

Peasants, Protests and Litigation: Struggles over land and institutions in Colombia

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Abstract

The past decade has observed a resurgence of peasant politics in Colombia. After the most intense period of armed conflict-related violence against the rural population (1985 – 2006), and amid the enforcement of the land restitution policy and the peace negotiation between the Colombian Government and the former FARC-EP guerrilla movement, the country observed a revival of social mobilization from the countryside. While the motives of this new cycle of peasant mobilization varied at different levels – from local to national –, peasants protested against current forms of land dispossession, labelled by agrarian studies literature as the global land and resource rush. One of the most salient characteristics of this wave of peasant politics was the articulation of institutional right-claiming mechanisms with other repertoires of contestation.

Peasants used popular consultations, legal proceedings and human rights protection actions to contest and confront the land and resource rush impacts in what they considered their territories. Their claims for land, territory, autonomy and human dignity were framed through a radical interpretation of the 1991 Constitutional framework, which includes the human rights instruments that the Colombian state has progressively institutionalized. New institutions, such as the human right to land and territory and the rights of the peasantry, emerged from the ranks of the peasant mobilization and were progressively incorporated within institutional frameworks. Legal mobilization, particularly human rights-claiming mechanisms, played a substantial role in this process. During the last decade, peasant movements, supported by human rights defenders and other social actors, achieved important victories within the legal field, many of them in the form of judiciary precedents. Nevertheless, the institutional outcomes of the recent wave of peasant politics, portrayed through progressive dents into the agrarian institutions, need to be considered historically.

This research examines the historical trajectories and the current implications of one of the most salient institutional change processes conducted by peasant movements in Colombia, namely the transformation of the rules for the allocation of property rights over public lands. The central research question is how and to what extent peasant agency impacts agrarian institutions and what are its implications on disputes over land and resource grabbing in the 21st century? The study demonstrates that the outcomes of the recent legal debates about the rules for allocation of property rights over public lands hinge upon the historical trajectories of peasant mobilization in Colombia, particularly as observed through the interaction between social and state actors.

Recent institutionalized responses to peasants' land claims, such as the state recognition of the human right to land and territory, can only be understood by considering such historical trajectories and how the material circumstances of agriculture production conditioned the different cycles of peasant politics. This research also considers how different cycles of peasant politics made progressive dents in agrarian institutions, making them more

favourable to the interests of peasants. Amid such processes, the rules for allocating property rights over public lands passed from considering these areas as vacant or wastelands to considering them as areas for the exclusive allocation of property rights to landless and nearly landless peasants.

This study contributes to understanding the historical roots of the current cycle of peasant politics by pointing out its interrelations in terms of the historical trajectories of institutional change. Moreover, it also considers several cases in which peasant organizations contested the advancement of the global land and resource rush by using institutional mechanisms. Besides being enshrined by a contemporary human rights narrative, they profoundly rely upon the outcomes of cycles of peasant mobilization in the past.

The study is situated in the intersection of two academic frameworks, on the one hand, agrarian political economy, and on the other critical legal theories. This research speaks to critical legal scholarship because it situates the making of new rights and peasants' legal mobilization within a broader agrarian political economy framework in at least two ways. First, it engages with debates on the peasants' agency and intends to grasp the relevance of such debates in analysing peasants' current legal mobilization. Second, it considers the changes brought by the development of capitalist agriculture and the current global land and resource rush as factors that condition the use of institutionalized forms of resistance by affected actors. In turn, this research speaks to agrarian political economy scholarship by highlighting the relevance of institutions and law as a terrain for contestation and an expression of the tension between social structures and agency, rather than considering them as mere extensions of dominant classes' power in each society.

This study intertwines the national scale with a subregional landscape. The national scale considers the interrelation between agrarian social structures, peasant agency and institutional change in Colombia. First, it locates the links between the social structures and the making of the institutions. Secondly, it considers how peasant movements and their historical cycles of mobilization have transformed agrarian institutions, particularly in terms of the rules for allocating property rights over public lands. Here two entangled processes are highlighted: the making of the agrarian reform beneficiary and the redefinition of the notion of public lands. The national scale is complemented by analysing several emblematic cases of legal mobilization and land grabbing in Colombia between 2010 and 2018.

At the subregional level, this study focuses on the Lower Sinú region, located in the northern department of Córdoba. At this level, the research highlights how the current regional landscape is constructed upon the relations of exploitation and expropriation derived from extensive cattle-ranching and natural resource extraction. The subregional landscape analysis also comprises the historical waves and cycles of peasant mobilization, including the legal mobilization process of the Lower Sinú peasants, a case that reached the Constitutional Court with a landmark ruling in 1999.

By articulating different scales of analysis in the light of a historical perspective, the study demonstrates that the transformations of the agrarian institutional framework agented by peasant movements in Colombia are the result of the cumulative-articulated outcomes of their past and present struggles over land access and control. While their abilities to impact agrarian institutions and their motives have been informed by the material conditions imposed by the social relations of production, the traces their struggles leave are visible in the institutional framework and boost current waves of peasant politics framed within a human

rights view. Furthermore, the conclusions of this research appeal to the broader debate on agrarian reform policies and property rights. Currently, governments and international financial institutions have focused on formalization policies as the ultimate answer to addressing conflicts over lands, even in a context such as Colombia which is marked by high land tenure inequality. This research also demonstrates the limits of land formalization politics, mainly when, through its enforcement, questions of power, redistribution and recognition are not sufficiently addressed by land policies. However, this ultimate finding by no means diminishes the relevance of law and institutionalized forms in this tension.