

C2A Notes

Agriculture and food in question

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Land Grabbing, a Threat to Food Security

In a context of food crisis and rising commodities prices, land is the coveted by agrifood companies and some States. The World Bank estimates that in 2009 forty-five million hectares of farmland in developing countries—double the surface area of France’s farmland—have been the subject of transactions or negotiations.ⁱ

Olivier de Schutter, United Nations Special Rapporteur on the Right to Food, emphasizes the negative effects that this phenomenon can have on food security, and reiterates the obligations that Human Rights impose on States in this regard. Placing the right to foodⁱⁱ at the heart of its work, the Agriculture and food Commission of Coordination SUD (the French National Platform of International Solidarity NGOs) believes that local people must be the principal actors in any decision-making on the exploitation of their land.

Food Sovereignty, the Right to Food, and Land Grabbing

Food sovereignty is the right of peoples, countries, and state unions to define their agricultural and food policy without the dumping of agricultural commodities into foreign countries. It notably includes the priority given to local agricultural production to feed the population and farmers’ and landless people’s access to natural resources. However, the agribusiness practices of companies usually responsible for land grabs aim to produce export crops and, to do so, appropriate the resources needed for the development of smallholder farming. International conventions oblige States to protect, respect and realize the right to food. The right to food is therefore of particular interest in the context of land grabbing because it makes people and States central figures in decision-making process and in so doing responds to the crucial problem raised by land grabbing.

LAND GRABBING TODAY

In October 2008, the NGO Grain published “Seized: The 2008 land grab for food and financial security”,ⁱⁱⁱ the first report to pinpoint the magnitude of the land grabbing phenomenon. One month later, the *Financial Times* confirmed this trend by revealing the Korean company Daewoo’s plan to seize 1.3 million hectares of land without payment in Madagascar, where 35%^{iv} of the population suffers from hunger.

Land grabbing is defined as the acquisition of land by public or private, foreign or domestic, actors of rights to large tracts of arable land with the aim of developing industrial farming to produce foodstuffs or agrofuels destined primarily for export. Whether this is done through the direct purchase of land from its owner or the signature of emphyteutic leases, the local people living on the coveted land are generally not consulted. Yet, they have customary rights to use or collectively manage

this so-called “available” land. Those rights that are still not very protected in many countries despite the reforms underway. Such acquisitions amount to depriving these people of the natural resources necessary for their subsistence.

Land Grabbing, a New Phenomenon?

The trend of large-scale grabbing of arable land and natural wealth is not a new phenomenon. When it is investors acting in the interest of a foreign government, these instances of land grabbing are sometimes denounced as a resurgence of colonization by developing countries. Land grabbing as it manifests itself today takes on a new dimension, notably because of the diversity of national and foreign actors who seize land. In the vast majority of cases, it is not accomplished by the

use of force, but employs political and economic means, in areas where people's rights over their resources lack legal protection. Moreover, projects now cover huge areas, traded in the context of transactions conducted hastily in the dark.

There are several reasons for the current proliferation of land grabbing:

- agricultural commodity importing countries' need to secure their supply over the long term in a context of market deregulation and increasing agricultural price volatility;

- speculation by some private investors who bet that the prices of land and agricultural products will rise in the future;
- the illusion of growth benefits for States ceding their land;
- the recent enthusiasm for agrofuel production;
- and some countries' growing concern over available freshwater reserves. Land grabbing is a way to access this particular resource.

POPULATIONS: THE FIRST CONCERNED, THE LAST CONSULTED

Local people are usually the first victims of the economic, political, social and environmental impacts of land grabs. Some of the most common consequences of land grabbing include:

- the decline of smallholder and family farming, which has a negative effect on agricultural jobs. It presents a direct risk of rural exodus, and affects women in particular;
- contempt for ownership of and usage rights to land, which can lead to conflict and/or endanger vulnerable populations;
- rising land prices and difficulties obtaining access to land for domestic farmers;
- the deterioration of local communities' and the host country's food security;
- and the degradation of the environment, with increased risks of deforestation, destruction of ecosystems, over-exploitation of water resources, and massive use of chemical fertilizers and single-cropping.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and

Cultural Rights recognize the right to self-determination, defined as the right of all peoples to freely dispose of their natural wealth and resources. For indigenous peoples, this principle is reaffirmed in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples. As the African Commission on Human and Peoples' Rights recognizes, the right to self-determination requires governments to protect individuals within their jurisdiction against any measure that would deprive them of their access to productive resources consecutive to, for example, the arrival of domestic or foreign investors.

The principle that peoples' use of the land—especially indigenous peoples' use of the land—cannot be modified without consulting them beforehand is therefore universally recognized.^v Adherence to this principle requires governments to ensure, prior to any agreement, that communities potentially affected by a proposed massive purchase of land are freely consulted and properly informed. Their consent must be obtained for all transactions that will be decided.

LAISSEZ-FAIRE, REGULATE, OR PROHIBIT

In the face of the imbalance between investors on one side and rural people on the other, many international actors—international organizations, States, civil society organizations and research organizations—are

suggesting responses. The diversity of proposals reflects the divergence of interests domestically and internationally.

Encourage Social and Environmental Responsibility

From the World Bank's Ethical Principles...

On September 7th, 2010, the World Bank published its report *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* The report paints a very alarming picture of the phenomenon by highlighting the economic, social, cultural and environmental risks for the people using the coveted land. The World Bank recognizes that cases of land grabbing are bound to multiply and therefore proposes a set of principles of good conduct, which are supposed to foster agricultural investments that benefit all stakeholders (investors, host States, and affected populations). This approach favors the principle of corporate social and environmental responsibility (CSER) and notably promotes the development of codes of ethics that investors would follow voluntarily. In this approach, the respect for the rights of local populations depends on the good will of investors rather than being one of the State's responsibilities.

... to the "Responsible Agro-Investors" of the French Centre d'Analyse Stratégique (CAS)

The World Bank's voluntary approach is also adopted in a report by the French Center for Strategic Analysis (CAS), which proposes the creation of a "responsible agro-investment" label whose purpose would primarily be to "lower the long-term risks (for investors) associated with the project."^{vi} This approach therefore does not aim to regulate the activities of all investors using legally binding tools, but rather to create an opportunity for those who want to improve their image.

Improving State Governance

The FAO's Voluntary Guidelines on Responsible Governance of Land Tenure and Natural Resources

Since 2005, the Food and Agriculture Organization of the United Nations (FAO) has worked to make local actors in their diversity more accountable in regard to the importance of the governance of land tenure and natural resources. The creation of *Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources* should take the form of an agreement prepared jointly by governments, civil society and international organizations, and approved by the FAO member-States and other interested parties. These voluntary guidelines are intended to establish internationally accepted standards on responsible practices. They will provide a framework that States can use to develop their own strategies, policies, laws, programs, and activities. The aim is therefore to support countries and their institutions in their attempts to legislate to improve the governance of land tenure and

natural resources and, by so doing, enhance protection of people's rights.

The French Government's Position

After reflections^{vii} conducted in partnership with French cooperation's "Land and Development" Technical Committee and civil society organizations, the Inter-Ministerial Group on Food Security (GISA) does not exclude the possibility of "going beyond codes of good conduct"^{viii} and favors the organization of any proposed regulation around two principles: the defense of the rights of existing populations to the land and resources, and the compatibility of private uses and individual rights with the public interest^x. In this context, it would be appropriate to promote the gradual establishment of a more binding legal framework worldwide.

Farmland Transactions: from Moratorium to Total Rejection

Farmers' and civil society organizations defend the principle of food sovereignty, which is diametrically opposed to the principle of large-scale land acquisition. For instance, Via Campesina, Fian, Grain and the Land Research Action Network consider that "facilitating the long-term corporate (foreign and domestic) takeover of rural people's farmlands is completely unacceptable no matter which guidelines are followed^x and call for a ban on all large-scale land acquisition. ActionAid proposes the implementation of a moratorium on transactions involving large areas of farmland in all countries that have not attained the first Millennium Development Goal. This moratorium would remain in place in these countries until a regulatory framework has been set up that guarantees the right of everyone to food, ensures the security of the property rights of those whose incomes depend on farming, and protects the equal right of women to access and work the land.

Human Rights and Land Grabbing

In December 2009, Olivier de Schutter proposed a set of measures and fundamental principles for host States and investors. These principles aim to provide information in support of current initiatives such as the adoption of the FAO's Voluntary Guidelines. The main objective of these guidelines is to ensure that negotiations follow a certain number of procedures, notably the participation and consultation of local populations. Above all, they aim to reiterate States' obligations in the field of human rights, with the right to food at the top of the list.

The efforts needed now on the international level can already be made by the European Union and its member-States. Indeed, for the sake of coherence, the EU member-States must individually and collectively link their support for smallholder and family farming to the fight against land grabbing. The right to food provides an appropriate framework for action in this area. The extraterritorial nature of States' obligations arising from the right to food should be legally recognized so as to allow States to exercise their influence to ensure the respect and protection of human rights for people outside their borders.

"The host State is obliged to ensure the protection of human rights under its jurisdiction, and the investor has a responsibility to respect such rights and not to create obstacles to the State discharging its obligations under international law. Particularly where the investor is a private entity and the host State is unable or unwilling to act in accordance with its obligations, the home State of the investor must ensure that these obligations are complied with."

Source: De Schutter (2009)^{xi}

As part of its mission to support the collective advocacy of its members, Coordination SUD has set up working committees. The Agriculture and Food Commission (C2A) brings together international solidarity NGOs that act to realize the right to food and increase support for smallholder farming in policies that impact global food security: 4D, Artisans du monde, AVSF, Aitec, Cari, CCFD–Terre solidaire, CFSI, CIDR, Crid, Gret, Iram, MFR, Oxfam France, Peuples solidaires in association with ActionAid, Secours catholique-Caritas France, Secours islamique France.

The Commission aims to coordinate the work conducted by its participants, and facilitate consultation among its members for their advocacy work with social actors and international policy makers. The members of the Commission reach agreements on the representation provided in the name of Coordination SUD in a range of arenas (Concord in Europe, FAO, WTO, UNCTAD) and share information on current international stakes. The Commission is mandated by Coordination SUD to formulate the positions taken by the group during the main institutional meetings on the subjects of agriculture and food.

This document was written by: Camille Bethoux and Antoine Bouhey from Peuples solidaires, in association with ActionAid, and with the support of Damien Lagandré, Gret.

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The opinions expressed in this document do not necessarily reflect the official position of AFD



ⁱ World Bank, *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?*, September 7, 2010

ⁱⁱ C2A Notes, *The Right to Food: An Operational Tool for World Food Security*, June 1, 2010

ⁱⁱⁱ GRAIN, *Seized: The 2008 land grab for food and financial security*, November 20, 2008

^{iv} FAO, *The State of Food Insecurity in the World*, Rome, 2009

^v Human Rights Committee, Concluding Observations on the report by Sweden, May 7, 2009 (CCPR/C/SWE/CO/6), paragraph 20

^{vi} Centre d'Analyse Stratégique, *Les cessions d'actifs agricoles à des investisseurs étrangers dans les pays en développement, Éléments de diagnostic et pistes de recommandations*, Paris, June 2010, pg. 13.

^{vii} These reflections led to the production of an analysis and proposal available on the www.foncier-developpement.org web portal. "Land and Development" Technical Committee, *Analyse du phénomène et propositions d'orientations*, AFD, MAEE, June 2010.

^{viii} Groupe Interministériel pour la Sécurité Alimentaire, *Appropriation de terres à grande échelle et investissement agricole responsable : pour une approche garante des droits de l'homme, de la sécurité alimentaire et du développement durable*, June 2010. Available for download from the www.foncier-developpement.org portal.

^{ix} "Land and Development" Technical Committee, *Gouvernance foncière et sécurisation des droits. Land Governance and Security of Tenure in Developing Countries*, White Paper by French cooperation actors, AFD, MAEE, June 2009.

^x Via Campesina, FIAN, Land Research Action Network and GRAIN, "Stop Land Grabbing Now" Declaration, April 22, 2010.

^{xi} Olivier De Schutter, *Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge*, December 28, 2009.