

SYMPOSIUM ARTICLE

Legal dispossession and civil war in Colombia

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Abstract

How are institutions that regulate property rights related to the massive coercive dispossession of land that took place during the Colombian conflict? How did the workings of these institutions change during the conflict? We answer these questions through an analysis of a unique data set of rulings on land restitution issued between 2012 and 2015. The paper argues that the exclusionary nature of the institutions that regulate the access and assignment of property rights preceded the onset and escalation of the Colombian conflict, but shows how and why once the conflict began, the set of techniques used to promote coercive dispossession through those institutions could be significantly broadened and escalated. By doing so, it intends to advance the knowledge of how institutions are transformed, in this case in a deeply anti-egalitarian and violent sense, during war.

KEYWORDS

conflict, land restitution, legal dispossession, property rights

1 | INTRODUCTION

Though all contemporary wars are likely to trigger massive waves of displacement, not all of them trigger an equally large coercive accumulation of land. In this sense, the Colombian conflict seems to be an outlier. The figures regarding the extent of coercive dispossession—called, in the Colombian context, *despojo*—vary widely depending on the source,¹ but even the most conservative suggest that the phenomenon was huge, involving the (violent) transfer of at least 2 million hectares. Why did this phenomenon take place in Colombia? And why was *despojo* so much larger during war?

In a sense, coercive dispossession of small tenants has been an invariant of Colombian history. The country's agrarian literature has shown how long-term agrarian conflicts have been associated with a permanent expansion

¹Garay Salamanca (dir.) (2011), 6.6 million hectares; Ibáñez et al., 1.2 million hectares; Movimiento de Víctimas de Crímenes de Estado (2007), 10 million hectares; Contraloría General de la República, 2.9 million hectares; Sindicato de Trabajadores del Instituto Colombiano de Reforma Agraria—INCORA, 4.4 million hectares; Codhes, 4.8 million hectares; Acción Social, PPTP (2005), 6.8 million hectares; Comisión de seguimiento y monitoreo de la Ley de Víctimas y Restitución de Tierras (2015), 7 million hectares; Amnesty International (2015), 8 million hectares (Luis Enrique Ruiz, pers. comm., 2014).

of the agrarian frontier and the gradual eviction of settlers² at the hands of well-connected landowners, supported by the police (see, e.g., the classic book by LeGrand, 1986). Consequently, some authors have claimed that this dispossession and that which has taken place during war are essentially the same (Duncan, 2006; Reyes Posada, 1978, 2009). However, this continuity claim seems to fit poorly with the evidence. Available data suggest that the extent of *despojo* was much, much greater during the period of fully-fledged war (Garay, 2011; Ibáñez, Moya, & Velásquez, 2006). The violent transfer of land took place at low levels before the 1970s, but skyrocketed in the 1980s and especially in the 1990s, when the country was fully at war, only to peter out, largely, after the paramilitary demobilization. As of today, displacement and dispossession still occur, as reported both by journalistic and governmental sources (La, 2016; Red Nacional de Información, 2016), but at much lower levels.

We want to explain both the elements of change and those of continuity that this evolution contains. *Despojo* has taken place for decades, but its frequency leaped dizzyingly during the war, only to return in recent years to its “conventional” levels. What, then, has guaranteed its persistence? And at the same time, why did it leap in such a manner during the war? To answer such questions, it is necessary to take into account the design of legal institutions that regulate the access to land as well as land market transactions. Before war, predatory actors used specific techniques of dispossession, such as enclosures, alterations of boundaries, and forms of harassment like the destruction of the crops of their victims. In the context of war, they could broaden and significantly escalate this set of techniques. Armed actors and powerful civil predators (big landowners, agrarian entrepreneurs, etc.) had at least three sources of opportunity to accumulate land through the combination of violence and the use of legal niceties. First, a generalized environment of fear encouraged forced displacement and abandonment of land and pushed the price of land down radically. Second, there were new opportunities to capture state agencies or align them along purportedly anti-subversive (legal or illegal) actions. For example, both notaries and the main state land regulation agency (INCORA) played a key role in certain forms of dispossession (see Sections 3 and 4). Third, there was a context that weakened peasant³ property rights (debt, lack of formalization, and the fact that their access to land was subject to specific conditions). Like the old set of techniques, the new one was grounded on existing institutional biases and lacunas (e.g. radical deregulation of property rights in the country, and informational barriers), but war enabled many actors to broaden it and make it more radical, thus setting in motion a much bigger network of powerful actors (see Table 4 below).

The presentation is organized as follows: First, we flesh out some basic concepts found in the relevant literature. Second, we present an analysis of how land property institutions work in Colombia in the face of dispossession, based on the rulings on land restitution issued from 2012 to 2015, and we define the legal typologies of dispossession and their characteristics. In the third section, we describe how land dispossession was funnelled through legal institutional mechanisms. Then, based on these concepts and findings, we discuss how the dynamics of war could have boosted the coercive dispossession of peasants. Lastly, we present some conclusions and pose new questions.

2 | IDENTIFYING THE PROBLEM

Many theories of war and conflict (Collier & Hoeffler, 2004), or of violence against civilians, have disregarded institutions and the social embeddedness of armed conflict (Kaldor, 2001). The land-grabbing literature attributes land accumulation to the expansion of capital (Borras, Franco, & Wang, 2013; Cotula, 2013; Grajales, 2013), or draws on the concept of primitive accumulation (Gómez, Sánchez-Ayala, & Vargas, 2015). Indeed, some authors have highlighted the fact that coercive accumulations of land take place in the midst of civil wars (see, e.g., Wood, 2000).

All this, according to Oya (2013), implies that these forms of accumulation are strongly mediated by national institutions. Furthermore, it is the study of these institutional configurations that can show who are the winners and who

²By settlers, we mean small tenants who occupied tracts of land in the process of expansion of the agrarian frontier in Colombia and other Latin American countries.

³By peasants, or *campesinos*, we understand the individual holders of land rights who, collectively, claim an identity based on a bond with land and territory.

TABLE 1 The reviewed rulings

Universe of rulings	Dispossession rulings	Discarded rulings	Analysed rulings
783	97	14	83

are the losers in the processes of accumulation. The opportunities opened up using coercion do not affect different classes and social sectors uniformly, as the acts committed by armed groups can favour private parties who were not directly involved in the given victimization, but who took advantage of the context of violence as well as of their connection with civil servants and politicians to accumulate land (Reyes Posada, 2014; see also Vargas & Uribe, this volume).

The relevant Colombian literature has shown that the assignment of property rights over land is highly exclusionary (see, e.g., LeGrand, 1984, 1986; Peña-Huertas, Parada Hernández, & Zuleta Ríos, 2014; Reyes Posada, 2009). We show through our cases that: in effect, they are exclusionary, in more senses than is identified by the literature; and that, after the onset of armed conflict, they generate incentives and mechanisms that favour massive violent accumulation of land. We do so by highlighting some of the institutional mechanisms that promote coercive accumulation.

3 | LEGAL DISPOSSESSION IN COLOMBIA THROUGH LAND RESTITUTION RULINGS (LAW 1448 OF 2011)

We define legal dispossession as the planned and coercive transfer of land⁴ from one agent to another (Gutiérrez-Sanín, 2014, p. 45) through the legal institutions that regulate and assign property rights. To understand how legal dispossession operated in the framework of the armed conflict, we used as reference the Victims and Land Restitution Law (Law 1448 of 2011), and the rulings issued by the judges who specialize in land restitution. The analysis was performed on all restitution rulings issued up to October 2015 and published on official websites, selecting those that addressed cases of dispossession.

The total universe of 783 rulings was divided into two groups: The first were those in which the judges addressed situations of forced abandonment of properties as a consequence of the armed conflict, and the second were those in which the judges decided on situations of dispossession as defined by law.⁵ In this second category, we found 97 rulings, but 14 of them were excluded from our sample for the following reasons: (i) they only involved material dispossession—that is, the claimant was prevented from using the property, but this had no legal effects on property rights; and (ii) there was a claim that a dispossession event had occurred, but the judge ruled against it. Thus, the analysis for this paper was performed on 83 rulings, as shown in Table 1.

Based on the analysis of the assumptions included in the law and on the agents involved in the case, we create here a simple juridical typology of the events contained in our 83 rulings (Table 2 and 3). The first category is “dispossession by means of legal transactions”, which involves only private agents. The second is “administrative dispossession”, which involves government agencies.

Dispossession orchestrated through legal transaction is defined as a kind of dispossession in which private agents make use of the legal institutions that regulate voluntary agreements or transactions. In this specific case, a voluntary agreement is defined as a transaction involving land that fulfils requirements established by Colombian law: the acts must be performed by means of a public deed issued by a notary, and the deed must be registered in the official

⁴We restrict our analysis to land dispossession, and exclude other types of resources, for three main reasons. First, as Gutiérrez points out, land is an asset with particular characteristics that assign it military purposes “and a focal point for illegal agents’ investment” (Gutiérrez Sanín, 2014, p. 70). Second, land dispossession distorts the discussion with the land-grabbing literature, where other natural resources (e.g. water) also play a key role in the accumulation-by-dispossession analysis. Third, our empirical analysed evidence—restitution rulings—only accounts for land dispossession, and not other assets or goods.

⁵Article 74.

registries of property ownership. Additionally, the legal transactions require that the parties have the full capacity to enter them, that the transaction and the reasons behind it do not involve illegal matters, and that the decision is free from any coercion.

Dispossession through legal transaction has thus two subcategories. The first one, “dispossession by means of vitiated consent”, refers to transactions in which one of the parties has less negotiating capacity than the other and must accept the terms imposed. The second subcategory, “dispossession by means of *laesio enormis*” (enormous wrongdoing) refers to purchase–sale deals in which there is a substantial disproportion between the price agreed by the parties and the “fair price” (Ruling C-491 of 2000). The difference between these is that the first affects the seller’s consent and the second affects not only the consent, but also the fair price of the land.

We call the second major type of dispossession “administrative dispossession”. This refers to the participation of government authorities (particularly those that assign property rights) in dispossessions, acting as vehicles for coercive land transfers.

3.1 | The dynamics of legal dispossession—Dispossession through legal transaction

3.1.1 | Dispossession by means of vitiated consent

In areas where paramilitary groups operated, the urge to give an appearance of legality to dispossession is evident. The rulings from Córdoba recognize that: “[...] real dispossession did take place over the indicated properties, because they all declared that they had been coerced to leave their properties. Some were ‘relocated’ while others were simply paid some money for their lands. However, none of them indicated that they had any desire of selling their land, which in all evidence represents absence of consent in the legal transactions that were made” (Juzgado Segundo de Montería, ruling of December 18, 2014a). Generalized feelings of fear, and widespread rumours and pressure by armed actors, forced people to sell their properties. Municipalities such as Valencia and Montería, in the Córdoba department, where the Castaño brothers—paramilitary leaders—were the bosses, illustrate this dynamic (Juzgado Segundo de Montería, ruling of December 18, 2014b). The Castaños also created a non-profit organization called Funpazcor, through which they redistributed part of the dispossessed land at their will (pursuing both political and economic objectives).

This type of dispossession required the participation of numerous allies (see Garay, 2010), both legal and illegal, including frontmen, notaries, and local authorities. To carry it out, the armed actor used frontmen who let the victim know that the “boss” had his sights on his property, and recommended him to sell: “After the murder of her companion, she decided to leave her property; there was an offer from Funpazcor to acquire the property through a man called Pedro Coronel, who proposed a deal in which she had no choice but to sell” (Juzgado Segundo de Montería, ruling of April 9, 2014). Another ruling indicates that the paramilitary “Monoleche”⁶ arrived at the property and offered 1 million pesos per hectare. The victim thus got 7 million pesos; he was never threatened but he did feel coerced to sell because at the time his neighbours had already sold and the paramilitaries were in the area (Juzgado Segundo de Montería, ruling of December 18, 2014b).

In the last step of the transaction, the frontmen formalized the transaction at a notary and registered the title at the public documents office. Usually, ownership was registered with companies involved in the cattle ranching or oil palm sectors (see Vargas Reina & García Reyes, 2014). In this way, a paralegal network to legalize the transactions of the perpetrators was structured.

Other cases show that the dispossession was implemented by third parties who, in principle, were not involved in violence. These cases, which can be seen as opportunistic purchases, are common in the Mid-Magdalena River region, where those opposed to restitution argue that they bought the land legitimately (rulings in Sabana de Torres—Tribunal

⁶Jesús Ignacio Roldán, aka “Monoleche”, was a paramilitary leader who demobilized from the Ejército de Popular de Liberación (EPL) and eventually joined the paramilitary. He was at first close to Carlos Castaño and later became the chief of security and right-hand man of Vicente Castaño. He was a privileged witness of the fratricidal war between the Castaño Gil brothers.

TABLE 2 Types of legal dispossession

Dispossession through legal transaction ^a		Administrative dispossession
<ul style="list-style-type: none"> • transactions made by private parties • the affected party can request a judge to rescind the transaction • there are two types of legal dispossession: Vitiated consent and <i>laesio enormis</i> 		<ul style="list-style-type: none"> • state agents assign the property rights • dispossession takes place in favour of third parties who are not eligible as titling beneficiaries • state agencies do not fulfil their duty to oversee and authorize transactions on lands that are subject to restrictions
Vitiated consent	<i>Laesio enormis</i>	
<ul style="list-style-type: none"> • existence of factors that undermine free consent, such as force, insurmountable fear, or coercion • the fear is exerted on the seller 	<ul style="list-style-type: none"> • disproportion between the price paid for the land and the fair price 	

^aLegal transactions are voluntary agreements made by private agents. For a transaction to be legal, there must be a fulfilment of legal requirements (a public deed before a notary and registration with the official state registry).

TABLE 3 The number of rulings by type of legal dispossession

Dispossession through legal transactions		Administrative dispossession
Vitiated consent	<i>Laesio enormis</i>	
59	12	12

de Cúcuta, rulings of July 9, 2014 and February 25, 2015; and San Alberto—Tribunal de Cartagena, ruling of February 1, 2013).

Rulings of this kind raise questions about the interest of buyers in acquiring land located in areas highly affected by violence, along with the irregularities in prices: in a ruling dated October 22, 2014, in the municipality of Tibú, the person responsible for the dispossession sold the land for nearly 10 times the purchase price just 2 years after buying it from the victim (Tribunal de Cúcuta, ruling of October 22, 2014). In places like Tibú, there were few protective measures in place to prevent the properties from being stolen, or to limit suspicious transactions (Uribe Kaffure, 2014).⁷ Sometimes, the lack of preventive measures was a result of the takeover of the relevant agency by paramilitaries of their supporting networks.⁸

3.1.2 | Dispossession through *laesio enormis*

As indicated in Table 2, *laesio enormis* refers to the conditions of purchase of the property established in the civil code and Law 1448 of 2011.⁹ In ordinary legislation, the institution of *laesio enormis* is called upon to declare the lack of free will in the presence of an abuse leading to the unreasonable enrichment of one of the parties and the unjustified impoverishment of the other (Corte Constitucional, Ruling C-236, 2014). To this end, Colombian law uses the concept of fair price, which customarily is established based on a commercial appraisal.

However, the context of violence introduces additional factors, such as fear and pressure by armed groups, that the judge can take into account to identify *laesio enormis*. The combination of these two factors facilitates the transfer

⁷These protective measures are regulated by Law 387 of 1997, through which a record is made in official registries protecting the lands that are at risk of being stolen. To lift this restriction, the authorization of a special municipal or departmental committee is required.

⁸This paper addresses the use of institutional mechanisms to carry out land dispossession. This does not deny the possibility that these mechanisms can help to consolidate land-grabbing projects.

⁹Law 1448 of 2011 establishes that in situations where the amount paid for the negotiated properties is less than 50% of the price formally declared in the purchase–sale agreement, it shall be presumed that there is absence of consent (article 77, section 2, paragraph d).

of property rights at ridiculously low prices.¹⁰ According to Uribe Kaffure (2014, p. 271), the role of the state in this kind of process of land concentration appears in two different guises: (i) disregard or little activism by its agencies and institutions, faced with the phenomenon of the mass sale of lands that have been taken by third parties, or abandoned by their owners and tenants; and (ii) incentives to agricultural projects that overrode the property rights of dispossessed peasants. To implement dispossession, state agencies and third parties used debt as a factor for the negotiation to put pressure on previous landowners and circumvent legal limits on land tenure.¹¹

In a ruling of May 8, 2013, the judge of Cúcuta established the existence of *laesio enormis* in considering that the price paid in 2007 (\$72 million) was below the true price of the property at the time of the sale (\$203.5 million). The latter amount was established based on an appraisal submitted by IGAC,¹² even though the property tax for 2012 established a cadastre appraisal of \$36.3 million; adding the legal increase resulted in \$54 million as the final price (Juzgado Primero de Cúcuta, ruling of May 8, 2013).

Another case is that reported in a ruling dated March 14, 2013, in which the Cartagena Tribunal established the price of the property as of the date on which the dispossession took place “[...] based on the application of factors such as the Consumer Price Index (CPI), assuming normal market conditions over time [...]” (Juzgado Primero de Cúcuta, ruling of May 8, 2013; emphasis added). This ruling reflects the complexities of establishing *laesio enormis* in that, on the one hand, the country does not have an authority that regulates the land market and that would provide any certainty on prices at a given point in time; and, on the other, in the context of armed conflict it is almost impossible to assume that the market is operating in normal conditions (Uribe Kaffure, 2014).

These cases show the precarious nature of cadastral information, which prevents having any institutional reference point regarding land prices: appraisals can be twisted, especially when powerful actors can capture state agencies. An example of this is that Decree 4829 of 2011 (see Presidencia de la República, 2011), which regulates Law 1448 and defines the entities that are qualified to perform appraisals (IGAC, independent cadastres of Bogotá, Cali, Medellín, and Antioquia, and approved real estate guilds) when, in situations of relative peace, civil law allows an appraiser to be assigned from the official list of justice assistants. In the context of war, it is more likely that the personnel and the whole process will be captured by armed actors and/or big landowners.

Consequently, access to institutions such as *laesio enormis* is limited to those who maintain privileges. No attempt was found in any of the proceedings to rescind the contract before a competent authority: the victims and the vulnerable population do not have the means to process claims through institutional channels. Violence introduces anomalies and unpredictability in the land market (Tribunal de Cúcuta, ruling of January 28, 2015). This context was therefore taken advantage of not only by the armed actors, as in the case of the dispossession that occurred in the north of the country, but also by third parties with no obvious connection with the victimization events but in a position to profit from their having taken place.

3.2 | The dynamics of legal dispossession—Administrative dispossession

The Colombian Agrarian Reform Institute (INCORA, in Spanish), which operated until 2002 and was later replaced by the Colombian Institute for Rural Development (INCODER, in Spanish), is the institution responsible for managing government-owned lands. Its task focuses on two distinct areas: the administration of vacant plots owned by the

¹⁰An example of how this type of dispossession operated is included in the study by Uribe Kaffure (2014) on the Catatumbo region and in the study by the Misión para la Transformación del Campo (2014).

¹¹This type of dispossession features a high degree of opportunism by the beneficiaries of the dispossession, because they not only took advantage of the financial situation of the peasants, but also of the drop in land prices due to the armed conflict. In the case of the Catatumbo region, no direct link has been found between the armed actors and opportunistic buyers, and there is no record of any active participation of civil servants in legalizing dispossession.

¹²The Instituto Colombiano Agustín Codazzi (IGAC) is the entity responsible for national cartography, for maintaining the national cadastre, and for collecting all of the geographical information about the territory.

government, which is regulated by Law 160 of 1994; and management of private properties (which we shall call INCORA properties) acquired with the objective of redistributing them, within the tenancy regime defined in Law 135 of 1961.

Administrative dispossession was instrumented through two specific responsibilities regarding the property rights assigned over government lands. The first is the issuing of property titles over vacant lands or lands acquired for redistribution purposes. The results of the rulings indicate the presence and initial economic use by peasants in these lands. Even though such economic use performed over a certain amount of time would entitle the peasant to request from INCORA (or its successor agency, INCODER) the ownership title over the land, the procedures were slow. The rulings show that the outcome of awarding property titles never occurred. Instead, while they were in the process of requesting the awards, the peasants were subjected to threats that forced them to abandon their lands. This is the case for the property "Paquemás", which was acquired by INCORA to be awarded to several peasants. Even though some peasants managed to complete the process and received a land award, the current claimants were not able to receive property titles. Instead, in 1997, paramilitary groups forced the peasants to leave and they were unable to complete the process.

The expulsion of the peasants and the interruption of the award process were linked in other cases to biases in procedures, leading to property title awards to persons who were not eligible, but who were well connected with the employees of INCORA/INCODER. This is the case for the property "Pertencia", in which the tribunal cast doubt on how the person had managed to certify the required time of use, when only 2 months earlier the peasant claimant had been driven off the same property by violence (Tribunal de Cartagena, ruling of February 1, 2013).¹³

Regarding the second responsibility of regulation of vacant lands, INCORA/INCODER may rescind the property titles it has granted in the event of breach of the obligations on property usage. In these cases, once again, the economic use of the properties was interrupted when the lands were abandoned as a result of the violence. This circumstance of non-usage of the land legally enabled INCORA/INCODER to rescind the property titles it had granted, and eventually to award them to other persons. Once again, the "Pertencia" property provides a good example. The violence forced the peasant who worked on one of the "Pertencia" plots to abandon the property, and shortly afterwards the peasant's property titles were cancelled. Based on the cancellation, 2 months later INCORA awarded the property to a different person. The Restitution Tribunal cast doubt on the legality of these titles, among other things because 2 months was insufficient to fulfil the time requirements on usage of the property that, according to Colombian law, would enable it to be awarded (Tribunal de Cartagena, ruling of February 1, 2013).

Both responsibilities involved in the mechanics of administrative dispossession show that persons with an interest in gaining access to titles over vacant or INCORA properties had incentives to engage in violence to push forward the assignment (or rescinding) of property rights over land. In effect, administrative dispossession implies that the transfer of property is promoted by the administrative authorities. This situation has been documented in the department of Magdalena, where INCORA carried out processes for the recovery of vacant plots in order to later assign the land to third parties. To carry out this dispossession, the administrative acts that rescinded the rights over previously vacant plots to a peasant family were often based on falsehoods, and the subsequent award process favoured frontmen for the paramilitaries who operated in the area (Gutiérrez-Sanín & Vargas Reyna, 2016).

4 | THE OPERATION OF THE MECHANISMS DURING WAR

In this section, we compare the mechanisms of dispossession of land as they have been described in the literature (particularly in LeGrand, 1986) with those described in the previous section (see Table 4). First, we highlight the fact that the dispossession that took place outside this cycle of conflict in Colombia was concentrated in settlement areas and the agricultural frontier (a phenomenon that is definitely not exclusively Colombian; see, e.g., Foweraker, 1981),

¹³In this case, the state only demanded 2 months to access to a formal property title, in contrast to the legality required five years.

TABLE 4 Legal displacement before and during war

Mechanisms of legal displacement prior to the conflict	Mechanisms of legal displacement during the conflict
<ul style="list-style-type: none"> ●obtaining concessions of public lands inhabited by settlers ●enclosure and claims alleging as fact that public lands are private property ●alteration of boundaries and surveying activities 	<ul style="list-style-type: none"> ●the threat of coercion in private transactions ●disproportion between the price paid and the fair price in private transactions due to fear or for protection (huge injury) ●obtaining public land titles of persons expelled by violence (administrative dispossession)

usually associated with physical actions (shifting of fences, destruction of crops with livestock), taking advantage of endemic problems of measurement and allocation of property rights by the state.

During the conflict, new mechanisms of land dispossession emerged. Within these new means of dispossession, private transactions predominated, as shown in the statistics for each type of dispossession identified in the land restitution process. The possibility of using private transactions to take away ownership from others meant that dispossession was not restricted to the agricultural frontier areas, but was established in areas of the country with formal land titles and much greater institutional density.

Such behaviour partly explains the significant increase of dispossession in times of armed conflict. Greater appeal to political connections and better information resources than those available to the land predators of the period from 1870 to 1940 meant that the predators of the period from 1980 to 2000 were able to scale up coercion, triggering waves of displacement (Peña-Huertas et al., 2014; Peña-Huertas, Zuleta, & Loaiza, 2014). As noted in the previous section, the institutions used during the armed conflict allowed the development of different means of dispossession (Table 4), based on three major factors. First, there was the construction of large anti-subversive coalitions, supported in many cases by national agencies. These bureaucracies, both armed and civilian, supported the plunder through the creation of coalitions to promote the counter-insurgency efforts, which supported powerful regional agents as “secure interlocutors” in their respective regions. Second, the war opened up windows of opportunity for economic actors who had to legalize their properties to make them productive. They had not only incentives, but also opportunities to capture state agencies and processes that allowed them to dispossess. Third, the war lowered the costs of dispossession, because given the atmosphere of terror and instability prevailing in many regions, farmers were willing to sell well below market prices (Gutiérrez-Sanín & Vargas Reyna, 2016). All in all, we find a convergence between mechanisms of coercion, legal processes, and the market.

An underlying theme is that markets, and the land market in particular, are not “natural phenomena”, but are the result of specific institutional arrangements (Polanyi, 1997), which can be shaped by the very dynamics of conflict. A nice illustration of this was seen above. Some of the legal definitions of *despojo* are supported by the idea that there are market transactions that are illegally low, and that market operations below “fair prices” can be adequately identified, but the weakness of the Colombian cadastre and the informality of property rights over land make this notion extremely difficult to operationalize.

5 | CONCLUSIONS

We started by asking why *despojo* had been so pervasive in the Colombian war, and how it had changed and evolved over time. Throughout this paper, we have shown that the mechanisms of dispossession were transformed during armed conflict.

We showed that peasants' land rights were weakened during the war. Despite their limitations, the restitution rulings enable a first institutional understanding of the mechanisms of *despojo* and the way in which they were broadened and escalated during war. First, the regulatory institutions operated in a context where access to the information required to enter into legal transactions was difficult to come by; the land markets were deeply distorted

and open to coercive manipulation, and the situation of generalized violence prevented citizens from having access to institutions to demand their rights, forcing peasants to yield to pressure to sell their properties on unfavourable terms.

Second, access to private property was not impersonal/universal, but depended on political contacts and connections with agents who could process and legalize key entitlements, as seen in the case of administrative dispossession. Third, the capture of institutions by armed actors is a key factor in order to orchestrate dispossession through legal transactions. In these cases, not only does the environment of generalized violence induce victims to sell their lands but, also, the sales are made with the consent and complicity of the authorities that process and legalize such transactions. Furthermore, paramilitary groups were able to promote broad networks of dispossession firmly grounded in the legal system under the umbrella of anti-insurgent alliances.

Lastly, even though it was demonstrated that during the period of war dispossession levels skyrocketed, the cases of legal dispossession studied in this paper only account for slightly more than 10% of the rulings issued during the period of the study. Other forms of dispossession have to be drawn into the analysis. For example, in the case of administrative dispossession, which we have considered here, capturing institutions was not always necessary in order to orchestrate dispossession. In certain cases, the high cost for the state of maintaining a strong regulatory capacity over property (Fitzpatrick, 2006) provided the opportunity that allowed people to take advantage of the context of violence. Consequently, the structure of the regulatory institutions¹⁴ played a key role in legal dispossession, as indicated throughout our paper.

In the case of dispossession through vitiated consent, we see how the complexity of this figure is greater taking into account the unequal access to the entities that control landownership (Peña-Huertas et al., 2014; Vargas Reina & García Reyes, 2014). In this form of dispossession, we find the following sequence: actions of coercion were performed, and then ownership was transferred using captured institutions. Here, notaries and registry offices played a particularly prominent role.

All in all, this paper shows the important role played by regulatory institutions in land dispossession within the framework of the armed conflict in Colombia. By showing how the link between dispossession and institutional arrays changed in the shift to war, we push forward the research agenda that has highlighted that massive land property transferences, coercive or not, do not and cannot take place in an institutional vacuum (Edelman, Oya, & Borrás, 2013).

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¹⁴The structure of the regulatory institutions is discussed in Peña-Huertas, Parada Hernández & Zuleta Ríos (2014).

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