analysis includes different social groups, such as NGOs (national and international), peasant and ethnic grassroots organizations, professionals, and academics, but also members of the congress who belong to the opposition party.

2. Article 675 of the Colombian Civil Code.

3. The UAF was created by Agrarian Law 135 of 1961 in order to allocate land to the rural landless in agrarian reform processes. In 1994 the UAF was considered the amount of land that allowed a rural family to obtain its livelihood and surplus capital. The size of the UAF is not the same all over the country; it depends on the soil conditions, infrastructure, location, and other factors. For instance, in the Altillanura region, the UAF size is between 36 hectares and 1,725 hectares.

4. The Colombian Institute for Rural Agrarian Reform (INCORA) was in charge of allocating land, signing contracts, setting up reserves, and approving land occupation. The ownership of this land may only be transferred by the state. The occupants do not have the status of holders, but only an expectation of allocation if they meet the legal requirements: area no larger than one UAF, with two-thirds of the land under cultivation, must be occupied for more than five years, income equal or less than 1,000 minimum wages, and no additional rural land ownership (Law 160/1994). The allocation of baldíos includes three steps: occupation, allocation, and registration of the title. The entire process is the responsibility of the applicant, the peasant.

5. The decision to allocate or revoke baldíos land is assigned to the land reform institutions, which many times operate contrary to the rights of the peasants, revoking titles and allocating the land to thirds (Peña-Huertas and Zuleta 2018).

6. This data was consulted by the authors in 2016. Incoder was replace by two new agencies. The Agencia Nacional de Tierras in charge of baldíos allocation but there is no online available data before 2018. http://otr.agenciadetierras.gov.co/OTR/Observatorio/AccesoATierras.

7. This an alternative index of poverty that reflects deprivations in areas of education, health, and living standards of poor people.

8. The Land Restitution Unit reported 3,107 land restitution claims in 2017 in the Altillanura, 70 percent located in Meta (Unidad de Restitución de Tierras 2017).

9. President Santos appointed the minister of agriculture in charge of implementing the law, who in turn appointed a team to investigate and recover illegally accumulated land to clean up the institution's historical corruption in the allocation of land.

10. The CGR, on the basis of the information provided by the Incoder, concluded the weaknesses in baldíos allocation between 1901 and 2012. It contains imprecisions such as date of allocation, lack of data on the recipients, 41 percent of the land was sold before the legal minimum of 5 years after being allocated, and the recipients' eligibility was not verified before the assignment.

11. ZIDRES identification was by UPRA, demarcation by CONPES (Consejo de Política Económica y Social), and the approval was given by the government through a decree (DNP 2018).

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