# Agrarian Counter-Reforms:
## Anatomy of a Dispossession in Progress

*By* **Carlos Duarte**

Pontificia Universidad JAVERIANA Cali
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Instituto de Estudios Interculturales
Especialización en Jurisdicción Agraria y Derecho de Tierras
OBSERVATORIO DE TIERRAS

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### The paradox of concentrating what is already concentrated

There is a global finding that unsettles contemporary agrarian policy: a generalized legal retrogression can be traced moving in step with a historic concentration of land. The most recent figure comes from the joint report of the FAO, the International Land Coalition, and CIRAD, which reconstructed the full distribution of land across countries and arrived at a global land Gini coefficient of 0.95 for 2020[1]. The figure reaches a severity that earlier measurements had failed to reveal, and it forces a revision of what we thought we knew about the scale of the problem.

That number is worth placing in historical perspective. For years we worked with estimates that put the global tenure Gini at around 0.60. The study by Anseeuw and Baldinelli showed that this coefficient, far from falling, had risen again, moving from 0.60 in 1982 to 0.62 in 2017 and thereby reversing the downward trend of the postwar decades[2]. Bauluz, Govind, and Novokmet, for their part, reported a Gini of 0.63 for 2015 and introduced a far-reaching methodological innovation by bringing the landless rural population into the universe of analysis, which raised measured inequality by an average of 41 percent[3]. That gap deserves a careful reading, because no concentration

1 FAO, ILC & CIRAD (2025), *The Status of Land Tenure and Governance*, ch. 6, Box 6.2. The report estimates a global land Gini coefficient of 0.95 for 2020 on the basis of the Global Database of Land Distribution and Inequality (LINEQ), an FAO compilation drawing on Cabrera-Cevallos, C. E., De la O Campos, A. P., O'Neill, M., Di Simone, L. & Fahad, M. (forthcoming), reconstructing the full distribution across countries through generalized Pareto interpolation. It must be stressed that this is a composite Gini: it does not measure only the inequality of tenure within each country, but combines that dimension with the inequality between countries. It therefore does not replace the traditional measurements but complements them by incorporating a layer previously excluded. When the same dataset is processed with the traditional method of the unweighted average of national coefficients, the result falls to 0.67. On the methodological grounding of this expanded approach, which integrates rights over land, soil quality, and the landless population, see Cabrera-Cevallos, C. E., Admasu, Y., De la O Campos, A. P., De Simone, L., Pierri, F. M. & Moncada, L. (2025), "Measuring agricultural land inequality: conceptual and methodological issues".

2 Anseeuw, W. & Baldinelli, G. M. (2020), *Land Inequality at the Heart of Unequal Societies*. International Land Coalition and Oxfam, p. 36. Documents that the global tenure Gini coefficient, measured by operated area, moved from 0.60 in 1982 to 0.62 in 2017, reversing the postwar downward trend.

3 Bauluz, L., Govind, Y. & Novokmet, F. (2020), *Global Land Inequality*. International Land Coalition. It reported a Gini of 0.63 for 2015 calculated as the unweighted average of national coefficients. The reach of the source bears noting: the study does not rest on universal census coverage but on a sample of eleven countries (India, Bangladesh, Pakistan, China, Vietnam, Ecuador, Guatemala, Ethiopia, Malawi, Niger, and Tanzania), so the global comparisons drawn from it are extrapolations. The 41 percent increase produced by adding the landless rural population to the universe of analysis likewise corresponds to the unweighted average of that

quadrupled in five years between that 0.63 and today's 0.95. The difference rests on two factors of very different kinds. The first is that traditional methodologies, built on the unweighted average of national coefficients, had been understating real concentration by treating each country as an isolated unit. The second, and perhaps the more decisive, is that the reconstructed coefficient incorporates a dimension that was absent before: inequality between countries, the vast gulf that separates the smallholder in Bangladesh from the Argentine latifundista. The 0.95 is, strictly speaking, a composite Gini that combines inequality within each country with the inequality that exists among them. It does not replace the classical measurements; it complements them by bringing to the surface a layer of the problem that the country-by-country view left in shadow.

Despite the renewed consensus reached at ICARRD+20 this past February, where 28 States signed a roadmap for redistribution and the protection of family farming, the reality on the ground reveals a deep political contradiction. While international forums reaffirm the urgency of democratizing access to land, at the domestic level, across almost every region in the global analysis, an architecture of retrogression, of agrarian counter-reform, is taking hold. Under a range of ideological banners, some governments open legal channels to deepen concentration, while others dismantle, through administrative discretion, the safeguards that protect peasant, customary, and community tenure. The paradox shows that today's global consensus coexists with a national legal practice that moves, deliberately, in the opposite direction.

Two recent episodes capture that paradox with particular clarity.

In Bolivia, Law No. 1720 on the *Conversion of Small Property into Medium Property*, enacted on 10 April 2026[4], authorized the National Institute of Agrarian Reform to reclassify the legal status of titled smallholdings through a voluntary procedure lasting ten business days. The legislative technique is alarming in its sophistication, because, on its face, it leaves untouched the constitutional protections against the latifundio and does not alter the ceilings on small property. It merely opens a door. That door, however, strips the converted holding of its historic protection from attachment, the family-homestead status protected since 1953, subjects it to mortgage and to deferred verification of the Economic and Social Function, and leaves it ready, in practice, for market mobilization. The social response was as immediate as it was forceful. An Indigenous and peasant march

sample and not to a weighted global calculation.

4 Plurinational State of Bolivia, Law No. 1720 of 10 April 2026, *Ley de Conversión de la Pequeña Propiedad a Mediana Propiedad*. It empowers the National Institute of Agrarian Reform (INRA) to process, on the holder's voluntary application and within ten business days, the legal reclassification of the holding. The conversion modifies the status of the holding on three fronts: it lifts the protection from attachment proper to the peasant family homestead enshrined since Decree-Law No. 03464 of 1953, replaces the regime of immediate verification of the Economic and Social Function with deferred verification, and authorizes the creation of mortgage liens. On the social response, see the Eighth Indigenous Native Peasant March (March to April 2026) and the statements of the Sole Trade Union Confederation of Peasant Workers of Bolivia (CSUTCB) and the National Confederation of Indigenous Native Peasant Women of Bolivia 'Bartolina Sisa' (CNMCIOB-BS).

that covered, over nearly a month, the roughly one hundred kilometers separating Pando and Beni from La Paz forced the outcome: on 13 May 2026 the Plurinational Legislative Assembly enacted the full repeal of the law, which President Rodrigo Paz promulgated that same day through Law No. 1731. The new law did not stop at repeal; it set a sixty-day term to negotiate a different legal framework, this time with the participation of rural sectors, and reaffirmed the protection of the Native Indigenous Peasant Territories and the reserve areas. The episode confirms an intuition that agrarian law knows well: legal retrogression is not dismantled by the force of technical argument, but by the political pressure of those who hold the right.

In Argentina, likewise, the architecture of dispossession has moved from administrative excess to legislative consolidation. The process began with Decree of Necessity and Urgency No. 70/2023, whose article 154 summarily repealed Law No. 26.737, removing the ceilings on foreign ownership and the protection of bodies of water. Although the Federal Chamber of La Plata declared it unconstitutional in March 2024, holding that three lines of justification cannot settle the protection of territorial sovereignty, the case remains under review by the Supreme Court in 2026. This judicial paralysis has allowed the market to position itself in the face of the territory's vulnerability, and it set the stage for the Senate committees on Constitutional Affairs and General Legislation to issue, on 20 and 21 May 2026, a majority opinion on the bill on the "*Ley de Inviolabilidad de la Propiedad Privada*" (Inviolability of Private Property Act). Its scope, however, calls for precision, because the bill is not an agrarian statute in the strict sense, but a broad package that simultaneously reforms four legal frameworks: the rural land regime, the expropriation law, the fire management law, and the law on informal settlements. Far from a merely interpretive connection, the opinion includes an explicit agrarian chapter: its article 25 amends Law No. 26.737 and introduces, alongside the formal prohibition on sales to foreign States, a discretionary exception that authorizes them through political channels; to this it adds an expedited eviction procedure for rural holdings by amending the Code of Civil and Commercial Procedure. The new legislative step thus seeks to shield, through formal law, the concentration agenda that the decree opened, deactivating the institutional checks, the "veto points," that had until now slowed the process. Argentina thereby appears to be advancing toward a legal structure that prioritizes land as a mere liquid financial asset over peasant territorial rights.

The central question of this study does not lie in the economic motives behind these reforms, but in their deliberate implementation within agrarian systems that already show extreme indicators of concentration. The hypothesis running through this work holds that the present retrogression is not a legislative accident, but a transnational legal architecture that operates as the principal obstacle to the international commitments the States themselves have signed. To demonstrate this, the analysis is organized in four dimensions: (i) it breaks down the global logics of contemporary dispossession, from legal engineering and financialization to green grabbing and the role of the State as corporate

promoter; (ii) it examines Latin America as the foremost laboratory of these counter-reforms through seven techniques of legalized dispossession; (iii) it assesses the nullity of these measures against the principle of non-retrogression and the conventionality control derived from UNDROP; and (iv) it closes with the fundamental political dispute between land as the material basis of life projects and its definitive consolidation as a mere liquid financial asset.

# 1.

# GLOBAL OVERVIEW: FOUR LOGICS OF CONTEMPORARY DISPOSSESSION

Retrogressive dynamics can be grouped by region, as we did earlier at the Institute of Intercultural Studies in our work on 184 countries drawing on the censuses consolidated in FAOSTAT[5]. A finer comparative examination, however, suggests that the real coherence of the phenomenon lies not in its geography but in its legal and political techniques. Four structural patterns cut across continents, political regimes, and legal traditions. Each operates with a different grammar, yet the material result turns out to be the same: accelerated concentration, displacement of vulnerable subjects, and a break in peasant generational succession. This first section analyzes them separately, not because they are watertight compartments, since many countries combine several elements, but because each one illuminates a facet of the problem that the regional division tends to blur.

## a) The legal engineering of dispossession: dismantling safeguards by redefining the public interest

The first pattern operates inside the legal system itself. It does not disregard the guarantees or deny them outright. It rewrites them, stretches their key concepts, or folds them into legislative bodies so broad that the specific protections lose visibility. The technique is sophisticated because it presents itself as administrative and bureaucratic modernization. Its effect, however, is to hollow out the historic safeguards by widening

5 Duarte, C., Salgado, C. A. & Diaz, L. (2025), *Global Land Structure by Analytical Regions: Concentration and Fragmentation*. Institute of Intercultural Studies (IEI), Pontificia Universidad Javeriana Cali. The analytical regionalization into seven large areas is an original proposal of the IEI; the underlying data come from the agricultural censuses consolidated in FAOSTAT (WCAD module), but the regional classification and the qualitative criteria that sustain it belong not to the FAO but to the authors' own elaboration. See https://www.observatoriodetierras.org/wp-content/uploads/2026/03/estuctura-global-espenol1.pdf

the "public interest" as an operative category.

Indonesia shows the omnibus version. The *Undang-Undang Cipta Kerja*, the 2020 job creation law, merged dozens of sectoral regimes (environmental, labor, forestry, and agrarian) into a single body of law geared toward attracting investment[6]. The effect on territorial rights was documented by Amnesty International: the weakening of free, prior and informed consent, the expansion of palm plantations onto customary lands, and the normalization of administrative coercion. What had been a scattered catalogue of sectoral guarantees became an obstacle to be removed in the name of a new regulatory efficiency.

Vietnam followed an analogous route with the 2024 Land Law, whose article 79 lists thirty-one grounds on which the State may "recover" land and reassign it to private developers under the heading of socioeconomic development[7]. The technique here consists in diluting the concept of public purpose, so that what was once the exception becomes the rule. Expropriation thus ceases to be an exceptional instrument and turns into an ordinary channel for the transfer of property.

The Philippines operates in the opposite way, striking directly at the redistributive core of its agrarian regime. The attempts to amend the *Comprehensive Agrarian Reform Law,* in particular its section 6, which prohibits owning, directly or indirectly, agricultural land in excess of five hectares[8], seek to tear down the most distinctive piece of the 1988 reform. The chronic minifundio, far from being resolved through productivity and credit, is then deepened through corporate consolidation. Where Indonesia and Vietnam expand the category of public purpose, the Philippines simply removes the ownership ceiling, with a functionally equivalent result.

Ukraine offers the most recent example of liberalization in time of war and exception. In 2020 it lifted the nearly two-decade moratorium through Law 552-IX, and since 1 January 2024 it has allowed corporate acquisition of up to ten thousand hectares per entity[9]. The timing is troubling. An opening of that magnitude, in the middle of a war and with the peasantry decapitalized or displaced, amounts to handing over the *chernozem*, the most fertile black soils on the continent, to whoever has the capital to wait. This move is best

6 Pemerintah Republik Indonesia, *Undang-Undang Cipta Kerja* No. 11/2020. See Amnesty International (2024), *Indonesia: The Omnibus Law on Job Creation and the Repression of Land and Labour Rights*, ASA 21/7572/2024.

7 Socialist Republic of Vietnam, *Luật Đất đai 2024* (Land Law 2024), article 79, which lists 31 grounds for the State's "recovery of land" (thu hồi đất) for transfer to private developers under the heading of socioeconomic development.

8 Republic Act No. 6657, *Comprehensive Agrarian Reform Law of 1988* (CARL), section 6. On the reform bills, see the House Bills submitted to the Agrarian Reform Committee of the Philippine Congress.

9 Verkhovna Rada of Ukraine, Law No. 552-IX of 31 March 2020, on amendments to certain legislative acts concerning the circulation of agricultural land, published on the official legislative portal of the Verkhovna Rada (zakon.rada.gov.ua), which lifted the moratorium on the sale of agricultural land in force since 2001. The second phase, in effect since 1 January 2024, allows legal persons to acquire up to 10,000 hectares per entity.

understood within a process that might well be called "*silent corporatization*" that ran across the whole of former Eastern Europe in the post-Soviet era; from that point on, state farms were absorbed by politically connected firms while family plots remained as a safety net for subsistence.[10]

Argentina and Bolivia, whose cases were set out in the previous section and are taken up in greater detail in the section devoted to Latin America, round out this first pattern. The Argentine DNU 70/2023 works through the decree of necessity and urgency to bypass legislative control. The Bolivian Law 1720 works through a nominally voluntary reclassification that hollows out the reinforced protection of small property. Different legal systems, the same method: redefining the reach of the guarantee without appearing to touch it.

## b) Financialization and the separation of the commons: land as a liquid asset

The second pattern appears above all in already consolidated agrarian structures, where the political question is no longer how to concentrate more but how to capture the rents of existing concentration without drawing attention, avoiding public scandal. Here retrogression advances not through a new law but through a reconfiguration of the asset's legal status. Land ceases to be a means of life tied to the person who works it and becomes a tradable financial asset, severable from water, divisible into corporate shares, and open to capture by intermediaries who no longer have any productive relation to the holding.

Australia displays the most radical version, with an average holding size of 1,756.5 hectares and 95.9 percent of the area in units larger than one hundred hectares[11]. The decisive technique consists in legally separating land from water. The Water Act 2007 and the *Murray-Darling Basin Plan* unbundled water rights from land rights and created a financial market for water[12]. Hedge funds and pension funds accumulate water rights speculatively. The small farmer is not expropriated. He simply cannot pay the price of water, his land goes dry, and only then does he abandon it. It is dispossession by administered thirst.

The United States operates with a different but equally effective architecture. The regime of heirs' property has been used systematically to dispossess African American producers

10 Russian Federation, Federal Law No. 101-FZ of 2002 on the turnover of agricultural land, in its consolidated version. On post-Soviet "silent corporatization," see Lerman, Z., Csaki, C. & Feder, G. (2004), *Agriculture in Transition: Land Policies and Evolving Farm Structures in Post-Soviet Countries*. World Bank Research Observer.

11 Duarte, C., Salgado, C. A. & Diaz, L. (2025), op. cit. (n. 5).

12 Parliament of Australia, *Water Act 2007* (Cth) and the regime of the Murray-Darling Basin Plan. On the financialization of water and its effects on small producers, see the Australian Competition and Consumer Commission (ACCC), *Murray-Darling Basin Water Markets Inquiry: Final Report* (2021).

in the South, since any corporation can buy the share of a distant heir and force the court-ordered sale of the entire farm[13]. The consolidation appears to occur through the private mechanisms of inheritance law, but the result is structural. To this is added the distributive bias of the Farm Bill: 80 percent of direct payments ends up with the largest 20 percent of holdings[14], a figure almost exactly mirrored in the European Common Agricultural Policy. The per-hectare subsidy does not resolve inequality; it ends up financing it.

France, a country that has historically regulated its rural land market through the SAFER, had to pass in 2021 the *Loi Sempastous* in an attempt to capture transfers carried out through the sale of shares in the companies that hold the land[15]. The Confédération Paysanne charged, with reason, that the law ended up legalizing land grabbing by replacing control over the real-estate transaction with a mere compensatory payment, economic or environmental. The corporate form becomes a veil, because whoever acquires the company acquires the land without triggering the controls that rural law designed to govern direct real-estate transfers.

Romania, the European Union country with the highest proportion of peasants, nonetheless presents the most intense case of corporate grabbing in the bloc. Law 17/2014, constrained by the principles of free movement of capital, opened the market to foreign investors, and the later Law 175/2020, which sought to introduce a right of first refusal in favor of local producers, has been systematically circumvented through corporate structures[16]. The result is plain. Pension funds from Western Europe and the Middle East operate latifundia that aim not to feed the region but to speculate on land values and produce export commodities.

Finally, Japan offers a demographic variant of the same pattern. Since 2023 it has relaxed its Agricultural Land Law, *the Nōchi-hō*, which had historically reserved ownership for those who physically worked the land, on the argument that only corporations have the capital to manage rural aging[17]. The demographic exception becomes, once again, a market rule.

13 On the regime of *heirs' property* and its historic use for the dispossession of African American producers, see Mitchell, T. W. (2014), *Reforming Property Law to Address Devastating Land Loss*, 66 Alabama Law Review 1. On the bias of the Farm Bill, GAO Report GAO-19-503 (2019).

14 OECD (2022), *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation*. Paris: OECD Publishing. Confirms that the concentration of direct payments in the top quintile holds both in the CAP and in the equivalent programs of the U.S. Farm Bill.

15 République française, *Loi* No. 2021-1756 du 23 décembre 2021 portant mesures d'urgence pour assurer la régulation de l'accès au foncier agricole à travers des structures sociétaires (known as the "Loi Sempastous"). On the limitations of the regime, see Confédération Paysanne, *La loi Sempastous: une promesse trahie* (2023).

16 Parlamentul României, *Legea* No. 17/2014 privind unele măsuri de reglementare a vânzării-cumpărării terenurilor agricole situate în extravilan, amended by *Legea* No. 175/2020, which established a nominally protectionist order of preference but with gaps that have been circumvented through corporate structures.

17 Government of Japan, reform of the Agricultural Land Law (Nōchi-hō, 農地法). The most recent amendment is Law No. 56 of 2023, which reformed the Agricultural Land Law and the Act on Promotion of the Establishment of Agricultural Management, in

## c) Green grabbing: conservation and carbon as devices of expulsion

The third pattern is probably the most insidious, because its public narrative is normatively beyond reproach. Biodiversity conservation, climate mitigation, and the fight against deforestation are objectives widely recognized by international environmental law. The problem appears when those objectives are instrumentalized to reassign customary territories to corporate actors, whether under the figure of exclusive protected areas or that of carbon-credit projects. The legal technique runs through administrative rezoning and through the criminalization of uses that for centuries coexisted with the very ecosystems now invoked for protection.

Tanzania offers the most extreme illustration. The expulsions of the Maasai in Loliondo and Ngorongoro were carried out through executive decisions that rezoned multiple-use territories as exclusive reserves, invoking the *Wildlife Conservation Act* and the *Ngorongoro Conservation Area Act*[18]. Conservation, impeccable as narrative, operates as a device of displacement. The structural figure completes the diagnosis: 108 holdings in the country, together with the recent acquisitions documented by Land Matrix, control more land than two million family producers combined[19].

Kenya displays a particularly cynical retrogression, because despite the judgments of the African Court on Human and Peoples' Rights in 2017 and 2022[20], the State resumed mass evictions in the Mau Forest under the banner of conservation, while negotiating the sale of carbon credits to Gulf buyers. The *Ogiek* case has become a required reference for the analysis of green grabbing, precisely because it shows the simultaneous coexistence of the international judgment and the domestic displacement, without the State being compelled to explain the contradiction.

Israel applies a legally more sophisticated variant in the Negev desert. Here the Ottoman category of "*mawat*" (dead lands) is used to classify Bedouin villages as unrecognized, while the afforestation projects of the Jewish National Fund function as a physical and legal

force since April 2023, and consolidated the opening begun with the 2009 and 2016 reforms to the entry of legal persons (kigyō sannyū) into the ownership and operation of agricultural holdings. On its effects on the structure of rural property, see the annual reports of the Ministry of Agriculture, Forestry and Fisheries (MAFF) on food, agriculture, and rural areas.

18 *Wildlife Conservation Act* (Tanzania) and *Ngorongoro Conservation Area Act*. Amnesty International (2023), *"We have lost everything": Forced evictions of the Maasai in Loliondo*.

19 Wegerif, M. & Guereña, A. (2020), *Land Inequality Trends and Drivers*. International Land Coalition. The case of Tanzania illustrates how 108 holdings, together with recent acquisitions, control more land than two million family producers.

20 African Court on Human and Peoples' Rights, *African Commission on Human and Peoples' Rights v. Republic of Kenya* (Application 006/2012), judgments of 2017 (merits) and 2022 (reparations), recognizing the territorial rights of the Ogiek people over the Mau Forest.

device for eradicating traditional grazing[21]. Afforestation, presented as environmental improvement, operates as a territorial technology.

Madagascar, meanwhile, adds a variant with its Agricultural Investment Zones, a legal category that allows rotational grazing lands to be reclassified as unproductive and leased to foreign investors on a long-term basis[22]. The boundary between green grabbing and the corporate-promoter State becomes particularly porous here, and not by chance: many countries combine the two patterns in a single operation.

## d) The State as an active corporate promoter

The fourth pattern shows the public apparatus abandoning its guarantor role to take on that of facilitator. This is not deregulation. On the contrary, this pattern of retrogression records considerable regulatory density, with national plans, special laws, and administrative procedures created specifically to accelerate transfers to corporate, military, or parastatal actors. The State does not withdraw. It reconfigures itself as an active agent of dispossession.

Egypt operates with the most explicit version. Law 96 of 1992 dismantled the Nasserist agrarian reform by allowing mass evictions of tenants beginning in 1997[23], and since then state resources have been channeled into desert agricultural megaprojects, such as the emblematic New Delta, managed by the civil-military complex. The peasant of the Nile Valley does not compete with a latifundista; worse still, he ends up competing against the army and its preferential access to water.

In Saudi Arabia, the forced displacement and criminalization of members of the Howeitat tribe in Tabuk province show the very negation of customary territorial rights[24]. The megaproject does not even need to expropriate under the law. It is enough to declare the project and bring the penal apparatus down on those who resist.

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21 On the Ottoman category of "mawat" (dead lands) applied by the State of Israel in the Negev/Naqab and the repeated demolitions in al-Araqib and Khan al-Ahmar, see Adalah, *On Bedouin Land Rights in the Naqab* (recent reports); and the Fact-Finding Mission of the UN Human Rights Council on the Occupied Palestinian Territory.

22 République de Madagascar, *Loi* No. 2021-016 portant refonte de la législation foncière, and subsequent implementing decrees. The Zones d'Investissement Agricole (ZIA) empower the State to reclassify grazing and rotational-farming lands as zones for foreign investment.

23 Arab Republic of Egypt, Law No. 96 of 1992 on relations between agricultural landlords and tenants, which reversed the protections of the Nasserist agrarian reform (Law No. 178 of 1952) by removing rent ceilings and allowing mass evictions beginning in 1997.

24 On the Howeitat case in Tabuk and NEOM, see ALQST for Human Rights (2024), *Mass evictions and the death penalty: The Howeitat tribe and Saudi Arabia's NEOM megaproject*.

Morocco, for its part, represents the most institutionalized variant. Laws 62.17, 63.17, and 64.17 of 2019 transformed the collective Soulaliyate lands, the historic patrimony of entire tribes, into assets that can be parceled and leased to private agro-industrial investors[25]. The process was framed within the Plan Maroc Vert, later renamed Generation Green, and produced the classic result: what had been collective territorial governance ended up converted into a tradable portfolio.

In Africa, the Democratic Republic of the Congo brings the ambivalent nuance of this pattern. In 2023 it reformed its 1973 Agrarian Code with an architecture that recognizes customary rights on paper, but conditions them on costly bureaucratic procedures that communities cannot meet, while at the same time retaining the State prerogative to grant concessions over land it deems untitled[26]. Thus, formal recognition coexists with the material facilitation of land grabbing.

Brazil completes the pattern with Lei 14.701 of 2023, examined in detail in the next section given its central place in the Latin American debate. For now, only the structural feature: the State introduces a restrictive temporal thesis, the so-called "marco temporal" (time-frame), which operates as a retroactive filter to exclude Indigenous communities from the recognition of their territories, in open tension with article 231 of the 1988 Constitution.

That four such different logics converge on a single material result, namely accelerated concentration, displacement of vulnerable subjects, and a break in peasant generational succession, does not look like a coincidence. It is, rather, the mark of a transnational legal architecture that spreads through legislative mimicry and multilateral pressure. A close comparison of these laws will surely reveal statements of purpose that are interchangeable, while the definitions of *idle land* or of *public interest* recur from one country to another and the expedited procedures are reproduced almost word for word.

25 Royaume du Maroc, Laws Nos. 62.17, 63.17, and 64.17 of 2019 concerning the administrative guardianship of ethnic collectivities and the management of their assets, within the framework of the Plan Maroc Vert (later Generation Green). They permit long-term lease and the sale of Soulaliyate lands.

26 République Démocratique du Congo, amendment of the Agrarian Code (originally Law No. 73-021 of 1973), reform passed in 2023. See the complaint of the Cadre de Concertation (CACO) on the gaps in the formalization of customary rights.

# 2.

## LATIN AMERICA AND THE CARIBBEAN: THE LABORATORY OF LEGALIZED DISPOSSESSION

The region consolidates the most dualistic agrarian structure on the planet. The average holding size in Latin America and the Caribbean is 45.6 hectares[27], a figure that hides far more than it shows. Beneath that average lie two economically and legally incompatible worlds, the duality that classical agrarian studies captured with the formula *latifundio-minifundio*. In Argentina, 79.9 percent of the agricultural area operates in units larger than 50 hectares; in Brazil, 56.3 percent in holdings of more than one hundred hectares; in Paraguay, 77.2 percent in holdings above 50 hectares; in Colombia, 73.8 percent[28].

When the measurement incorporates the documentary dimension, the value of the land, and the population without access to it, as proposed in the recent work of Cabrera-Cevallos and others, the figures grow still darker. In Colombia, the top decile of holders concentrates 93.06 percent of the operated land; in Chile, 89 percent; in Paraguay, 73.01 percent, rising to 74.63 percent if the landless rural population is included; in Bolivia, 80.96 percent. Ecuador starts from 71.35 percent, which climbs to 86.82 percent when only documented land is considered and settles at 75.68 percent when landless households are brought in[29]. The bottom 50 percent holds, in value terms, between 0 and 2 percent of agrarian wealth[30]. The conclusion is plainly uncomfortable, insofar as the principle of equality before the law coexists, in these countries, with a material distribution that any honest analysis would have to regard as structurally discriminatory.

As we will see, the region concentrates an exceptional variety of retrogressive techniques that are worth examining case by case, since each mechanism contributes a distinctive piece to the continental puzzle. This second section runs through seven legal devices, ordered by their operative logic rather than alphabetically or chronologically. The first corresponds to the administrative reclassification of the holding (Bolivia), the second to the repeal by decree of protective regimes (Argentina), the third to the time-frame as a retroactive evidentiary filter (Brazil), the fourth to expedited expropriation (El Salvador), the fifth to agrarian criminalization (Guatemala and Honduras), the sixth to

27 Duarte, C., Salgado, C. A. & Diaz, L. (2025), op. cit. (n. 5).

28 Duarte, C., Salgado, C. A. & Diaz, L. (2025), op. cit. (n. 5).

29 FAO, ILC & CIRAD (2025), *The Status of Land Tenure and Governance*, ch. 6, Table 6.2. In Colombia the top decile of holders concentrates 93.06 percent of the operated land, a figure that rises to 93.29 percent when leased or sharecropped land is excluded. Bolivia and Paraguay show analogous patterns.

30 Bauluz, L., Govind, Y. & Novokmet, F. (2020), op. cit. (n. 3).

the revocation of title (Ecuador), and the seventh to fragmentation without adequate institutional protection (the Caribbean and insular Central America).

The aim of this survey is not to exhaust the regional sample, but to lay bare the growing sophistication of Latin American agrarian counter-reforms. None of these mechanisms existed in its present legal form two decades ago. All are operating in parallel, with cumulative results, and all share one underlying trait: they turn the peasant, Afro-descendant, or Indigenous subject, formally protected by the legal order, into a vulnerable holder whose guarantee depends on reversible administrative acts, peremptory deadlines, or open-ended criminal offenses. Agrarian law, built over the twentieth century as social law, thus retreats toward forms of purely civil protection, when not directly police protection.

### *a) Bolivia: voluntary reclassification as a Trojan horse*

I have already described the case of Law 1720. Its legal logic bears insisting on. The legislator, aware of the constitutional strength of the Bolivian anti-latifundio regime, since article 398 of the Constitution sets the ceiling at five thousand hectares and prohibits double titling, does not attack the prohibition head-on. It works from the side, modifying the legal status of the individual holding rather than the general category. The reinforced protection of small property, which comprises protection from attachment, the social function it bears, and family-homestead status, becomes waivable. And any waiver induced by economic necessity amounts, in practice, to a systemic loss.

### *b) Argentina: repealing by decree what the legislature protected*

In terms of constitutional technique, DNU 70/2023 represents one of the gravest excesses of the past twenty years in the region. Three lines of justification cannot warrant the repeal of a regime that Congress enacted to protect an indivisible collective good. The Federal Chamber of La Plata said so clearly. But the reputational damage is already done. The market anticipates, operators position themselves, and even if the article is ultimately struck down by the Supreme Court, the political signal that territorial protection is vulnerable by decree lingers in the air.

### *c) Brazil: the “marco temporal” as a device of historical dislocation*

The Lei 14.701 of 2023[31] introduced the so-called marco temporal, the thesis that only peoples who can prove occupation as of 5 October 1988 are entitled to the demarcation of their lands. The legal objection is elementary. Forced displacement, the dictatorships, and the silent genocides of the twentieth century are precisely what kept a great many communities from being physically present in their territories on an arbitrary date. To impose a temporal cutoff on original rights that article 231 of the 1988 Constitution itself recognizes is to transform a fundamental-rights protection into an impossible evidentiary burden. The judicial outcome, however, complicates the diagnosis more than it first appears. On 18 December 2025 the Federal Supreme Court concluded the trial of the actions against the law and declared, for the second time, the unconstitutionality of the marco temporal. The repeal, and this nuance is no small matter, came not from the legislative effort of the Workers' Party, which failed to reverse the rule in Congress, but from the constitutional review exercised by the Court. And here the true paradox surfaces: the same court that buried the marco temporal left almost all of Law 14.701 standing, including provisions that the Articulation of Indigenous Peoples of Brazil considers retrogressive, such as compensation for the bare land to non-Indigenous occupants or the participation of states and municipalities from the technical-study phase of demarcation onward. The most visible doctrinal core fell, but the architecture of obstacles around it survived. The law remains in force, stripped of its temporal thesis and retaining, at the same time, other filters that hinder territorial recognition.

### *d) El Salvador: expedited expropriation*

The Eminent Domain Law of 2021[32] allows the State to expropriate peasant lands for megaprojects such as the Pacific Train, the Pacific Airport, and Bitcoin City through an expedited procedure. If the holder does not accept the official valuation, the State deposits the money with the court and begins the works. The right to oppose is voided in its essential component. Communities of the Bajo Lempa and La Unión have denounced, with good grounds, the violation of the right to fair compensation and productive resettlement. Retrogression, in this case, operates not through deregulation but through procedural hyper-regulation aimed at displacement.

### *e) Guatemala and Honduras: the criminalization of the peasantry*

31 Federative Republic of Brazil, *Lei* No. 14.701 of 20 October 2023, which regulates the "marco temporal" procedure for the demarcation of Indigenous lands, restricting the right to those communities that could prove occupation as of 5 October 1988.

32 Legislative Assembly of the Republic of El Salvador, Legislative Decree No. 110, *Ley Especial para el Uso, Dominio y Adquisición de Inmuebles destinados a Obras de Utilidad Pública o de Interés Social*, 2021 (known as the "Eminent Domain Law").

Where no specialized agrarian jurisdiction exists, conflict over land is shifted to the criminal courts. Guatemala, through the expansive application of the offense of aggravated usurpation[33], has allowed any attempt to recover ancestral lands, above all by q'eqchi' communities, to be prosecuted as a serious crime, with expedited evictions that include the burning of crops and the destruction of community infrastructure. In 2021 Honduras stiffened the penalties for usurpation[34] and maintains, in parallel, claims before ICSID tied to the former Zones for Employment and Economic Development, which function as a mechanism of transnational shielding: any attempt to reverse the enclave model faces the risk of multimillion-dollar arbitral awards. Criminal law and international arbitration, instruments originally conceived for protective ends, thus become tools of counter-reform.

## *f) Ecuador: the revocation of title as engineering of dispossession*

Of all the Latin American cases, the Ecuadorian one should most concern *public-law scholarship*. Executive Decree 754 of 2023[35] attempted to replace the constitutional right to free, prior and informed consent with an administrative procedure of environmental socialization. The Constitutional Court declared it partly unconstitutional, but the pressure to loosen extractivism does not let up. Graver still is the operation carried out on the coast through the nullity or revocation of the title award. Agro-industrial companies and specialized law firms present deeds of doubtful traceability and claim to be original owners predating the peasant titling; local judges issue injunctions or expedited rulings ordering the Land Sub-Secretariat of the Ministry of Agriculture to revoke the previously granted titles; and once the revocation is executed, families lose, retroactively, the legal protection over lands they have cultivated for decades.

The case of the 30 de Marzo Agricultural Association, in the Palenque canton of Los Ríos province, brought this mechanism to national attention, though its origin predates the visibility it gained in 2025. The dispossession had begun four years earlier, around 2021, when lawyers appeared claiming a prior title over the holdings; the peasant mobilization of 2025 was, in truth, the visible escalation of a conflict that had been brewing for years. The result was the eviction of 639 hectares of coastal land of high agricultural value and

33 Criminal Code of Guatemala (Decree 17-73), article 257, *Aggravated Usurpation*, applied expansively against q'eqchi' communities in the Polochic Valley and the Northern Transversal Strip. The absence of a specialized agrarian jurisdiction aggravates the retrogression.

34 Republic of Honduras, Legislative Decree No. 93-2021, which amended the Criminal Code on usurpation. On ISDS shielding, see the cases pending before ICSID tied to the former Zones for Employment and Economic Development (ZEDE).

35 Republic of Ecuador, Executive Decree No. 754 of 2023, which amended the Regulations to the Organic Environmental Code. The Constitutional Court, in judgment 1316-23-EP/24, declared the decree partly unconstitutional for violating the right to free, prior and informed consultation.

the forced displacement of 450 people of the Montubio people, with rulings from two provincial judges and administrative endorsement from the Ministry of Agriculture[36]. The legal analysis allows no indulgence. Unlike Salvadoran expropriation, which operates through public purpose, or Guatemalan criminalization, which operates through criminal law, the Ecuadorian technique strikes directly at title, erasing the right retroactively. The procedure ends up turning the beneficiary of agrarian reform into an unlawful occupant. It is the most complete symbolic inversion of contemporary agrarian law.

### *g) The Caribbean and insular Central America: fragmentation without protection*

Countries such as Haiti, with 66.6 percent of its holdings under one hectare, Jamaica with 75.7 percent, Guatemala with 78.5 percent, and El Salvador with 68.6 percent[37], display structures where extreme fragmentation coexists with a growing concentration of usable land, above all in tourist or cultivable areas. Retrogression operates here less through legislative reform than through institutional weakness and the absence of an adequate agrarian jurisdiction.

## 3.
## REGIONAL CONVERGENCES

Taken together, two features define the current Latin American moment. The first is the convergence on a retrogressive, neoconservative agenda that overflows any partisan label. Whether under the far right in Argentina and El Salvador, the model of administrative dispossession in Ecuador, or through the persistence of criminalizing laws in Honduras and the new legislative turns in the Bolivia of 2026, the direction is identical: the subordination of land to financial capital. This reality confirms that structural pressure operates above electoral cycles, leading political elites to coalesce with landed elites to deactivate the institutional checks. The second feature is the growing technical sophistication: legal innovations such as the revocation of title in Ecuador, which annuls agrarian-reform rights retroactively, or the

36 Case of the 30 de Marzo Agricultural Association (Palenque canton, Los Ríos province), brought before the Constitutional Court of Ecuador. It concerns the eviction of 639 hectares and the forced displacement of 450 people of the Montubio people through revocation of the prior title award granted by the State. The Human Rights Alliance of Ecuador has documented the administrative-judicial operation.

37 Duarte, C., Salgado, C. A. & Diaz, L. (2025), op. cit. (n. 5).

expedited expropriation procedure in El Salvador, are tools of a counter-reform that has learned to shield itself legally with methods that did not exist at this level of sophistication a decade ago.

It is worth bringing in here the contribution of Michael Albertus, whose comparative study of Latin American agrarian reforms since 1900 dismantled a deeply rooted belief[38]. The conventional wisdom, which descends from Aristotle and reappears in the work of Acemoglu and Robinson, holds that democracy should redistribute a society's assets, land included, more and better toward the poor. Albertus showed the opposite with data spanning more than a century: the massive redistribution of land, the most important form of redistribution in the developing world, occurred more often under dictatorships than under democracies. The decisive variable turned out to be not the type of regime, but two conditions that his theory articulates with care. The first is the split between the ruling political elite and the landed elite. The second is the magnitude of institutional constraints, that is, of the veto points that shield existing property. Redistributive reform prospered when ruling elites broke away from the landed elites and when, at the same time, the checks capable of halting expropriation were scarce.

Let me be honest about the reach of this intellectual operation: Albertus built his thesis to explain the redistributive reforms of the twentieth century, not the neoliberal counter-reforms of the present, so reading his typology in reverse is an analogical extension of my own reading and not a conclusion that can be attributed to his work. With that caveat made, the exercise proves fertile. The framework illuminates contemporary retrogression by its reverse, and along the way resolves the paradox of ideological simultaneity I raised earlier. If the great reforms of the twentieth century prospered where veto points were lacking, today's counter-reforms operate by deactivating precisely those checks. The Argentine decree of necessity and urgency dodges Congress; Salvadoran expedited expropriation neutralizes judicial control; Ecuadorian environmental socialization replaces prior consultation. The mechanics Albertus identified for authoritarian redistribution reappear inverted, now in the service of concentration: the vetoes are reduced not to hand land to the rural poor, but to accelerate its transfer to the new elites. This is why the government's label explains so little. What defines the direction is whether the political elite is or is not allied with the owners of agrarian and financial capital, and the elite split that in the last century opened the door to reform has closed again. His own typology confirms it from another angle: the colonization of public land was always the cheapest form of reform, because it distributed vacant land without touching the elites; today that same device is inverted, and the vacant lands where rural communities live are awarded not to poor settlers but to large expansion projects.

38 Albertus, M. (2021), *Las reformas agrarias en Latinoamérica: restricciones institucionales y división de las élites*. Bogotá: Editorial Universidad del Rosario. Translation of *Autocracy and Redistribution: The Politics of Land Reform* (Cambridge University Press, 2015). The author sustains his thesis with comparative data going back to 1900 and with case studies of Peru, Egypt, Venezuela, and Zimbabwe, among others, distinguishing further between redistributive reform, colonization of public land, and market negotiation.

The figures consolidate the diagnosis. Since 2000, according to Land Matrix, more than 26.7 million hectares have been recorded in large-scale global acquisitions, of which Latin America absorbs a significant share[39]. Seventy percent of these transactions are now carried out by corporate and financial-capital entities, and pension funds account for 51 percent of the financial entities involved[40]. The Latin American parallel, though measured with less consistency, is no less troubling.

# 4.

## CONCLUSIONS: RETROGRESSION AGAINST INTERNATIONAL COMMITMENTS

The Declaration of the International Conference on Agrarian Reform and Rural Development held in Porto Alegre in 2006 consolidated four non-negotiable principles: agrarian reform as an instrument for redistributing territorial power; the diversity of tenure models, including customary and community tenure; the centrality of family and peasant farming to food security; and the responsibility of the State over land governance. Twenty years later, ICARRD+20, held in Cartagena in February 2026[41] reaffirmed those principles through the consensus of 28 States on 32 paragraphs of the final declaration, in an international setting nonetheless dominated by dynamics that deny, one by one, those premises. The distance between the diplomatic declaration and national legislative practice is the central problem we have been describing throughout this text.

The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, adopted by the General Assembly on 17 December 2018[42], enshrined in its article 17 the right to land and the correlative obligation of States to adopt progressive measures to guarantee its access, control, and sustainable use. From that obligation

39 Castet, A. (2024), *The impact of large-scale land acquisitions on child food insecurity in Africa*. World Development, Vol. 179. The Land Matrix database remains the principal methodological reference.

40 Bourgoin, J., Interdonato, R., Gradeler, M. & Anseeuw, W. (2025), *Pushing accountability boundaries for transnational land investments*. The Journal of Peasant Studies. Documents that pension funds constitute 51 percent of the financial-capital entities involved in large-scale land acquisitions.

41 Second International Conference on Agrarian Reform and Rural Development (ICARRD+20), held in Cartagena de Indias, Colombia, in February 2026. The final declaration, signed by twenty-eight States, reaffirmed in thirty-two paragraphs the principles consolidated in the 2006 Porto Alegre Declaration on redistribution, recognition of the diversity of tenure regimes, and the centrality of family and peasant farming.

42 United Nations General Assembly, *Declaration on the Rights of Peasants and Other People Working in Rural Areas* (UNDROP), Resolution A/RES/73/165 of 17 December 2018. Article 17 establishes the right to land and the correlative obligation of States to adopt progressive, non-retrogressive measures to guarantee access, control, and sustainable use.

follows, as a necessary corollary, the prohibition of retrogressive measures. The principle of non-retrogression, well known to the constitutionalism of social rights, finds in international agrarian law a particularly clear formulation: what has been won in matters of peasant tenure cannot be dismantled through reforms that fail a strict test of proportionality and necessity.

And so: none of the mechanisms analyzed in this text passes that test. The Argentine DNU 70/2023 repealed a regime with three lines of justification. The Bolivian Law 1720 opened the door to the commodification of the family homestead by invoking freedom of will, without offering evidence that such will is real in contexts of economic necessity. The Ecuadorian revocation operates through a retroactive legal fiction. Guatemalan and Honduran criminalization replaces the specialized agrarian jurisdiction with the criminal courts. Salvadoran expedited expropriation empties due process. The Brazilian marco temporal demands an impossible proof. In none of these cases has the State demonstrated, as the doctrine of conventionality control requires, that the retrogressive measure is strictly necessary and proportionate to the end it invokes.

And yet the legal advances in Latin America and the Caribbean are not minor. Twelve years after the adoption of UNDROP, several countries in the region have progressed in its implementation through the constitutional or legal recognition of the peasant subject, incipient in Argentina, substantive in Colombia after Legislative Act 01 of 2023, realized in Bolivia with the Plurinational State, and under construction in Ecuador, Brazil, and Mexico. Another of our works, carried out by the IEI and the Land Observatory, has documented this process in detail[43], and shows that the collective peasant subject, far from being an abstraction of international law, has become an operative category of national legal orders.

Hence the contradiction that defines the current agrarian moment. While substantive legal recognitions advance on the plane of rights, the administrative, procedural, and market mechanisms that should make them effective retreat with equal force. For those of us who analyze the situation and accompany peasant organizations, the conclusion is operational. Strategic litigation, conventionality control, collective protection mechanisms, and constitutional challenges against retrogressive rules have become the practical trenches where the effectiveness of the right to land is now contested. I do not claim that the solution is exclusively legal, since Bolivia has just shown that the street decides faster than the courts. I do hold that the legal architecture of dispossession can only be dismantled by a legal architecture of equivalent sophistication, placed this time at the service of the territorial rights of those who produce the world's food.

43 Land Observatory (2026), *Recognition of the Peasantry in Latin America and the Caribbean under UNDROP*. Available at https://www.observatoriodetierras.org/wp-content/uploads/2026/04/Reconocimiento_Campesinado_UNDROP.pdf

What is ultimately at stake is not the ownership of a few hectares. It is the answer to an elementary political question: whether rural land will remain, in some measure, the material basis of diverse life projects, or whether it will end up consolidated, across the whole of its planetary extent, as a mere liquid financial asset. For this second possibility there already exists, as we have seen, a complete legal architecture.

Pontificia Universidad JAVERIANA Cali

Instituto de Estudios Interculturales

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