

Land Rights

and the Rush for Land



Findings of the Global Commercial
Pressures on Land Research Project

Ward Anseeuw, Liz Alden Wily,
Lorenzo Cotula, and Michael Taylor



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Authors

Ward Anseeuw, Liz Alden Wily, Lorenzo Cotula, and Michael Taylor

Contributing authors

Tim Bending, Fernando Eguren, Andrea Fiorenza, Paul Mathieu, Ruth Meinzen-Dick,
Michael Ochieng Odhiambo, and Roel Ravanera

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About the authors

Ward Anseeuw (ward.ansseeuw@up.ac.za) is a research fellow at the Agricultural Research Centre for International Development (CIRAD), University of Pretoria, South Africa. He has conducted research for the past ten years in Southern Africa and the African continent, particularly on the issues of agricultural restructuring, land conflicts, and agrarian and land reforms. He has published extensively on these issues in scientific journals and with renowned publishers.

Liz Alden Wily (lizaldenwily@gmail.com) is a political economist working in Asia and especially Africa. She has advised governments, international agencies and NGOs on innovative tenure policies and operational land security projects. She works frequently in the field developing new approaches with rural populations to mass tenure security, particularly affecting collective properties.

Lorenzo Cotula (lorenzo.cotula@iied.org) is a senior researcher in law and sustainable development at the International Institute for Environment and Development (IIED), based in the UK. At IIED, Lorenzo leads work on land rights and on natural resource investment. He undertakes research, capacity building, advocacy, and advisory work at field, national, and international levels.

Michael Taylor (m.taylor@landcoalition.org) is a programme manager for Africa and Global Policy at the Secretariat of the International Land Coalition (ILC), based in Rome at IFAD. He is a social anthropologist and environmental scientist who has worked on community-based rangeland management in Botswana, Mali, and Kenya, as well as other aspects of land tenure and community-based natural resource management in Africa and globally.

The following organisations took part in the Global Commercial Pressures on Land research project:



Foreword

The International Land Coalition (ILC) was established by civil society and multilateral organisations who were convinced that secure access to land, water, and other natural resources is central to the ability of women and men to get out of, and stay out of, hunger and poverty.

In 2008, at the same time as the food price crisis pushed the number of hungry people over the one billion mark, ILC launched a global research project to better understand the implications of the growing wave of international large-scale investments in land. Smallholder producers have always faced competition for the land on which their livelihoods depend. It is evident, however, that the competition for land is becoming increasingly global and increasingly unequal.

This report represents the culmination of a collaboration with 40 partners, ranging from NGOs in affected regions, whose perspectives and voices are closest to most affected land users, to international research institutes. The process enabled organisations with little previous experience in undertaking such research projects, but with much to contribute, to participate in the global study and to have their voices heard. ILC believes that in an era of increasingly globalised land use and governance, it is more important than ever that the voices and interests of all stakeholders – and in particular those of local land users – are represented in the search for solutions to achieve equitable and secure access to land.

I am also pleased that some of the leading thinkers on land trends from different parts of the globe have joined us as co-authors and contributing authors to synthesise this huge body of research and produce this report. The implications of choices on how land and natural resources should be used, and for whom, are stark. In an increasingly resource-constrained and polarised world, choices made today on land use, access, and ownership will shape the economies, societies, and opportunities of tomorrow's generations, and thus need to be carefully considered.

Madiodio Niasse

Director, International Land Coalition Secretariat

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Acronyms

ACHR	American Convention on Human Rights	GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
ACHPR	African Charter on Human and Peoples' Rights	IAASTD	International Assessment of Agricultural Knowledge, Science and Technology for Development
CCU	Centro Cooperativista Uruguayo	IFC	International Finance Corporation
CDE	Centre for Development and Environment (at the University of Bern)	IIED	International Institute for Environment and Development
CDS	College of Development Studies	ILC	International Land Coalition
CEPES	Centro Peruano de Estudios Sociales	KLA	Kenya Land Alliance
CFS	Committee on World Food Security	NGO	Non-governmental organisation
CIRAD	Centre de coopération internationale en recherche agronomique pour le développement	NFR	NGOs for Fisheries Reform
CISEPA	Centro de Investigaciones Sociológicas, Económicas, Políticas y Antropológicas	ODA	Official development assistance
COPROFAM	Confederación de Organizaciones de Productores Familiares del MERCOSUR	OECD	Organisation for Economic Co-operation and Development
CSO	Civil society organisation	RCN	Réseau Citoyens-Citizens Network
DRC	Democratic Republic of Congo	RECONCILE	Resource Conflict Institute
EIA	Environmental Impact Assessment	REDD	Reduced Emissions from Deforestation and Forest Degradation
EC	European Commission	ROPPA	Réseau des organisations paysannes et de producteurs de l'Afrique de l'Ouest
EU	European Union	RRI	Rights and Resources Initiative
FAO	Food and Agriculture Organization of the United Nations	SDF	Social Development Foundation
FCPF	Forest Carbon Partnership Facility	SER	Asociación Servicios Educativos Rurales
FDI	Foreign direct investment	SEZ	Special Economic Zone
FIAN	FoodFirst Information and Action Network	SNV	Netherlands Development Organisation
FPIC	Free, Prior, and Informed Consent	SWAC	Sahel and West Africa Club
FPP	Forest Peoples Programme	TASS	Technical Assistance and Advisory Services
GIGA	German Institute of Global and Area Studies	UNCTAD	United Nations Conference on Trade and Development
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (formally GTZ)	VADID	Volontaires d'Action pour le Développement Intégré et Durable
GOANA	Grand Offensive for Food and Abundance (Senegal)		

Summary

The land and resource rights and livelihoods of rural communities are being put in jeopardy by the prevailing model of large-scale land acquisition



About this report

This report synthesises the findings of the global Commercial Pressures on Land research project, coordinated by the Secretariat of the International Land Coalition (ILC) with the support of one of its members, CIRAD, and the collaboration of more than 40 grassroots and civil society organisations, academics, and research institutions from around the world. Twenty-eight case studies, thematic studies, and regional overviews resulting from this project have already been published.¹ In addition, this report incorporates the latest data emerging from the ongoing Land Matrix project to monitor large-scale land transactions.

The aim of this report is not to provide a complete review of the growing literature on land deals and wider commercial pressures on land but to present, summarise, and interpret the evidence that has emerged so far from these two collaborative projects. The aim is to draw conclusions from this body of evidence as to the key features of this land rush, the outcomes that it is having, the contextual factors that are shaping these outcomes, and the responses needed from civil society, governments, and development partners.

The “land rush”

The topic of this report is most commonly referred to as “land grabbing”. It has attracted global attention since 2008, with a series of highly publicised transnational agreements involving the lease of land areas of unprecedented size. Since then, it has become clear that this phenomenon is really more diverse, of a larger scale, and perhaps less novel that it had first appeared. While the most publicised deals have been transnational in nature and focused on food and biofuels production, they are hard to separate analytically from wider trends of increasing commercial pressures on land characterised by a more diverse range of actors, scales, and economic drivers. They are part of longer-term historical processes of economic and social transformation. Yet with the intensification of commercial pressures on land since the food price crisis of 2008, these processes have entered a new phase. It is in this sense that this report speaks of a new “land rush”.

The poor are bearing disproportionate costs, but reaping few benefits, because of poor governance



¹ <http://www.landcoalition.org/cplstudies>

Key findings

The conclusions of this report are based on case studies that provide indicative evidence of local and national realities, and on the ongoing global monitoring of large-scale land deals for which data are subject to a continuous process of cross-referencing. But while research and monitoring need to continue, it is important to draw some conclusions and policy implications from the evidence we have already. Key messages can be stated as follows:

- **High global demand for land is likely to continue for the long term**, although the steep increase witnessed between 2005 and 2008 may level off.
- **The land and resource rights and livelihoods of rural communities are being put in jeopardy** by the prevailing model of large-scale land acquisition. There is little in the findings to suggest that the term “land grabbing” is not widely deserved.
- **The poor are bearing disproportionate costs, but reaping few benefits, because of poor governance**, including the weak protection of their resource rights, corrupt and unaccountable decision-making, the sidelining of their rights within trade regimes, and the policy neglect of smallholder agriculture. Women are particularly vulnerable.
- **The weak legal protection of resources held under customary tenure makes local people vulnerable to dispossession** as governments make land available for private acquisition. Lands and resources which they traditionally own and use in common are especially vulnerable to loss.
- **Insufficient action is being taken** by host governments to limit the further impoverishment of rural communities that may be expected from the “land rush”. Nor is international law being properly put to work in service of this requirement.
- **The challenge is to stop dispossession** and land allocations that do not serve a genuine public interest, to legally **recognise the rights of the rural poor**, and to **steer towards more equitable models** that give a key role to existing land users.



Features, drivers, impacts, and the factors shaping those impacts

This report begins by characterising the features of the ongoing land rush, including its scale, the actors involved, and the long-term trends driving competition. It then summarises emerging evidence on the outcomes, particularly for the rural poor, and discusses why the land rush is creating the very often negative outcomes that are observed. Based on the data emerging from the Land Matrix project, it is possible to identify the following features and drivers:

- The Land Matrix includes deals reported as approved or under negotiation worldwide between 2000 and 2010 amounting to a total of **203 million hectares**. This land area is equivalent to over eight times the size of the United Kingdom. Of these, deals for **71 million hectares** have so far been triangulated and cross-referenced, confirming the unprecedented scale of the land rush over the past decade. Very many other deals must be presumed to go unreported.
- **The land rush is not only about food and farmland.** Of cross-referenced deals for which the commodity is known, 78% are for agricultural production, of which three-quarters are for biofuels. Mineral extraction, industry, tourism, and forest conversions are also significant contributors, adding up to the remaining 22%.
- **Africa is the prime target of the land rush,** accounting for 134 million hectares of reported deals, of which 34 million hectares have been cross-referenced. The next largest target is Asia with 29 million hectares cross-checked.
- **The best land is often being targeted for acquisition.** It is often irrigable, with proximity to infrastructure, making conflict with existing land users more likely.
- **National elites are playing a major role in land acquisitions,** despite the common focus on foreign actors. Foreign direct investment (FDI) is also largely intra-regional.

The latest rush for farmland was *triggered* primarily by the food price crisis of 2007–2008. But far from being a brief phenomenon, the land rush is likely to continue into the long term because of the trends that are *driving* it. Ultimately, the **drivers** of increasing competition for land are population growth and growing consumption by a global minority. The more immediate drivers identified by the studies include market demands for food, biofuels, raw materials, and timber. An emerging driver is carbon offset markets, which have already prompted large-scale land acquisitions. Speculative capital flows attracted by the expectation that land values will increase were also reported by the case studies.

These trends create opportunities, but also risks. While the prospect of more inward investment in developing country agriculture is generally welcomed, the evidence emerging from the case studies suggests that the prevailing model is not making the best use of the opportunities that exist, with the burden of the costs being disproportionately carried by the rural poor. The case studies suggest the following findings regarding **impacts**:

- **Many schemes have failed to materialise or have suffered serious delays,** with the difficulties of creating and running large plantations in often complex contexts having often been underestimated. Where acquisitions bring good returns, this is often linked to rent capture, for instance through control of supply chains or increasing land prices.
- In an effort to attract investment, **governments are foregoing revenue through tax exemptions and minimal lease fees,** foreclosing a key tool for deriving public benefit from the exploitation of public natural resources.

- **The rural poor are frequently being dispossessed of land and water resources under customary tenure.** While some cases reveal evictions from permanent farmland and houses, many cases also show how the resource base of rural livelihoods is being squeezed through loss of access to grasslands, forests, and marshlands that are customarily held as common property. The issue of commercial leaseholds over previously untitled land is also foreclosing opportunities for communities to seek and secure title. Some large-scale irrigation schemes have resulted in increased competition and even conflict with local and downstream water users.
- **Compensation for resource loss is rarely adequate,** particularly because of the lack of legal recognition of customary resource ownership upon which such compensation would be based. Where involuntary land loss occurs at scale, communities are losing not just livelihoods, but their major capital asset.
- **Job creation estimates are often exaggerated,** at least in the early stages. Jobs that do materialise are often low-paid and insecure, and sometimes linked only to an initial construction phase.
- **Women are particularly vulnerable,** because of systematic discrimination in relation to the recognition of their land rights, systematic discrimination in public discourse and decision-making, their relative cash-poverty, and their physical vulnerability.
- **The land rush is leading to extensive conversions of natural ecosystems** with accompanying losses of ecosystem services and biodiversity. Forests are particularly affected, but grasslands, marshlands, and mangroves were all revealed by the case studies to be targets of land use conversion. There is little evidence that the water requirements of large-scale schemes are being properly taken into account.

Ultimately, the drivers of increasing competition for land are population growth and growing consumption by a global minority

As initial indications, these findings give great cause for concern. This report suggests that the land rush is having these negative impacts because of **four key failures of governance**. As these are the conditions in which decision-making over land and investment are taking place, they are important factors in shaping the outcomes of the land rush:

- **Weak democratic governance:** Despite advances in democratisation around the world, huge deficits of transparency, accountability, and popular empowerment exist and contribute to elite capture of resources.
- **Land governance that fails the rural poor:** Many national legal systems centralise control over land and undermine or fail to legally recognise the land rights of local landholders, thereby paving the way for lawful – if unjust – large-scale allocations of land.
- **Economic governance that fails the rural poor:** The international trade and investment regime provides robust legal protection to international investors, while fewer and less effective international arrangements have been established to protect the rights of the rural poor or to ensure that greater trade and investment translate into inclusive, sustainable development and poverty reduction.
- **The sidelining of smallholder agriculture:** Agricultural development policy has increasingly been captured to the benefit of large-scale commercial ventures, undervaluing the potential of smallholder production and excluding smallholders as partners. Despite the mixed track record of large-scale agriculture in Africa, the perception that large plantations are needed to modernise the sector remains dominant among many decision-makers.

Each of these factors creates conditions that disable good decision-making and enable harmful transfers of land. Moreover, this appears to be feeding a vicious circle: the rush for land is in turn aggravating and worsening each of these governance factors. With regard to democratic governance, intensified commercial interest in land is having a corrupting influence, undermining due process and driving regulatory and policy bias. With regard to land governance, large-scale land allocations such as concessions often have the effect of creating uncertainty for local landholders, aggravating their insecurity of tenure, even where the deals are not implemented and land use conversions may never take place. With regard to economic governance and the sidelining of smallholder agriculture, the current wave of land acquisitions further disables the ability of smallholder producers to compete effectively and to influence agricultural and trade policies in their own favour.



Land at the crossroads

The dispossession and marginalisation of the rural poor are nothing new. Rather, the current land rush represents an acceleration of ongoing processes, and one that appears set to continue. This report thus concludes that we are at a crossroads as regards the future of rural societies, land-based production, and ecosystems in many areas of the global South. In the context of the failures of governance and policy mentioned above, transnational and intra-national capital flows are pushing land tenure and land-based production systems in a direction that increasingly appears to be far from optimal. Urgent action is needed to bring harmful land transfers to a halt, and to redirect capital into more fruitful forms of investment where possible.

We are at a crossroads as regards the future of rural societies, land-based production, and ecosystems in many areas of the global South

Policy considerations

1. Acknowledge and respect the resource rights of rural people in all large-scale land transactions

The assessment of land for acquisition and investment purposes must proceed from the assumption that no land is “idle”, “wasteland”, or “unused”, but that it is all used and is important to the livelihoods and food security of rural communities, and also that it is under some form of customary collective or individual ownership, including land classified as “state land”, “public land”, and “government land”. All existing users and claimants of land must be regarded as having a moral right of possession, regardless of the formal legal status of their claims. Finally, in cases where acquisition of land, whether through purchase, lease, concession, or other form of rights transfer, is a necessary and legitimate component of an investment strategy, it must proceed on the basis of a rigorous application of the principles of Free, Prior, and Informed Consent of existing users and claimants. Large-scale land acquisitions should be an investment model of last resort.

2. Legally recognise the land rights of the rural poor, including over the commons

The weak legal status of the land rights of the majority of the rural poor must be remedied. Individual and collective customary ownership and use rights over land and water resources, whether held individually or communally, should be accorded equivalent legal force to statutory entitlements, even if these customary interests are not formally certified. Further, the delimitation and demarcation of community land areas, or territories, is a priority in the face of increasing competition for land. More broadly, a shift is needed towards people-centred land policies that recognise the central role that local populations – explicitly including women – play in land use and management. Institutions need to be built at the local level that are

empowered to administer land and natural resources, and power asymmetries need to be addressed by explicitly prioritising the interests of vulnerable groups of land users, including the landless, the land-poor, and rural workers.

3. Put smallholder production at the centre of strategies for agricultural development

Governments and development partners should reassess the role that the estimated 500 million smallholder farmers, pastoralists, and forest users globally can play in sustainably meeting the very real needs linked to growing demand for food and agricultural commodities. Policies and support services should level the playing field and grant smallholders an equal chance as corporate investors to fulfil this role. It is therefore necessary to provide smallholders with the necessary capacity, finance, and regulation to increase their productivity, production, and competitiveness, and to cope with risks and vulnerability. Further, organisation by smallholders needs to be supported, helping them to represent their interests and achieve economies of scale in market access and value chains, thus helping them to benefit from world market trends and capital flows. Finally, there is a need to consider alternative models that are not based on land acquisition but on partnerships between companies and communities, such as equity sharing or contract farming, that may provide mutually beneficial solutions where communities have the necessary secure resource rights, organisation, and negotiating capacity.

4. Make international human rights law work for the rural poor

Secure local land rights are crucial for the enjoyment of internationally recognised human rights such as the right to food and the right to property. But in its present form, international law offers little redress to people adversely affected by large-scale land acquisitions. It is critical to build on work elaborating international guidance on specific human rights² to strengthen the legal remedies provided by binding treaties. As the key actors in international law-making, states should ratify treaties setting human rights standards (such as ILO Convention No. 169 and the protocol establishing the African Court on Human and Peoples' Rights) and work to strengthen legal remedies. Civil society can also play a key role, by monitoring respect for human rights, challenging actions that adversely affect enjoyment of those rights, and filing cases with international bodies such as the African Court to push the boundaries of human rights law through authoritative interpretation of existing treaties.

5. Make decision-making over land inclusive, transparent, and accountable

Without transparency, accountability, and open debate, decision-making over land will continue to be swayed by vested interests at the expense of rural land users. Likewise, without transparency, land acquirers cannot be held accountable to contractual obligations, national laws, or voluntary guidelines. There is therefore a need to call for and enable inclusive national and local debates on large-scale land acquisitions (both in general and on specific applications) and on wider issues, with a view to developing agreed national frameworks for land-based investments, food security, and rural development. Likewise, it is necessary to support the capacity for collective action and networking by local populations, in particular social movements representing direct stakeholders, including those representing farmers, women, landless people, and indigenous peoples; to

fully disclose information on existing contracts and all acquisitions under consideration; and to support civil society monitoring of large-scale land acquisitions, as well as of the realisation of contractual obligations, so as to exercise accountability and provide an evidence basis for action.

6. Ensure environmental sustainability in decisions over land- and water-based acquisitions and investments

Decisions over large-scale land conversions should be made with a full appreciation of the costs of doing so, including implications for the provision of environmental goods and services, not least water, on which local livelihoods depend. Where national-level legislation provides adequate safeguards, such as demanding comprehensive and independent Environmental Impact Assessments (EIAs), these should be undertaken in an open and transparent manner, and their results made public. With regards to water extraction, contracts should place enforceable limits, based on thorough assessments of sustainable extraction rates and competing (local, downstream, and future) demands for water.

Intensified commercial interest in land is having a corrupting influence, undermining due process and driving regulatory and policy bias

2 For example, the Voluntary Guidelines on the Right to Food and the principles on land-based investments developed by the UN Special Rapporteur on the Right to Food, and the Guiding Principles developed by the Special Representative to the UN Secretary-General on Business and Human Rights.

CHAPTER ONE: Introduction

Decisions over land use and ownership carry great potential for promoting empowerment, sustainable livelihoods and food production systems, and dignity. Bad decisions over land can equally expand and entrench poverty, inequality, and disempowerment



Commercial pressures on land: a new era

Struggles over land were one of the defining features of movements to overcome poverty, hunger, discrimination, and political repression in the 20th century. The first decade of the 21st century suggests that competition for land and natural resources is likely to continue, and even intensify. Growing demand for food, feed, fuels, and other commodities, combined with a shrinking resource base and the liberalisation of trade and investment regimes, are among factors driving a new global rush for land. Lands that only a short time ago seemed marginal to the global economy are now being sought by international and national investors and speculators to an unprecedented degree, placing the latter in direct competition with local communities for access to land, water, and other natural resources.

The land rush has attracted global attention. Deals involving hundreds of thousands of hectares predictably grab the headlines. Yet the acquisition of vast areas of land for commercial production is, in itself, neither new, nor occurring through entirely novel arrangements. It is but the latest phase in historical processes of economic and social transformation. The new, enhanced level of demand for land-derived commodities is accelerating these processes. Where we observe harmful impacts, it is largely because of certain longstanding failures of governance, both at the national level and globally. These include the failure of land governance systems to recognise and protect the land interests of the rural poor and the political marginalisation of smallholder production, which are themselves in part a legacy of histories of colonialism and political exclusion.

What is new is the scale and intensity of commercial pressures on land resources, and the prospect of a new era in the struggle for, and control over, land in many areas of the global South. For a century or more, most of the world's rural poor have lived with insecure tenure over resources. With few significant threats to their continued access to such resources, their lack of legal entitlement to them did not previously pose huge problems in most cases. However, many rural land users are now finally facing the prospect of dispossession. It is in this sense that this report argues that we are at a "tipping-point", or a crisis, for the future of family farming and rural societies.

Two billion people, or one-third of humanity, are dependent on an estimated 500 million smallholder farms, in addition to a significant number of producers relying on non-timber forest products and livestock. And yet it is their land and production rights that are increasingly jeopardised. Their future capacity to feed themselves may depend on decisions being taken now in the context of the global land rush. But there is also more than food security at stake. Decisions over land use and ownership carry great potential for promoting empowerment, sustainable livelihoods and food production systems, and dignity. Bad decisions over land can equally expand and entrench poverty, inequality, and disempowerment.

Understanding the nature of this global rush for land is a step towards choosing paths that may be able to avoid the spectre of accelerated land loss – and more general disenfranchisement – for the rural poor. The authors of this report and the many people who have contributed to it share a conviction that land and resource loss by those most dependent upon the land is neither desirable nor inevitable. Instead, the trend is man-made, by policies, laws, and actions that could be more just, driven by factors that could be better managed and mitigated, and channelled through processes that could be more inclusive of current land holders.

Many actors are actively engaged in seeking to understand and assess this phenomenon, tackling it from a host of different vantage points. This includes press reporting and analysis and research projects mounted by a number of universities, institutes, and agencies.³ While acknowledging these contributions, our own analysis purposely draws primarily upon the studies carried out as part of ILC's Commercial Pressures on Land research project.

Many rural land users are now finally facing the prospect of dispossession. It is in this sense that this report argues that we are at a “tipping-point”, or a crisis, for the future of family farming and rural societies



The Commercial Pressures on Land research project

This report arises from the Commercial Pressures on Land research project coordinated by the International Land Coalition (ILC) with the support of one of its members, CIRAD, and the collaboration of more than 40 grassroots and civil society organisations, academics, and research institutions from around the world.

The focus of this research project has deliberately been broad. It has avoided using the term “land grabbing” as a blanket term for all land deals, recognising that while land deals that deserve this term are widespread, this is not the case for all. When the term “land grabbing” is used, it follows the definition agreed by ILC members in the Tirana Declaration of May 2011, in which it was defined as acquisitions or concessions that are one or more of the following:

(i) In violation of human rights, particularly the equal rights of women; (ii) not based on Free, Prior and Informed Consent of the affected land-users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation.⁴

We, as authors, also recognise that, to understand this phenomenon, we need to look beyond the deals themselves to identify the conditions that promote good or bad practice. The project has thus retained a broad focus on “commercial pressures on land”, encompassing both sources of demand for land and the conditions globally, nationally, and locally that shape its impacts. Within this broad framework, a key focus has been on deals involving the large-scale purchase, lease, or concession of land, and their causes and impacts. The objective has not been to strive for consensus within the

³ The ILC Commercial Pressures on Land Portal provides links to many of these initiatives: <http://www.commercialpressuresonland.org/>

⁴ <http://www.landcoalition.org/about-us/aom2011/tirana-declaration>

different contributing studies, but to feed a collective thinking process across the types of organisation represented in ILC's membership. As such, this report cannot be said to represent the views and opinions of all ILC's members.

The research project involved three types of study: case studies, undertaken by locally based organisations;

thematic studies, undertaken by specialists; and regional overviews based on information emerging in the studies. In addition, a longer-term study to quantify and verify reported large-scale land acquisitions, the Land Matrix, is ongoing. Thirty-one studies have already been published (see Table 1).⁵

TABLE 1: STUDIES IN THE COMMERCIAL PRESSURES ON LAND RESEARCH PROJECT

The Land Matrix *ILC, CIRAD, CDE at University of Bern, GIGA, GIZ*

A systematic stocktaking of large-scale land-based investments, as a means to broadly understand the extent, trends, and impacts of land-related investments globally.

Commercial pressures on land worldwide. Issues and conceptual framework *M. Merlet and C. Jamart, Agter*

Background analysis and conceptual framework developed at the launch of the Commercial Pressures on Land research project to identify priority issues and provide a conceptual framework for all collaborators.

Thematic studies

The tragedy of public lands: the fate of the commons under global commercial pressure *L. Alden Wily*

A mapping of factors that make local possession of customarily held lands and common properties in particular vulnerable to involuntary loss in the face of commercial pressures on land.

Large acquisition of rights on forest lands for tropical timber concessions and commercial wood plantations

A. Molnar, K. Barney, M. De Vito, A. Karsenty, D. Elson, M. Benavides, P. Tipula, C. Soria, P. Sherman, and M. France, RRI

Using data from nine countries on forest management and use, this paper shows that demands on forest lands are growing at an unprecedented pace, and that without progress in specifying property rights, conflict over forest lands is likely to increase.

The outlook on farmland acquisitions *L. Cotula, IIED*

An overview of the main trends, drivers, and players of current phenomena, and an analysis of the terms and processes characterising land deals.

Gendered impacts of commercial pressures on land *E. Daley, MOKORO*

An analysis of the gendered impacts of commercial pressures on land, and especially their impacts on women, who are disproportionately more likely to be negatively affected than men.

Human rights mechanisms to safeguard the food/land rights of people facing land use shifts *S. Heri, WTI.*

In **International instruments influencing the rights of people facing investments in agricultural land** *S. Heri, E. Bürgi Bonanomi, K. Gehne, WTI; A. Ten Kate and S. van der Wal, SOMO/Oxfam Novib*

An overview of avenues provided by human rights law at the national and global levels to prevent and remedy violations of relevant human rights, such as the right to adequate food and the right to property.

Company commitment instruments to safeguard the food/land rights of people facing land use shifts *A. Ten*

Kate and S. van der Wal, SOMO. In **International instruments influencing the rights of people facing investments**

in agricultural land *S. Heri, E. Bürgi Bonanomi, K. Gehne, WTI; A. Ten Kate and S. van der Wal, SOMO/Oxfam Novib*

A review of instruments that companies may apply to safeguard the rights of people facing land use shifts. Distinguishes between commodity-specific instruments, general CSR instruments, and instruments specific to the financial sector.

⁵ <http://www.landcoalition.org/cplstudies>

Trade law and responsible investment *E. Bürgi Bonanomi, WTI*. In **International instruments influencing the rights of people facing investments in agricultural land** *S. Heri, E. Bürgi Bonanomi, K. Gehne, WTI; A. Ten Kate and S. van der Wal, SOMO/Oxfam Novib*

A look at the international body of trade law and how it influences investment practices. Suggestions are made for sustainable trade regimes.

Responsible investment through international investment law: Addressing rights asymmetries through law interpretation and remedies *K. Gehne, WTI*. In **International instruments influencing the rights of people facing investments in agricultural land** *S. Heri, E. Bürgi Bonanomi, K. Gehne, WTI; A. Ten Kate and S. van der Wal, SOMO/Oxfam Novib*

Describes asymmetries in international investment law with regard to investor and community rights by covering a number of judicial and non-judicial remedy mechanisms.

An historical perspective on the “Global Land Rush” *C. Huggins*

Using a broad historical and conceptual scope, the rush for land is presented as an expression of an entrenched pattern of external control which critically compromises local livelihoods in the global South.

Case studies: Africa

Investissements et mécanismes de régulation des transactions foncières en Afrique de l’Ouest *CSAO/OECD*

Drawing on the conclusions from five country studies in Burkina Faso, Mali, Ghana, Niger, and Senegal, analyses existing mechanisms regulating land transactions in West Africa. The study formulates proposals to strengthen land governance at both the national and regional levels.

Evolution and impacts of coastal land use in Benin: The case of the Sèmè-Podji commune *P.J. Dossou, VADID*

Describes the recent trend of land acquisitions for commercial and industrial use by private actors, and provides an economic evaluation of investments from the points of view of investors, the local population, and the country as a whole.

Socio-economic impact of commercial exploitation of Rwandan marshes: a case study of sugar cane production in rural Kigali *M. Veldman and M. Lankhorst, RCN Justice & Démocratie*

This study examines the case of a state lease of 3,100 hectares of marshland outside the capital Kigali for sugarcane production, made possible by the land law passed in 2005, which brought all marshes and river valleys under state control.

A case study of the Bechera agricultural development project, Ethiopia *M. Fisseha*

Analyses the impacts on local communities and environments of an agricultural investment project covering an area of 10,700 hectares and affecting almost 5,000 people.

Irregular and illegal land acquisition by Kenya’s elites: trends, processes, and impacts of Kenya’s land-grabbing phenomenon *E. O’Brien, in collaboration with KLA*

Provides an overview of corrupt land acquisitions, discusses the general profiles of perpetrators and the extent of the impacts on local land users and on Kenyan society as a whole.

Social impacts of land commercialization in Zambia: a case study of Macha mission land in Choma district

J.T. Milimo, J.H. Kalyalya, H. Machina, T. Hamweene, ZLA

Describes a situation in which opportunities of new commercial activities and services have been outweighed by the loss of houses, grazing and cultivated land, and alternative economic activities for 222 families.

After Daewoo? Current status and perspectives of large-scale land acquisitions in Madagascar

R.A. Ratsialonana and L. Ramarojohn, Observatoire du Foncier; P. Burnod and A. Teyssier, CIRAD

Traces the evolution of large-scale agricultural investments in Madagascar between 2005 and 2010, illustrating that of

the 52 projects announced in 2005, one-third have not passed the prospecting phase and that the area involved is 20 times less than initially announced.

Commercial pressures on land in Africa: A regional overview of opportunities, challenges and impacts

M.O. Odhiambo, RECONCILE

Presents an overview of the evolution, trends, and impacts of commercial pressures on land from a regional perspective, building on ILC case studies in Benin, Madagascar, Kenya, Rwanda, Ethiopia, and Zambia.

Case studies: Asia

The impact of special economic zones in India: a case study of Polepally SEZ

V.B. Rawat, M.B. Bhushan, SDF; S. Surepally, University of Satavahana

Provides an overview of the national-level controversy in India surrounding special economic zones (SEZs), before turning to a detailed account of the acquisition process and the impacts of one SEZ in Andhra Pradesh.

The new conquistadores and one very willing colony: a discussion on global land grabbing and the Philippine experience

R.J.G. de la Cruz, AR Now!

Explores documented instances of “land grabbing” in the Philippines and analyses the policy framework that enables and engenders this phenomenon.

The land development boom in Kathmandu Valley

B. Shrestha, CDS
Analyses the impact of rapidly increasing land prices, coupled with speculation and weak governance, on food production and farming communities in the Kathmandu Valley.

Palm oil and indigenous peoples in South East Asia

M. Colchester, FPP
Examines how the rapid expansion of oil palm estates in Malaysia and Indonesia is leaving indigenous peoples’ rights with little protection.

Highly extractive fishing activities and privatisation of foreshore lands: impact on the everyday lives of municipal fisherfolk

D.F. Calvan and J.M.S. Ablola, NGOs for Fisheries Reform

Describes the struggles of artisanal fisherfolk in the Calabarzon region in Luzon, the Philippines, to reclaim foreshore lands, fisheries, and inland resources that they have traditionally used, in the face of enclosures of the foreshore.

Commercial pressures on land in Asia: an overview

R.R. Ravanera and V. Gorra, Xavier University
Investigates the impacts of land-based investments on land tenure and food security for rural communities, women, indigenous peoples, and the environment, based on ILC case studies from Indonesia, Nepal, Pakistan, India, and the Philippines.

Case studies: Latin America

The concentration of land ownership in Latin America: an approach to current problems

E.W. Bravo, CISEPA
Provides an overview of the problems posed by the concentration of land ownership in Latin America by focusing on changes to land ownership during the 20th century, leading to recent trends.

The process of land concentration in Peru

Z. Burneo, CEPES
Examines how land ownership in Peru has been concentrated over the past decade by analysing interactions between *campesinos*, the state, and private capital.

Michiquillay: dynamics of transfer and changes in land use and valuation in the context of mining expansion in an Andean campesino community

M.L. Burneo and A. Chaparro, CEPES
Investigates conflict between communities and a large foreign mining company over the use of communal territory and, more widely, the general trend promoted by the state of displacing agriculture in favour of mining investments.

Liberalisation of ownership versus indigenous territories in the north of Nicaragua: the case of the Chorotegas

D. Monachon and N. Gonda, AVSF

Examines how the land rights of the Chorotega people in northern Nicaragua have been neglected in the process of national development, while their environment has been degraded by the appropriation of land for large-scale industrial exploitation.

The competition for family dairy farmers' land in Uruguay and their response strategies

A. Tambler and G. Giudice, CCU

This study shows how small producers in Uruguay's dairy sector have managed to work together to maintain ownership of land, bucking the trend of land concentration in favour of large companies.

No man's lands? Extractive activity, territory, and social unrest in the Peruvian Amazon: the Cenepa River

A. Durand, SER

Through a case study of the activities of a large foreign mining company, this paper shows how successive governments have deemed the Amazon an "empty" territory to be commercially exploited in order to bring "progress".

Interventions to curb deforestation and stability in access to land: a comparative study between two modalities of land regulation in the Trans-Amazon region, Brazil

I.V. dos Santos, N.M. Porro, UFPA; R. Porro, ICRAF

Addresses the interaction between the application of environmental laws and the stability of beneficiary families in agrarian reform settlements, in a context of increasing environmental concerns exacerbated by climate change.

The International Land Coalition

ILC is a global alliance of civil society and intergovernmental organisations. Among its 116 members,⁶ strongly held and diverse perspectives exist on the implications of commercial pressures on land. However, ILC's members share a common vision of promoting secure and equitable access to and control over land for poor women and men. When ILC members, including organisations that are playing a lead role within the multilateral system on land governance and investment, met in Tirana in May 2011 for their biennial Assembly, they were able to agree on a common declaration, defining land grabbing and denouncing it in all its forms. The Tirana Declaration also sets out a shared alternative vision:

"We will work towards encouraging models of investment in agriculture and other rural land-based activities that are socially, economically and environmentally sustainable and that reduce poverty and hunger. We will contribute towards strengthening the capacities of local land-users, indigenous peoples, agricultural workers and their organisations, and creating incentives for more investments in and by small-scale producers rather than large-scale land transfers or concessions. We believe that such investments and the fight against poverty must go hand in hand, and must be closely linked to secure and equitable land rights for small-scale producers, who should be recognised as the main investors in land and agriculture."

6 <http://www.landcoalition.org/members/members>

7 <http://www.landcoalition.org/about-us/aom2011/tirana-declaration>

This report

We hope that the evidence and analysis presented in this synthesis report will contribute to an understanding of the global rush for land, and will help promote a much needed focus upon solutions to the problems that surround this phenomenon. In particular, we wish to move the debate beyond entrenched positions, between somewhat simplistic arguments of “win-win-win” outcomes for investors, countries, and local land-users on the one hand and categorical opposition to all large-scale and commercial investments in land-based activities on the other. This report aims to identify significant governance trends in such a way as to make it easier for the members of our coalition to forge common actions.

Chapter Two of this report examines the land rush as a global phenomenon. It presents evidence on the key features of the land rush, and on the forces that are driving this intensification of competition for land. It draws principally on the data emerging from the ongoing Land Matrix project.

Chapter Three examines the land rush more in terms of individual cases of enhanced commercial pressures on land, presenting evidence on the processes involved and, particularly, on the impacts for land acquirers, host governments, local populations, and the environment. It draws principally on the case studies carried out as part of the Commercial Pressures on Land research project.

Chapter Four asks why the driving forces identified in Chapter Two are creating the impacts identified in Chapter Three. It identifies and discusses the chronic failures of governance that so disadvantage poor rural men and, particularly, women as competition for land grows.

Chapter Five presents the key conclusions of the report and considers the implications for policy and common action.

ILC's members share a common vision of promoting secure and equitable access to and control over land for poor women and men



CHAPTER TWO:

Features, triggers, and drivers of the global rush for land

The Land Matrix records large-scale land deals that cover, in total, 203 million hectares of land worldwide. The area involved is equivalent to over eight times the size of the United Kingdom, or nearly the size of northwestern Europe



Introduction

This chapter draws on the latest data from the ongoing Land Matrix project to characterise some of the key features of the land rush: How big is it? Who is involved? And what land is it targeting? Drawing also on case study findings from the Commercial Pressures on Land research project, it then examines the trends that are driving this phenomenon.

A number of organisations began collaborating on the Land Matrix project⁸ in 2009 to systematically collate and cross-reference information on large-scale land acquisitions. These include transactions that:

- Entail a transfer of rights to use, control, or own land through sale, lease, or concession;
- Imply a conversion from land used by smallholders, or for important environmental functions, to large-scale commercial use;
- Are 200 hectares or larger; and
- Were not concluded before the year 2000 when the FAO food price index was lowest.

The database contains two sets of data: “reported” and “cross-referenced”. “Reported” data cover deals sourced from published research reports and media reports (as collated on the Commercial Pressures on Land portal)⁹ and government registers where these are made public.

“Cross-referenced” data refer to those reported deals that are referenced from multiple sources. The cross-referencing process involves an assessment of the reliability of the source of the information, triangulation with other information sources, and, if necessary, confirming with in-country partners in the networks of the Land Matrix partners. Media reports are not considered sufficient for cross-referencing. Rather, research reports based on fieldwork, confirmation by known in-country partners, or official land records have

been considered sufficient evidence. However, due to the low levels of transparency that characterise land deals, such evidence still cannot be taken in many cases as fully conclusive; hence, although our aim is to verify as closely as possible, we have refrained from calling these “verified” deals.

Certain limitations must thus be recognised in both the reported and the cross-referenced data. With regard to reported deals, the database may include deals that are inaccurate. Both reported and cross-referenced deals may include announcements which reflect the intentions of prospective transacting parties, but where no actual land reallocation has yet taken place. The database as a whole is also likely to reflect certain media biases; acquisitions in certain countries and by certain countries may attract more attention, for example. However, while some reports may overestimate actual acquisitions, or suggest acquisitions that do not eventually take place, it can by no means be assumed that the reported data overestimate the total scale of large-scale land acquisition taking place. On the contrary, a lack of transparency in most involved countries, along with possible wariness about public announcements and the fact that media sources and researchers are hardly likely to report on all deals, suggest that the scale of the phenomenon may be even bigger than the data indicate.

Similarly, with regard to the cross-referenced data, the lack of transparency poses an obstacle to verification, aside from the obvious difficulties of carrying out fieldwork in all cases. The cross-referenced data may thus underestimate the scale of acquisitions that could be verified, were information to be made public. The cross-referenced data may also be biased towards countries where there is greater transparency. This is evident for Peru, for example, where transparency laws allow access to information on all large-scale land acquisitions.

8 The partnership now includes ILC, CIRAD, CDE, GIGA, and GIZ. It is supported by Oxfam, the European Commission, and the Swiss Development Cooperation. The analysis and views expressed in this section do not necessarily reflect the policies of supporting organisations.

9 www.commercialpressuresonland.org

The Land Matrix records transactions for six main sectors – food, fuel, timber, carbon sequestration, mineral extraction, and tourism. The latter four sectors are likely to be under-represented in the data, because of a widespread focus in media and research on farmland acquisitions.

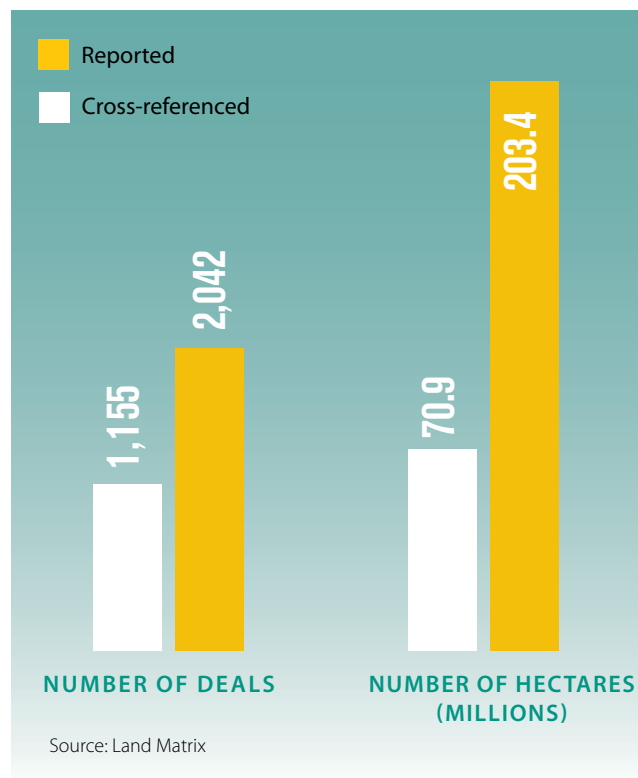
With the above biases acknowledged, the Land Matrix provides the most comprehensive indication to date of the scale and features of land deals. In November 2011, the database contained 2,042 reported deals, of which 1,155 (57%) had so far been cross-referenced. As the updating of the Land Matrix is a continuous process, the data it provides are constantly changing. The analysis in this report is based on data from the beginning of November 2011. In 2012 key sections of the database will be made publicly accessible.

The area involved is equivalent to over eight times the size of the United Kingdom, or nearly the size of northwestern Europe.

The scale and pace of the land rush

For the period between 2000 and November 2011, the Land Matrix records reported large-scale land deals that cover, in total, 203 million hectares of land worldwide. These are deals which are reported as approved or under negotiation and include those it has not yet been possible to cross-reference. The area involved is equivalent to over eight times the size of the United Kingdom, or nearly the size of northwestern Europe. However, it has thus far only been possible to cross-reference that about one-third of this land area is actually already subject to acquisition. These cross-referenced deals account for 71 million hectares (35% of the area involved in all reported deals).

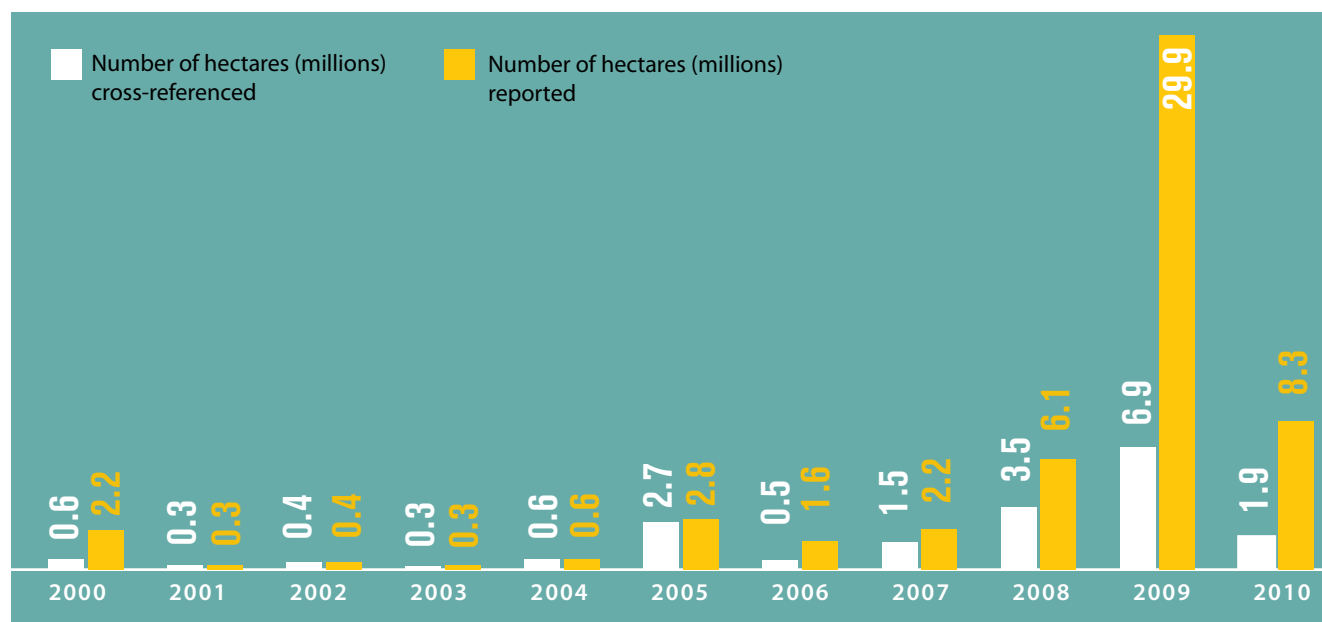
Figure 1: The global scale of land deals



These figures show the enormous scale of the current competition for land resources, and reflect the findings of other studies of more limited scope. For example, the World Bank report, “Rising Global Interest in Farmland” (Deininger et al. 2010), is one of the most cited sources on the scale of the current land rush. It presents a figure of 46.6 million hectares, reported in the press as acquired

for large-scale production, between October 2008 and August 2009. This period corresponds to the most recent peak of activity as far as announced and reported land deals are concerned. The ten-year Land Matrix dataset shows how the pace of land acquisitions has increased tremendously over this period (see Figure 2).

Figure 2: The global pace of land acquisitions



Source: Land Matrix

The Land Matrix data suggest that the rate of acquisitions remained low until 2005, whereafter it accelerated greatly, peaking in 2009 and slowing down somewhat in 2010. As will be described below, the surge of 2005–2009 can be related to the food price crisis and a range of factors that triggered new investor interest in land. The slowdown in 2009 is likely partly due to the 2008–2009 financial crisis and a consequent deceleration in the rate of acquisition. It may also be due to potential acquirers becoming more realistic about the risks of difficult conditions, technically but also socio-politically. This was the case

in Madagascar following the withdrawal of Daewoo (Andrianirina-Ratsialonana et al. 2011). Thirdly, it may be that significant critical press coverage has made potential acquirers more wary of large-scale acquisitions in poor countries, or at least less inclined to publicly announce new large acquisitions. Overall, the data are suggestive of a long-term trend of growing commercial interest in land, somewhat masked by a possible new-found wariness (since 2009) about attempting very large-scale land deals, or publicising those under negotiation.

Who is acquiring land?

The term “investors” is commonly used as a catch-all term for economic actors engaged in acquiring land as part of the current land rush. However, this usage is problematic for two reasons. Firstly, the evidence suggests that many land acquisitions do not initially involve high levels of investment, being either speculative or involving production only on a small proportion of the land acquired. It is important to distinguish between such acquisitions and productive investment in agriculture and other land-based sectors. Secondly, the use of the term “investors” to mean foreign or elite national actors forgets the fact that the world’s foremost investors in land and agriculture are the 500 million smallholder households who invest time and money in food production and the maintenance and improvement of agricultural systems. In this report, we have therefore referred to “land acquisitions” rather than “investments in land”, and to “land acquirers” rather than “investors”, where it is not possible to distinguish investors from speculators. “Acquisition” is taken to refer to purchase, lease, or concession.

In later chapters, we also make an important distinction between “land acquisitions” and “investments” in emphasising that external investment can happen without acquiring land, and in fact that the best forms of investment are likely to be those that are not based on a model of land acquisition.

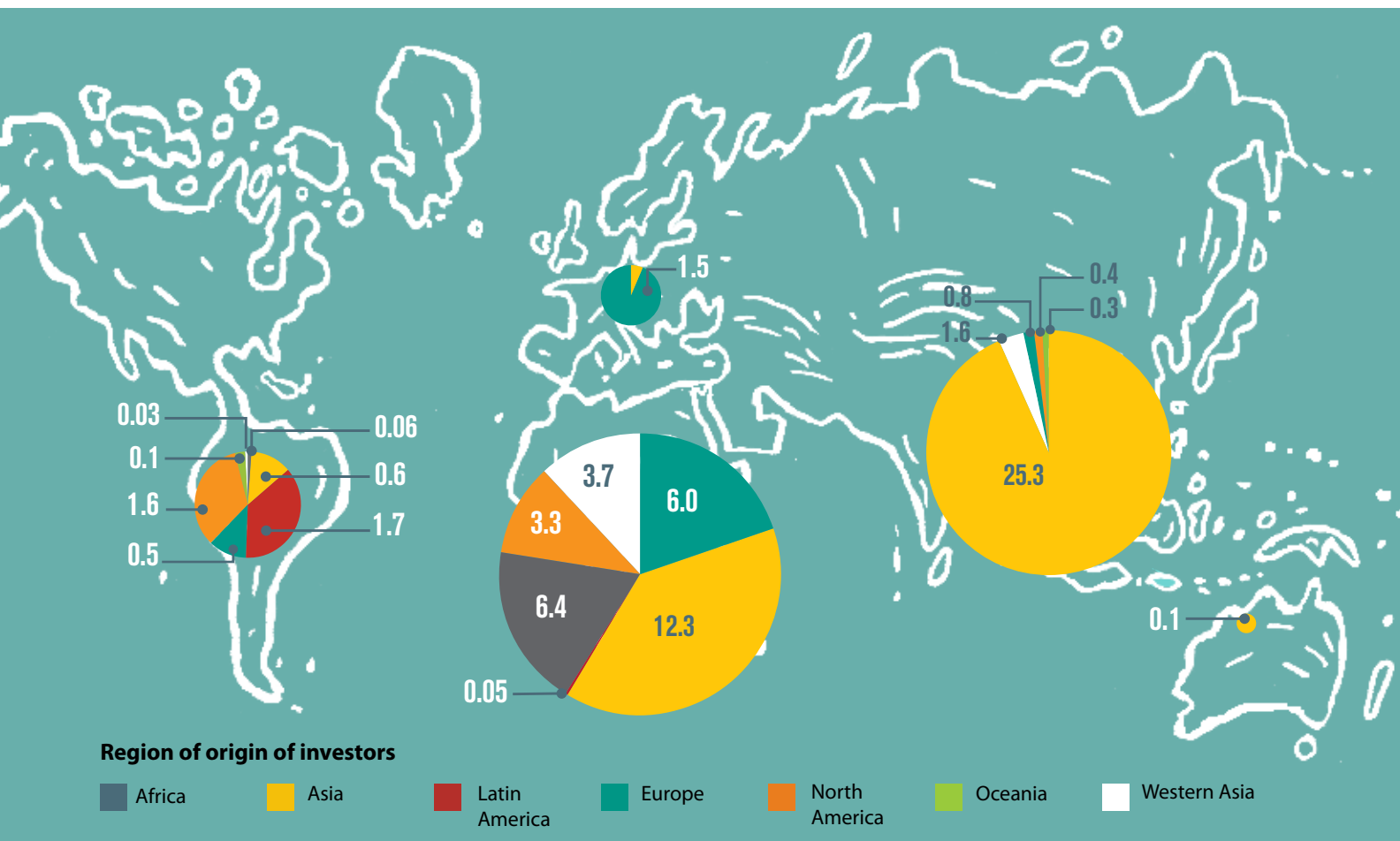
While media reports have emphasised the role of foreigners as land acquirers, national elites are also key players. Although the land areas involved in individual transactions may be smaller, the cumulative effect is significant. This has been illustrated in some earlier quantitative inventories (Cotula et al. 2009; Deininger et al. 2010) and also noted in some of the ILC case studies (O’Brien 2011; Calvan and Ablola 2011). However, national actors often fall below the radar of global-level studies because they are seldom regulated or facilitated by public agencies, and because individual transactions tend to be smaller (Hilhorst et al. 2011).

Moreover, the evidence emerging from the case studies suggests that the surge in foreign interest in land is fuelling land acquisitions by nationals; that host country companies offer their services to foreign enterprises (as documented in Madagascar by Andrianirina-Ratsialonana et al. 2011); that nationals may acquire land with a view to then entering into an agreement with a foreign company; and that national actors may serve as intermediaries between a foreign company and the local population. These actors usually belong to established elite groups, at local or national levels. Their financial, economic, and often political connections enable them to establish control over natural resources, and to position themselves at the interface with national or international companies.

Much public attention has been paid to acquisitions from emerging economies, including China, India, South Korea, Saudi Arabia, and Qatar. In many cases such acquisitions have a substantial food security motive on the part of the home country. However, the Land Matrix data show that private acquirers motivated by profit are also prominent among the top investors. These originate from traditional investor countries, as well as emerging economies such as Brazil and South Africa.

The evidence suggests that many land acquisitions do not initially involve high levels of investment, being either speculative or involving production only on a small proportion of the land acquired

Figure 3: Home region of land acquirers in each region
Number of hectares (millions) cross-referenced



Source: Land Matrix

The data on acquisitions also suggest that regionalism may be on the rise, linked to regional trade agreements or to geopolitical considerations. The role of the former is illustrated by the experience of South-East Asia, where 75% of land acquisitions are made by regional players within the context of growing regional integration (Ravanera and Gorra 2011). The latter is exemplified by the interest of some Gulf states in land deals in Muslim countries such as Pakistan and Sudan, or by Libyan acquirers in the Sahel. Intra-regional trade in Africa has become dominated by South African actors, who account for a reported 40.7 million hectares since 2009 (Hall 2011).

Of the publicly reported deals, 948 land acquisitions totalling 134 million hectares are located in Africa [...] the high levels of interest in acquiring land in Africa appear to be driven by a perception that large tracts of land can be acquired from governments with little or no payment

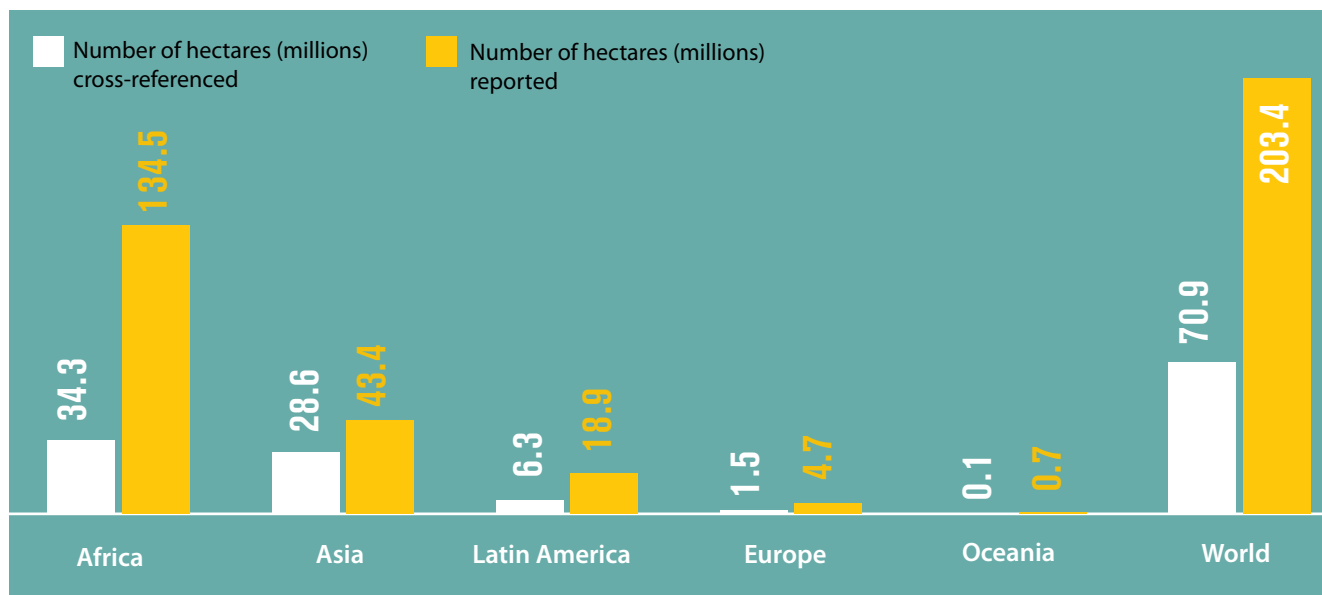
Where are the main targets of acquisition?

Africa appears to be the main target of the land rush. Of the publicly reported deals, 948 land acquisitions totalling 134 million hectares are located in Africa, of which 34 million hectares have been cross-referenced. This compares with 43 million hectares reported for Asia (of which 29 million hectares have been cross-referenced) and 19 million hectares in Latin America (of which 6 million hectares have been cross-referenced). The remainder (5.4 million hectares reported and 1.6 million hectares cross-referenced) are in other regions, particularly Eastern Europe and Oceania.

This pattern of distribution may reflect the strong media interest in African deals, as much as real-world differences in volumes of transactions. For example,

some food-importing African countries such as Ethiopia that are or were major recipients of food aid have attracted extensive media reporting, while anecdotal evidence suggests that there has also been strong acquisitive interest in Australia, New Zealand, and North America. Acquisitions in OECD countries are generally not reflected in the data, as private transactions between one commercial user and another that do not involve a conversion of tenure system or away from smallholder production are not included in the Land Matrix. The high levels of interest in acquiring land in Africa appear to be driven by a perception that large tracts of land can be acquired from governments with little or no payment.

Figure 4: Regional focus of land acquisitions



Source: Land Matrix

What is driving the land rush?

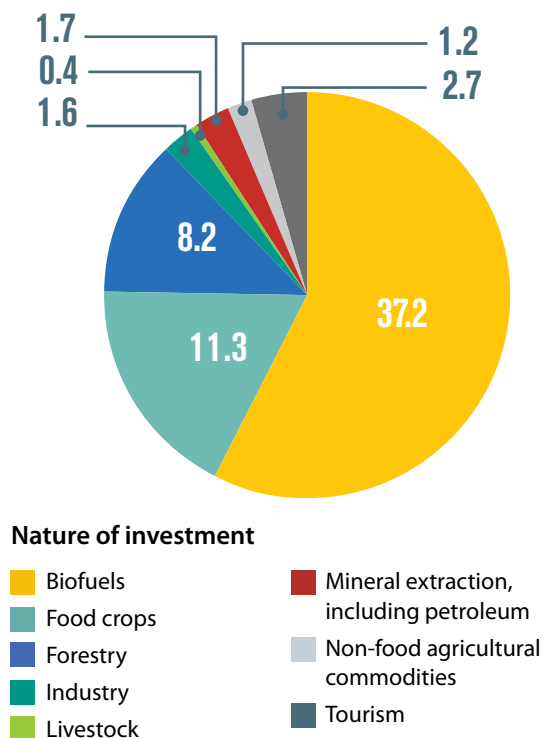
Is the land rush a short-lived phenomenon, or is it here to stay? In seeking to answer this question, it is helpful to differentiate between what we may call “triggers” and “drivers” of the phenomenon. The sudden rush for farmland that appeared to peak in 2009 was *triggered* primarily by the food price crisis of 2007 and 2008. The immediate causes of the food price crisis have been analysed in other studies (Headley and Fan 2008; Piesse and Thirtle 2009). Most commentators agree that the crisis was sparked by a convergence of events that included reduced grain stocks and a jump in oil prices that prompted a diversion of some food stocks to biofuels. As these were specific events, surges in cereal and basic commodity prices did not hold and prices fell significantly during the second half of 2008, although not to previous levels.

Nevertheless, the food crisis marked a turning point. No longer were some food-importing countries willing for their national food security to depend upon unpredictable world markets. It also provoked expectations that after two decades of stagnation, food prices would now rise over the longer term. This has so far proved correct, and food prices have again hit new highs in 2011.

Expectations of rising prices reflect longer-term trends that can be called the drivers of the rush for land. The food price crisis brought to attention trends of rising commodity prices that had been under way since 2000 (Deininger et al. 2010). Underlying these trends are the facts of a growing world population and, in particular, rising levels of consumption by the world’s growing middle classes. By 2050 the world will need and consume 70% more food than is consumed today (Ibid.).

However, demand for food is not the only driver of the land rush. Cross-referenced data from the Land Matrix show that in fact the highest demand for land comes from biofuel production, comprising 40% of the area acquired where the commodity is known. In comparison, 25% of cross-referenced deals are for the production of food crops, 3% for livestock production, and 5% for other non-food crops. Farm production therefore accounts for 73% of cross-referenced acquisitions, while forestry and carbon sequestration, mineral extraction, industry, and tourism account for a combined 27% of land acquired. The relatively high proportion of land being acquired for biofuels is particularly striking, considering the displacement of real or potential food production on these lands. This also reflects the expected profitability of biofuels, despite that fact that they may be a more unpredictable investment, whose profitability may shift significantly in response to changes in subsidies or new technology.

Figure 5: Global land acquisitions by sector
Number of hectares (millions) cross-referenced

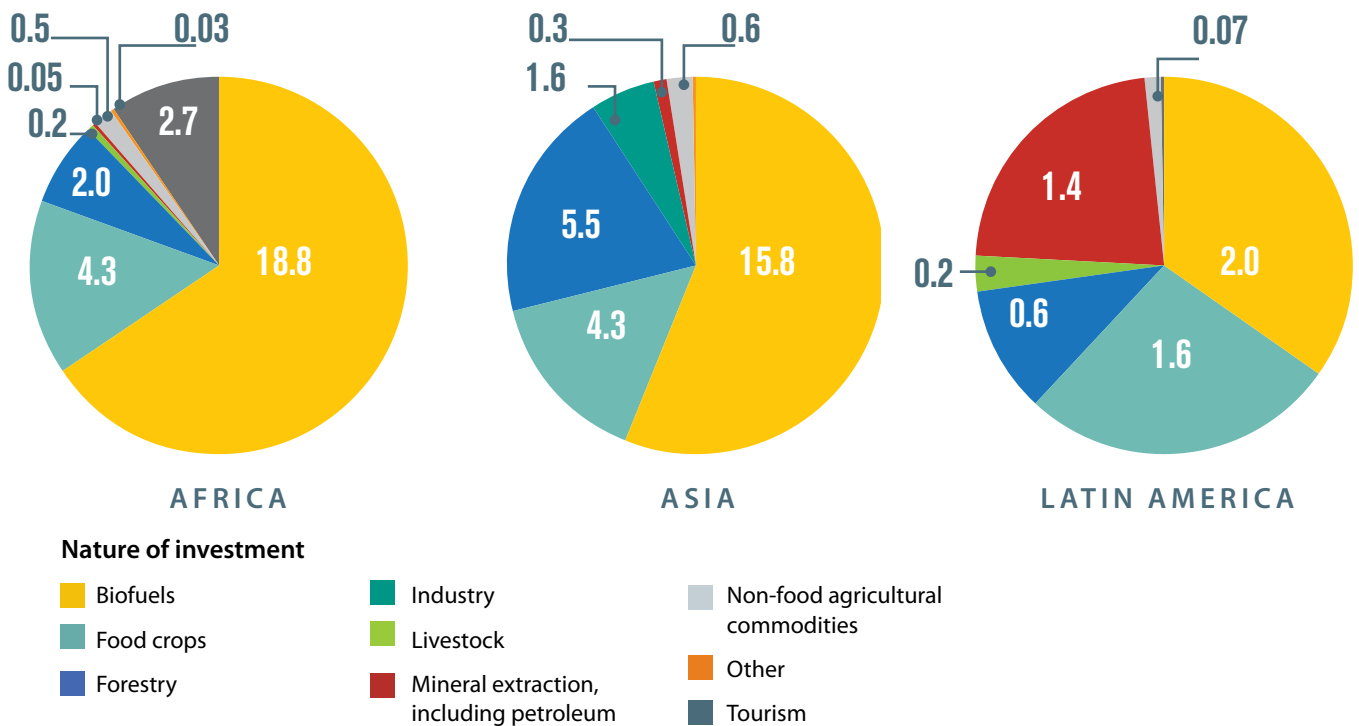


Source: Land Matrix

The focus of land acquirers is slightly different in different regions. In Africa, 66% of cross-referenced acquisitions are for biofuel production (compared with 15% for food

crops), whereas food crops tend to be more important in Latin America (27%), as does mineral extraction (23%).

Figure 6: Regional land acquisitions by sector
 Number of hectares (millions) cross-referenced



Source: Land Matrix

The rush for land is therefore not only about food security, and not only a response to high food prices. It appears to be driven by a range of factors, all ultimately linked to rising levels of food, fibre, energy, carbon, mineral and leisure consumption by at least part of the world's growing population, in the context of finite natural resources and ecosystem services. The main drivers suggested by the Land Matrix data and the case studies are set out below.

The food crisis marked a turning point. No longer were some food-importing countries willing for their national food security to depend upon unpredictable world markets

Demand for food

Demand for food is projected to rise not only due to population growth, but also due to changing diets linked to economic growth in emerging countries. By contrast, the potential for expanding food production is constrained in many parts of the world, due in particular to limited water availability (in the Gulf, for example) but also to declining productivity and climate change. The gap between global food demand and supply is likely to put upward pressure on food prices in the medium to longer terms. Unsurprisingly, food production features as a prominent driver in the case studies carried out for the ILC research project. In many areas, food production is increasingly dominated by large companies. One case study from Peru highlights how large firms are being given privileged access to newly irrigated lands for export crops such as asparagus, driving increasing land concentration (Burneo 2011). Similarly, in Mexico a single large, US-based agribusiness company accounts for 70% of the grain produced in the country (Wiener Bravo 2011).

Rising and increasingly volatile food prices have led many firms to seek to vertically integrate primary production (as opposed to relying on world markets). While some firms such as supermarkets focus mainly on coordinating the value chain (contractual arrangements with farmers), others may focus on a more direct involvement in agricultural production, particularly through land acquisition.

Demand for biofuels

Demand for biofuels is being driven by rising fuel consumption and oil prices, combined with growing concerns about limiting dependence on imported oil and reducing greenhouse gas emissions associated with fossil fuels. For example, the EU's renewable fuels target requires that 10% of transport fuels be supplied by renewables by 2020, with the expectation that 80–90% of this target is likely to be met by biofuels. European companies have responded with widespread investments in biofuel production both inside and outside of Europe (Cotula 2011a; Ravanera and Gorra 2011). The Netherlands Environment Assessment Agency estimates that 20–30 million hectares will be required for the EU to meet its target, with 60% of supplies imported. Biofuels appear to be a key driver in several of the ILC case studies. In one example, palm oil production projects for biodiesel in the Peruvian forest already account for 52,829 hectares, and this is planned to expand to 307,329 hectares in the short to medium term (Wiener Bravo 2011).

Demand for timber

The importance of forestry as a driver of the land rush is indicated by the fact that, in nine tropical countries studied, forest areas already subject to concessions amount to 258.74 million hectares (Molnar et al. 2011). Most such concessions are not reported in the Land Matrix because they do not necessarily imply a conversion of the total concession area. Molnar et al. (2011) suggest that demands on forests are rising sharply as more forest products are being commoditised. Putzel et al. (2011) report that, since 2000, China has obtained 121 concessions over 2.67 million hectares of forest in Gabon and is negotiating rights in the DRC and Cameroon. Further pressure on forests comes from clearance for oil palm plantations. In Indonesia, an estimated 7.5 million hectares of land are already under oil palm cultivation, with a current rate of land clearance exceeding 600,000 hectares per year (Colchester 2011).



Demand for other raw materials

While demand for timber is a driver affecting enormous land areas, demand for other raw materials – including minerals, oil and gas, and non-food crops such as rubber and fibre crops – is also an important driver. While demand for such commodities has been a feature of economic relations between the global North and the global South since colonial times, the recent surge in industrialisation in a number of countries has fuelled sharply rising demand. Many thousands of hectares of oil block concessions cover lands that are otherwise customarily owned and used by communities, such as in Sudan, which began oil exploration in 1999. Ten years later the country had licensed more than 1.1 million square kilometres for oil exploration (Global Witness 2009). While only a fraction of this will ever be converted through actual exploitation, tenure rights of local communities over the whole area have become insecure.

Industrial development

Although industry does not typically occupy huge land areas, it can be a significant competitor for land in areas where such competition is already intense. For example, case studies from the ILC research project describe the establishment of special economic zones (SEZs) in Benin (Dossou 2011) and India (Rawat et al. 2011). In India, 571 SEZs have been approved covering 140,000 hectares in total, leading to conflicts with displaced land users in a number of cases. New SEZs are also rapidly being established in Africa, with China believed to be supporting up to eight major SEZs around the continent (Brautigam and Xiaoyang 2011). Such industrialisation can also be expected to have knock-on effects in increasing demands for raw materials from rural areas.

Carbon markets

A fifth driver concerns ecosystem services, in particular the establishment of pollution rights markets and carbon credits. This is in response to global commitments at Kyoto and to more specific regional and national commitments to reduce carbon emissions. Emerging carbon markets, particularly those dealing in voluntary carbon offsets, have already encouraged international companies to acquire forested lands or deforested lands for reforestation (Deng 2011; Colchester 2011). Meanwhile a Forest Carbon Partnership Facility (FCPF) was established in 2008 to assist 37 tropical and sub-tropical forest countries to develop systems that would enable them to earn payments for reducing emissions by reducing forest degradation and deforestation (REDD+). Large numbers of REDD+ readiness projects have been established (Molnar et al. 2011; Deininger et al. 2010), often ignoring the fact that the target forests are under customary ownership (Colchester 2011).

Tourism

The global tourism sector is diversifying rapidly and is expanding at a rate of between 3% and 6.6% per year. While tourism ventures rarely occupy very large land areas, they are another source of competition for very high-value land, particularly coastal areas, for which there are likely to be competing uses. The Calabarzon region in the Philippines provides one example (Calvan and Ablola 2011). This case study describes how local populations, mainly fishermen, are confronted with rapid expansion of beach resorts, often illegally established on protected mangrove lands, which prevents access to foreshore resources.

Emerging carbon markets, particularly those dealing in voluntary carbon offsets, have already encouraged international companies to acquire forested lands or deforested lands for reforestation

Speculation

Finally, large-scale land acquisitions may be motivated not by demand for land-based commodities as such, but merely by expectations of rising land values as a result of rising demand. Given the global weakness of bond and equity markets in recent years, and the minimal purchase or lease prices being demanded by some governments, particularly in Africa, land in the global South has become increasingly attractive as an object of speculation. Such speculation involves both national actors and transnational ones such as hedge funds (UNCTAD 2009). In the cases of Uruguay and Nepal, for example, land has been used as a safe haven for investment, driving dramatic land price inflation and encouraging further speculation (Tambler and Giudice 2011; Shrestha 2011).

Large-scale land acquisitions may be motivated not by demand for land-based commodities as such, but merely by expectations of rising land values as a result of rising demand

Conclusions

In conclusion, the ILC studies and Land Matrix show that the land rush is more diverse in its drivers and actors than reports of even a year ago tended to suggest. Among the drivers are factors that will not disappear quickly, suggesting that although peaks and troughs in large-scale deals for land will occur, the overall trend of intensifying competition over land and land-based resources, including water, oil, timber, and minerals, will be with us for the foreseeable future.



CHAPTER THREE: Impacts

In many cases, inexperienced investors are sailing into uncharted waters, and history gives cause for caution



Introduction

This chapter gathers together evidence from the ILC Commercial Pressures on Land research project to examine the outcomes and impacts of large-scale land acquisitions. It considers outcomes for investors, for host governments, for affected communities, and for the environment. Selected reference is also made to other studies.

The global rush for land following the 2007–2008 food price crisis has been seen as bringing both opportunities and risks. On the positive side, it has been widely seen as an opportunity to make good the decades-long neglect of agriculture as a driver of development. In Senegal, for example, Indian investments have been promoted in an effort to achieve food self-sufficiency within the country's Major Offensive for Abundance (GOANA) programme (Anseeuw and Rahal 2007). The proposed investments by Daewoo and Varun in Madagascar promised massive programmes of infrastructure development, including the construction of schools, hospitals, power plants, factories, ports, and so on. These very large-scale projects were presented as major initiatives for achieving rural development (Andrianirina-Ratsialonana et al. 2011).

Such pronouncements have been seen as a way to secure local support for projects. But they are also indicative of the confidence of investors and governments in the commercial viability of the schemes proposed, and in the efficacy of large-scale commercial agriculture as a driver of rural development. But in many cases, inexperienced investors are sailing into uncharted waters, and history gives cause for caution. Plantation agriculture and large-scale mechanisation are not new, and many such schemes have had locally well-known effects, including steadily declining productivity in the medium term. Examples include the sorghum and sesame schemes of central Sudan in the 1970s and the groundnut and wheat schemes of northern and central Tanzania.

With the spirit of optimism driving massive capital flows, putting livelihoods and food security at risk, and potentially shaping the future of global agriculture, there is a great need to take stock of the real outcomes for all those involved.

The effects of large-scale land acquisitions and wider commercial pressures on land can be conceptualised in several dimensions. They may be felt at a local level, at a national level, or at a global level through world markets and global ecosystems. They can include direct outcomes such as new employment or loss of access to a resource, or more indirect impacts such as changed food security, local or elsewhere. People may be affected in different ways. Income, livelihood security, and economic development are important aspects; food production, availability, and security are others. But issues of dignity, self-determination, and the right of people to decide their own path of development and to control their own food systems if they want to do so are also critical considerations. Lastly, commercial pressures on land have different impacts on different groups of people. Such groups include international land acquirers and host country elites, the populations of host countries and other countries, and the local communities directly affected. It is vital to remember that there are divisions and power relations within these groups. It is the poor who are most likely to be negatively affected, as are pastoralists and forest-dependent people. This notwithstanding, it should be noted that commercial pressures on land are not a phenomenon that affects only pockets of rural minorities but one that affects rural majorities, and indeed whole societies, in many parts of the world. The analysis in this chapter will show, for example, how women, often a significant majority in rural areas, are likely to be net losers.

It is important to be aware of, and to highlight, all these different potential impacts, even if an in-depth and comprehensive analysis of all of them is beyond the scope of this study. Thus we can point to the need for further investigation into the real macroeconomic and food security effects of the land acquisitions taking place, particularly given the often unpromising historical record of similar large-scale agricultural schemes. Such effects will only emerge over time.

Where households lose access to resources upon which part or all of their livelihoods (or subsistence) depend, then clearly their access to adequate food is put at risk and becomes dependent upon finding adequate replacement employment. This may or may not be provided by subsequent activities on the acquired land. Large-scale land acquisitions can thus have severe impacts on local food security and food production systems. Such impacts may also be more widespread, affecting the food security of the host country, as well as of other countries. Here, considerations of national agricultural strategy (for example, whether crops are produced for local markets or for export) and trade (for example, whether export restrictions may be applied) are important (De Schutter 2011).

The gendered impact of commercial pressures on land is also something that requires special emphasis here. Adequately assessing the differential impacts on men and women necessitates sensitive investigation at the level of the community and, in particular, the household. Gendered impacts thus often “fall below the radar”, even of case studies focused at a sub-national level, though some of the studies referred to here were able to examine impacts on a gender-differentiated basis.

Before discussing the evidence that has emerged through the Commercial Pressures on Land research project, a few caveats are in order. Firstly, the cases described often refer to schemes at an early stage of implementation. Stages can include: (1) negotiation for land; (2) design of intervention; (3) construction of facilities and development of the land acquired; (4) initial stages of operation combined with further development of the land; (5) full-scale operation (when all or most of the land acquired is exploited). Most of the impacts discussed refer to stage 1 and to some extent stages 2, 3, and 4. While adverse impacts may be concentrated in such initial stages, it is possible that some claimed benefits may materialise fully only in the future.

Secondly, case study evidence is strongest on local impacts and less strong on wider economic impacts, which would require a different set of methodologies. Thirdly, many of the case studies (which were selected through an open call) chose to focus particularly on impacts on local communities, drawing attention to some of the overlooked or deliberately ignored downsides of the land rush, particularly those that affect marginalised land users who otherwise have little voice within public debate and policy-making. Finally, the case studies cover diverse geographical and sectoral contexts, so that generalisations should be made with caution.

With these caveats, it may nonetheless be observed that the case studies tend to confirm the findings of other reports, that models of investment predicated on acquiring large tracts of land are unlikely to yield significant benefits locally, and in fact may cause significant harm.

Returns for land acquirers

The case studies covered a great diversity of actors involved in land acquisition, ranging from sovereign wealth funds and transnational corporations through to large national companies and small and medium-sized local firms. In the case of the Kathmandu Valley, the “investors” are land speculators and relatively poor rural-to-urban migrants (Shrestha 2011). The Uruguay case study (Tambler and Giudice 2011) describes “investors” who are speculators and international agribusiness concerns, but also those who are smallholder dairy farmers who have successfully organised themselves into cooperatives in order to remain competitive in a challenging environment of increasing demand for land for other uses. Indeed, as already mentioned, the commonly used term “investors” itself is not always very appropriate, as some actors may neither be paying for the rights they acquire, nor investing funds in any productive enterprise.

Many of the case studies discuss well-established industries, such as mining and hydrocarbon operations in Peru and oil palm plantations in Indonesia. These obviously have a track record of profitability. However, other acquisitions covered by the studies appear to have more uncertain commercial prospects. For example, agricultural projects involving the establishment of very large plantations for untested cash crops, or led by companies that do not have the necessary track record in tropical agriculture, involve much higher risks. These acquisitions are often underpinned by hopes of high returns, but it seems that the challenges linked to successfully delivering projects in difficult environments are often underestimated.

These challenges often lead to unexpected delays and lower returns (Andrianirina-Ratsialonana et al. 2011; Odhiambo 2011; Colchester 2011). Madagascar and the Philippines provide examples of very large-scale transnational projects that were abandoned after they triggered a public outcry (Andrianirina-Ratsialonana et al. 2011; de la Cruz 2011). A case study of a project in

Ethiopia showed that it was not performing as expected and was not profitable at the time of the research: started in early 2008 on ready-to-be-used land, its production area was less than half of what had been expected and promised for the 2009–2010 season (Fisseha 2011). Studies undertaken outside the Commercial Pressures on Land research project are in line with these findings – for example, with regard to abandoned biofuel projects in Mozambique and Tanzania (Nhantumbo and Salomão 2010; Sulle and Nelson 2009). In these cases, projects were abandoned following changes in global economic circumstances, including oil prices and difficulties in accessing finance following the financial crisis.

However, acquisitions may be a way to capture economic rents associated with imperfect markets or with control over natural resources, as well as a means to generate normal profits from productive activity. In Rwanda, for example, a company was found to be able to use its near monopoly (one seller with many buyers) over the national sugar market, as well as its monopsony (one buyer with many sellers) over outgrowers, to limit production and thus to maintain the price of sugar on the national market at an artificially high level (Veldman and Lankhorst 2011). In Indonesia, outgrowers in the oil palm industry tend to depend on a single, corporate-owned mill, which gives disproportionate market power to the mill owners (Colchester 2011).

In other cases, rising land prices have allowed speculators to make profits through capital appreciation. In the peri-urban Kathmandu Valley in Nepal, for example, capital flows in search of a safe haven, as well as credit-driven speculation, have fuelled land price inflation (Shrestha 2011). The main beneficiaries of rising land prices have been a booming real estate industry, land speculators, and the indigenous farming communities of the valley, many of whom have become residential landlords or have invested capital from land sales into non-farm businesses.

In the case of Uruguay, land prices rose over 400% between 2000 and 2009, driven again by capital in search of a safe haven, as well as by a boom in soy and corn production. In this case, land price inflation has been partially driven by the greater returns that can be generated by land-based activities, linked to the increasing global demand for agricultural commodities. Rising commodity prices relative to production costs have enabled producers or landowners to capture differential rents. Indeed, contractual rents (i.e. what is paid by tenant farmers to landowners) increased nearly five-fold between 2000 and 2008, in line with rising land prices. Landowners, rather than producers, have been able to capture rising economic rents (Tambler and Giudice 2011).

More generally, actual and projected rises in world commodity prices tend to push land values up. This can be expected to generate significant natural resource rents, particularly where land prices are currently very low. The finding that returns may be significantly determined by the capital appreciation of land and use of market power suggests that those who will gain the most in the longer term are those who are able to maintain lawful possession of the land. As a result, local land users may stand to lose out if they lose possession, even if they gain in other ways such as through employment. The potential generation of land rents raises moral questions about who should ideally be able to capture them.

The commonly used term “investors” itself is not always very appropriate, as some actors may neither be paying for the rights they acquire, nor investing funds in any productive enterprise

Government revenues

An in-depth analysis of outcomes for host countries would require far more evidence than is available at the current time, particularly with regard to macro-economic aspects measured on a longer-term basis. This would include effects on economic growth and balance of payments, for example. This section, however, focuses on government revenues, a key issue on which it is already possible to make some observations.

There is a longstanding argument that natural resource rents should be subject to taxation in order to remove incentives for unproductive speculation and to strengthen relative incentives for productive activities. Fees charged to land acquirers for the use of public lands could be used to have this effect. In this way, natural resource rents may also be collectivised and used to fund public goods. However, there is little evidence that governments are seeking to capture rents in this way. Instead, many governments have been prepared to allocate land for little or no rent, as part of efforts to attract the capital that is seen to be needed to create jobs and develop infrastructure.

In Ethiopia, for example, the government has used a five-year tax holiday and very low land fees to this end (Fisseha 2011). Most African governments seeking to attract capital have used similar measures. In the Philippines, municipal governments have foregone considerable potential revenues from commercial aquaculture through lax enforcement of foreshore governance (Calvan and Ablola 2011). In India, SEZs provide extensive tax exemptions. Critics argue that they have not so much attracted new foreign direct investment (FDI) as encouraged the translocation of existing domestic industry to benefit from the lower tax regime. The Ministry of Finance has estimated that SEZs could cost the state up to Rs. 700 billion (approximately USD 15 billion) in lost revenues (Rawat et al. 2011).

In many land deals, lease fees are negligible, with the acquirer committing instead to develop infrastructure such as irrigation systems, roads, and social facilities for affected communities (Cotula 2011b). These, however, may not turn out to be a good deal for host countries. A legal analysis of a sample of land contracts from Africa

found that such commitments may be too unspecific to be enforceable, that monitoring and sanctioning compliance involves a cost for the host state, and that, despite these commitments, low or absent land fees can create incentives for speculative acquisitions (Ibid.).

Access to land for local populations

There is a widespread perception that much land is “empty”, “available”, or “wilderness”. This is not the case. Virtually all valuable land is used or at least claimed by local people. The land that forms the prime focus of large-scale land acquisition is not land under permanent cultivation but unfarmed forests, grasslands, and marshlands held and used as communal assets by rural communities. These lands are usually owned collectively by tradition and customary law and also used collectively. While all households benefit from these collective resources, richer households typically earn most from their use while poorer households with smaller farms are most dependent on them for their livelihoods. Even though many governments do not give recognition or protection to any customary ownership rights, they may

prefer not to allocate permanent farmland and residential land to investors and speculators in order to limit conflicts and possible compensation or relocation costs, as loss of standing crops and houses generally requires compensation, irrespective of the land’s ownership status (Alden Wily 2011a).

However, the land reallocated is unlikely to be the least used. Despite the rhetoric of targeting marginal lands, acquirers are most interested in lands that are fertile, well-watered or with good rainfall, easily accessed by roads or rail, and with electricity transmission, market centres, habitation (helpful for employing people), and export servicing centres nearby. These are areas that are likely to be already used relatively intensively by local people, and not just for farming.

BOX 1: COMPETITION FOR SUITABLE LANDS IN MADAGASCAR

In Madagascar, land in coastal regions is the focus of applications by prospective land acquirers, for reasons linked to soil quality, favourable rainfall, topography, and, in particular, proximity to ports to facilitate export. Since 2005, the greatest number of requests have concerned the regions of Boeny, Sofia, Melaky, Menabe, Atsinanana, Sava, and Atsimo-Andrefana. Contrary to all expectations, given the size of Madagascar’s territory and the potential scale of the prospective acquisitions announced (between eight and 20 million hectares), applicants find themselves competing for access to certain lands. This competition highlights the fact that land fulfilling the criteria sought by foreign investors is in quite limited supply (Andrianirina-Ratsialonana et al. 2011).

While SEZs are predictably located near towns, this is also the case for many agribusiness land acquisitions. Maps show clustering near to large towns, capital cities, and ports, or concentration in water-rich areas of otherwise dry countries. Despite the vast size of Madagascar's territory, acquirers have been competing for fertile, non-hilly land near a port (Andrianirina-Ratsialonana et al. 2011). Other ILC studies also illustrate this trend, describing, for example, schemes in the marshlands near the Rwandan capital Kigali (Veldman and Lankhorst 2011), in peri-urban areas such as around Cotonou in Benin (Dossou 2011), in Nepal's Kathmandu Valley (Shrestha 2011), and in coastal areas of the Philippines (Calvan and Ablola 2011).

Land that is not under permanent cultivation is more often than not the collective asset of rural communities under local tenure systems, such as *Adat* in Indonesia or a host of similar customary regimes in other Asian states and all of Africa. These communally held lands, or "commons", often make up the major land and resource asset of rural communities. Far from being idle or unused, such lands are in fact crucial elements in the system of customary or indigenous landholding and use (Alden Wily 2011a). They are also major contributors to livelihoods. Such lands provide a huge range of forest products, areas for grazing and transhumance, and for hunting and fishing. They are also often used for shifting cultivation (bush farming or forest farming) or held to be the reserve areas for generational expansion of cultivation. That is, while they are often large areas, communities deliberately sustain them as collectively owned and used and not available for permanent settlement or farming.

Loss of access to any such lands will have adverse impacts on local livelihoods, and these may be very severe. Pastoralists and forest-dependent people are particularly at risk given the nature of their land use and their need for large land areas to survive (Odhiambo 2011).

Virtually all valuable land is used or at least claimed by local people. The land that forms the prime focus of large-scale land acquisition is not land under permanent cultivation but unfarmed forests, grasslands, and marshlands held and used as communal assets by rural communities

The ILC studies provide numerous examples of cases where local communities have been dispossessed of land resources. For example:

- Fisseha (2011) reports how the 10,700 hectares of land taken for the Bechera Agricultural Development Project in Ethiopia comprises the grazing lands and wetlands of local pastoralists, as does most of the 300,000 hectares leased to the same Indian investor in Gambella Regional State;
- Andrianirina-Ratsialonana et al. (2011) indicate that much of the so-called unowned lands being reallocated in Madagascar include fertile lands reserved for community expansion, along with pasturelands belonging to communities by custom. Forests, which are formally public property, are also being allocated;
- Veldman and Lankhorst (2011) examine the takeover of marshlands in Rwanda by a Ugandan sugar mill group;
- Rawat et al. (2011) describe how the appropriation of land for an SEZ in India focused on low-caste land reform beneficiaries with lower-status land rights, and to whom less compensation must be paid;
- Millions of hectares of customary forestlands are being taken to produce oil palm in Indonesia and parts of Malaysia (Colchester 2011);
- In the Philippines, "idle, under-utilised lands" which are also the traditional common lands of communities are being allocated for biofuels, food, and rubber plantations (Ravanera and Gorra 2011); and

- Durand (2011) reporting for ILC on the Cenepa River in Peru, describes how certain land types (in this instance, sand bars) are claimed by the state and reallocated to oil and mining concessions, even though they lie within titled native lands.

It is important to note that dispossession does not always result in physical eviction. Local landholders may continue to live on the land until developments take place – and development may occur only slowly. Frequently, communities may keep their houses and permanent farmland but lose their common property, or they may lose part of their landholdings, being squeezed on to residual areas.

In one project in Ethiopia, for example, the loss of livestock tracks and routes to water points has deprived herders of their access to strategic pastures. As a result, some herders have engaged in distress livestock sales (Fisseha 2011). Similarly, in the Philippines, coastal development has had the effect of depriving artisanal fisherfolk of access to the sea and the foreshore (Calvan and Ablola 2011). And in Nepal, a reported tactic of land speculators and developers is to acquire and develop land in such a way as to cut off access and irrigation to other areas of farmland, forcing farmers to sell their lands (Shrestha 2011).

However, the expropriation of farm and residential land and the outright eviction of rural communities has also been reported. This includes forced relocations, such as that under way in Gambella Regional State in Ethiopia as a result of a large project (Horne 2011). ILC studies in India, Indonesia, Zambia, and the Philippines describe displacement. In yet other cases, the planned development may never take place, and all that may change for local communities is that they swap one landlord for another in the transfer of their land from the state to a private investor. Alternatively, the legal status of the state-owned land may be changed (e.g. from “Village Land” to “General Land” in Tanzania).

Effects of commercial pressures on access to land can also be seen through the lens of land concentration, whereby control of land resources becomes concentrated in ever fewer hands. This is a particularly topical issue in the Latin American context. Wiener Bravo (2011) describes some of the main processes of land concentration in this region. In Peru, one driver of land concentration has been the expansion of agricultural frontiers through irrigation projects, with large-scale investors being given priority in the allocation of land (Burneo 2011; Wiener Bravo 2011). Another dimension of resource concentration relates to the allocation of concessions for oil, mining, and forestry. These concessions may overlap with existing land uses, and may involve the acquisition of control of very large areas by a small number of companies. Of the 75 million hectares of the Peruvian Amazon region, 53 million hectares are covered by oil and mining exploration concessions. These include protected areas, reserves for indigenous peoples, and areas for which native communities have land title (Durand 2011).

Dispossession does not always result in physical eviction. Local landholders may continue to live on the land until developments take place – and development may occur only slowly

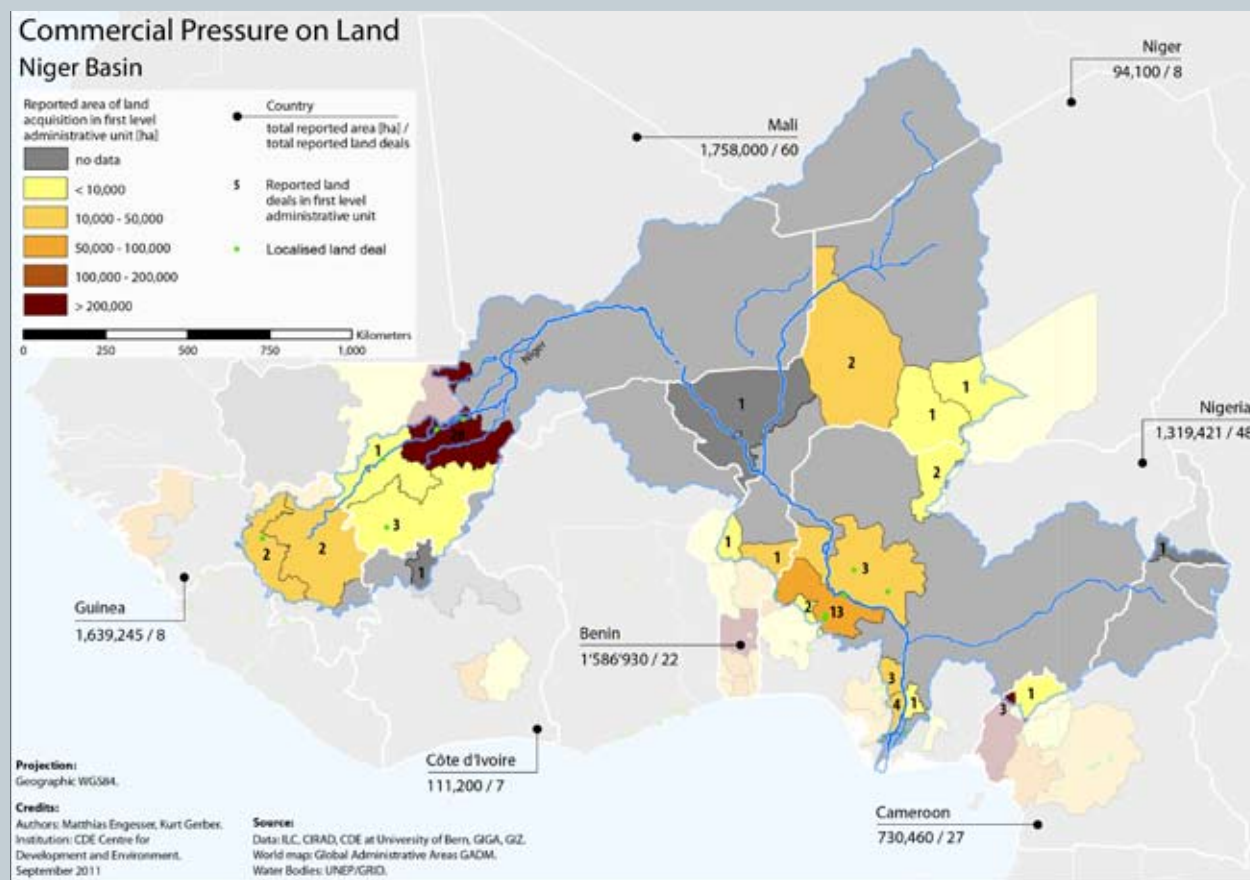
Access to water

Access to water is one of the key drivers of transnational land acquisitions. Water scarcity is increasingly a key constraint on agricultural production, leading to escalating competition for water resources. This is particularly true for the Gulf States, where declining fossil water reserves, which are not being recharged, have prompted moves to acquire agricultural land overseas. Declining water reserves forced Saudi Arabia to abandon food self-sufficiency in 2007, and wheat production is due to be phased out entirely by 2016. At the same time, mechanisms have

been established to promote the acquisition of land for food production overseas (Cotula 2011a).

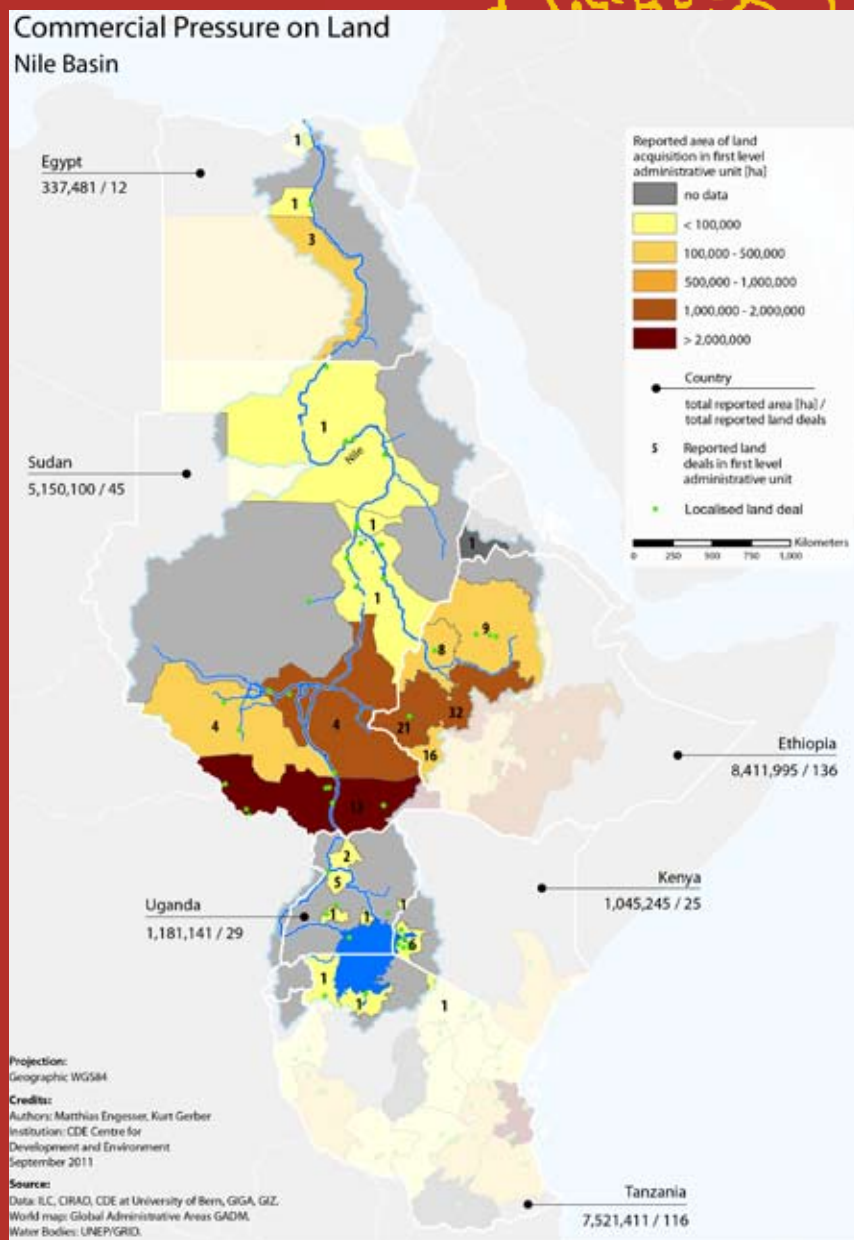
The data from the Land Matrix show how water is a key factor in the location of land acquisitions in some countries, with acquisitions focused in irrigable river basin areas. Figures 7 and 8 illustrate the concentration of large-scale acquisitions in the upper river basins of two of the most important trans-boundary rivers of Africa, the Niger and the Nile.

Figure 7: Concentration of land acquisitions in the Niger River basin



Source: Land Matrix

Figure 8: Land acquisition concentration in the Nile river basins



Land deals for irrigation agriculture may grant acquirers priority access to water, or even an entitlement to specified quantities of water

Source: Land Matrix

In most jurisdictions, water is owned by the government, particularly following reforms in water management in the 1990s. Land deals for irrigation agriculture may grant acquirers priority access to water, or even an entitlement to specified quantities of water (Cotula 2011a). Where this happens, water abstraction and enforceable water rights may adversely affect water access for other users. Competing water interests can be particularly difficult to manage in large trans-boundary river basins such as those of the Niger and the Nile (Keulertz 2011).

In Mali, for example, the cumulative increase in large-scale irrigation projects in the Office du Niger area could impinge on water availability to downstream irrigators and to farmers, herders, and fishers in the seasonally flooded Inner Niger Delta (Baumgart 2011). It is not yet clear how local institutions and transnational river basin bodies (in this case the *Autorité du Bassin du Niger*) will cope with increased water demand from large-scale schemes and increased vulnerability of water supplies as a result of climate change (Cotula 2011a).

Water scarcity is increasingly a key constraint on agricultural production, leading to escalating competition for water resources

Access to adequate housing

A major risk linked to commercial pressures on land is the potential loss of residence and residential-based assets. Such effects may be particularly severe when acquisitions are compulsory, rather than negotiated, and include non-consensual displacement of affected populations (Milimo et al. 2011; dos Santos et al. 2011). In the case of the Polepally SEZ in India, a number of low-caste households were evicted from their houses as well as their lands, and a new housing colony was promised. However, at the time of the study, the new settlement was only in the early stages of development, despite the fact that three or more years had passed and many of the planned industrial units had been fully built (Rawat et al. 2011).

Increased competition may also make gaining access to land for housing or other purposes more difficult, particularly for the poorest people. Increased pressure may result in land price inflation, as illustrated by the case studies from Uruguay and Nepal (Tambler and Giudice 2011; Shrestha 2011). While this may benefit some existing land holders, it may push land and adequate housing out of reach for the poorest. These inhabitants are then often forced to migrate to more marginal zones, as in Benin where a growing population on non-serviced sites at the edges of a municipality has led to the development of slums (Dossou 2011).

In addition, where land acquisitions result in the direct loss of residential property, the effects on households can be further exacerbated by the loss of other assets and the disruption of non-farm livelihoods. In Zambia, for example, additional loss of non-farm revenues was seen to occur due to displacements. Traders were relocated to a disadvantageous location, having then to incur the costs of travelling a long distance from their homes to the public market to carry out their business (Milimo et al. 2011).

BOX 2: EXPROPRIATION OF LAND AND HOUSING IN ZAMBIA

Mr. A. and his family lived on land owned by the Macha church mission “for a long time”. He had built a five-room house worth KSH 25,000,000 (USD 5,000) and had ten hectares of land. “They [the Mission officials] told us to move out or else they would demolish our house. We were told that police officers would come to evict us. I asked to be compensated but was given only KSH 8,000,000 (USD 1,600) by the white man [the land acquirer]. My family and I left the house and we are now living in another village where we do not have a single field on which to grow crops,” he recounted.

“I used to keep 15 head of cattle but now I have only six. We had 16 goats but now we have none at all. We had eight pigs; now we have none. We used to produce about two hundred 50kg bags of maize per year, but now we produce nothing. We used also to produce about ten to fifteen 50kg bags of groundnuts, nineteen 90kg bags of cotton, and one or two bags of beans. Now we have to buy all these commodities. We do not have enough land to graze our animals. The land was very fertile. Now it is being used to grow jatropha.” (Milimo et al. 2011)

Compensation for communities

Compensation usually refers to explicit compensatory payments for the loss of land, houses, and other assets. In a broader sense, it can also be taken to include proceeds from the negotiated transfer of land, and a range of infrastructure, services, and other in-kind contributions that land acquirers may promise or supply to local communities as part of the deal.

There are many cases in which no compensation is paid to individuals, families, and communities whose land is taken. The reason is usually that the customary ownership of local land occupants is not legally recognised (Alden Wily 2011a). Examples from ILC case studies include the disregard of indigenous peoples’ territories in the context of oil palm development in South-East Asia (Colchester 2011), a scheme in Ethiopia where the state declared land not to be cultivated (Fisseha 2011), and the case of Zambia, where local populations who had occupied land belonging to a church mission for several decades were simply declared to be “illegal squatters” (Milimo et al. 2011). Artisanal fisher communities in the Philippines

do not receive compensation for the enclosure and development of foreshore areas, even though this may deprive them of access to resources that are important to their livelihoods. This is because these lands are formally owned by the state (Calvan and Ablola 2011).

Where compensation is paid, amounts may not be adequate to restore local livelihoods. In Africa, when unregistered farms and houses are lost, domestic laws normally require payment for loss of standing crops and houses, but this is never enough to cover the cost of the real losses and does not include loss of the value of the land. In addition, most African constitutions and land laws still enable occupants to be evicted before payment is made, meaning that affected populations may wait decades for even minor recompense (Alden Wily 2011a).

In the case of Polepally SEZ in India (Rawat et al. 2011), compensation payments and replacement housing were significantly delayed, while a promised financial transfer to a village development fund had not yet happened at the time of research. Local officials were accused

of withholding parts of compensation payments, particularly to lower-caste recipients. Some people affected by expropriations claimed not to have received any compensation. In addition, many compensation payments were based on an assessment of the market value of land before the development, as is common practice. However, this approach proved inadequate to meet replacement costs: as many recipients sought to buy replacement land in the surrounding area, local land prices rose significantly. Also, the predominantly Dalit and tribal beneficiaries of a previous land reform programme were awarded a fixed, lower level of compensation per hectare on the basis that they had a different form of tenure (although the legal right of authorities to expropriate this land at all was questioned). Finally, the report suggests that compensation was inadequate because it did not cover non-land assets such as wells, boreholes, trees, livestock, and livestock sheds. Many of those affected were forced into distress sales of livestock and were thus unable to recover their value (Rawat et al. 2011).

Local communities that are promised some recompense in the form of infrastructure development may fare no better. In Ethiopia, one investor promised (in 2008) to construct roads, schools, a clinic, and water points, but these promises had not been fulfilled at the time of the study (Fisseha 2011). In the case of Zambia, an investor implemented a number of important services which were previously not available in the area, such as a private school, radio services, and internet access. However, according to the Zambia Land Alliance, these services were not seen as being accessible or adapted to the local population, including those directly affected by the project (Milimo et al. 2011).

BOX 3: MARKET PRICE IMPLICATIONS OF COMMUNITY LAND DISPOSSESSION IN ETHIOPIA

A survey carried out for the case study asked questions about respondents' experience of recent sudden falls in the price of livestock. Almost all agreed that there had been a sharp fall in prices after community grazing land was taken away, and estimated this to be between 20% and 35%. Most farmers said that the main reason for selling their livestock was the non-availability of fodder. All the respondents (100%) replied that they had used the community grazing land to feed their livestock. None of them was compensated for the lost grazing land. (Fisseha 2011)

There are many cases in which no compensation is paid to individuals, families, and communities whose land is taken. The reason is usually that the customary ownership of local land occupants is not legally recognised

Job creation

It is often argued that large-scale agricultural schemes may create jobs in agriculture and/or processing, both directly and through supply chain relations. But several case studies suggest that the hoped-for jobs do not necessarily materialise, partly because such schemes are often capital-intensive and because local populations are not well integrated into them. Additionally, pay and conditions may be exceedingly poor. Colchester (2011) describes how many “smallholders” in oil palm schemes are effectively providing forced labour because of unpayable debts to the company running the processing mill. Similarly, on oil palm plantations, a frequently reported complaint is that employment promised by companies as an incentive for communities to hand over their land turns out to be jobs that are cut after a few years (Ravanera and Gorra 2011).

Opportunities for local smallholder producers

Another possible avenue by which local communities may theoretically benefit from large-scale land acquisitions is through the commercial association of smallholders with commercial enterprises, particularly through share-cropping and outgrower or contract farming schemes. But as with negotiated land rents or wages, the benefits for local communities depend on the terms that have been negotiated, and thus on the negotiating power of the relevant parties. This in turn is likely to depend on varying degrees of control over resources and supply chains.

It is often only better-off local farmers who are able to adapt to changing contexts and may possibly gain through commercial association with large firms. In the case study from Rwanda, only a relatively small number of farmers – those who were commercially oriented before the arrival of the agribusiness company – were

BOX 4: GOING BEYOND JOB CREATION: WHAT ARE LABOUR CONDITIONS?

In Rwanda, members of the community agree that working in the fields for Madhvani (the sugar company) or for outgrowers is the worst of the different employment options (alternatives include working in mines and in a rice cooperative). The wages that labourers get during the year for planting and maintenance are considered to be very low, while the labour is hard. Madhvani pays RWF 500 a day (less than USD 1). Unsurprisingly, the bulk of the labourers are women and the involvement of minors is substantial (Veldman and Lankhorst 2011).

Benefits in the form of local jobs are likely to be limited where companies can hire imported labour. This commonly applies to recruitment for management and skilled positions, so that locals can only get precarious, seasonal, or low-paid jobs (Fisseha 2011; Calvin and Ablola 2011). In the Indian case, employment in the SEZ was part of the promises made to local groups, but locals benefited little though employment, apart from temporary jobs during the construction phase. The SEZ chiefly employs better-educated workers from urban centres (Rawat et al. 2011).

BOX 5: RIGHTS TRANSFER DRIVEN BY THE NEGLECT OF SMALLHOLDER PRODUCTION IN THE PHILIPPINES

In Biliran, a poor province in Region VIII, agrarian reform beneficiaries were approached by officials from the Philippine National Oil Company and the Department of Agriculture to persuade them to lease their landholdings to a foreign corporation for jatropha production. The offer allegedly was PHP 5,000 (a little over \$100) a year, per hectare, for ten years. This meant that, for a period of ten years, no other crops could be planted on the leased landholding except jatropha. To sweeten the deal, the farmers were promised that they would be paid the full amount of PHP 50,000 upfront upon signing the contract.

Considering that these smallholders, despite being holders of Certificate of Land Ownership Awards (CLOAs), still live below the poverty line and find that the government's post-reform support services are wholly inadequate to make their lands productive, an offer of PHP 50,000 was difficult to refuse. Few, if any, of them, had seen that amount of money before and, pressured by mounting debts, were tempted to grab the deal being dangled before them. And yet PHP 50,000 for one hectare per annum is an unconscionably small amount, given the profits that the investor stands to earn from the cultivation of jatropha for biofuel production (de la Cruz 2011).

able to retain access to land and work as outgrowers. The others took up employment on the plantation or elsewhere. The study, however, suggests that both groups considered themselves to be poorer than they were before the implementation of the plantation. The outgrowers complained about the conditions imposed by the agribusiness, the labourers about the bad labour conditions (Veldman and Lankhorst 2011).

One-sided dependence on a landowner or a processing company, whatever the form of the contractual arrangement, is unlikely to be an advantageous one for smallholder farmers or agricultural workers. Indeed, in the trans-Amazon region of Brazil, the desire of migrant households to "work for oneself in a land without landlords" was identified as a key driver of settler expansion and deforestation (dos Santos et al. 2011).

One-sided dependence on a landowner or a processing company, whatever the form of the contractual arrangement, is unlikely to be an advantageous one for smallholder farmers or agricultural workers



Impacts on women

Within communities, the benefits and costs of land acquisition are not felt equally. Negative impacts are likely to hit hardest those who are socially and economically the most disempowered. The effects of such power differentials within communities are most significant and widespread in relation to gender. Several case studies emphasise the tendency for women to suffer disproportionately from such impacts.

According to the ILC study that focused specifically on gender (Daley 2011), the vulnerability of women arises from four different factors. Firstly, it arises through the constraints and systemic discrimination that women generally face in relation to their access to, ownership of, and control over land, including the level of legal protection of their land rights.

Secondly, women's vulnerability arises through their position and the systemic discrimination they generally face in socio-cultural and political relations, most particularly in relation to their everyday tasks, their role in decision-making, and their ability to exercise freely both "voice" and "choice" in decisions that affect their lives and livelihoods.

Thirdly, women's vulnerability also arises through the more general state of their relative (cash) income poverty vis-à-vis men. It is not always easy to separate out women's relative income poverty from the discrimination they face in relation to productive resources and to participation in decision-making, both of which contribute to poverty, but it is nonetheless a different dimension of their vulnerability. And fourthly, women are physically vulnerable, as manifested in gender-based and sexual violence against them.

Thus, women worldwide have very often lost out in the face of land tenure changes, large-scale rural development schemes, and through classic land titling programmes. Such developments often negate the informal rights that many women have to productive resources on what are often regarded as marginal lands.

The latest wave of large-scale land acquisitions should be assessed against this background as highly likely to consolidate and exacerbate the disadvantages suffered by women.

Colchester (2011), for example, describes how the establishment of nominal smallholdings within certain types of oil palm estate vest land title in the male household head, eliminating the rights to land that women had under customary tenure systems. Other reported negative impacts on women from oil palm plantations range from increased workload due to loss of nearby access to clean water and firewood and loss of income and food formerly provided by home gardens and other cropping areas, to increased domestic violence as a result of increased social and economic stresses.

Large-scale commercial developments may also offer alternative employment opportunities for women. Commercial enterprises, in fact, often have a preference for female labour for many tasks (Daley 2011; Veldman and Lankhorst 2011; Rawat et al. 2011). While wage labour can, in principle, offer some opportunities for independence and emancipation, in practice pay and conditions are often so poor that it amounts to further subordination.

In the case of Polepally SEZ in India (Rawat et al. 2011), women were preferred as labourers, partly because they were seen as less likely to be involved in organised resistance to the development. However, the work was only low-paid and temporary. This case also revealed how caste or other forms of marginalisation can have a critical effect on outcomes, with Dalit and tribal women and men being discriminated against when it came to employment and compensation payments.

Environmental impacts

References to environmental consequences are numerous in the case studies and are often related to the detrimental effects of a change in agricultural production methods, as well as negative environmental consequences of the clearance and cultivation of forested and other non-farm habitats.

A transformation from low-input smallholder agriculture to large-scale, intensive, and industrialised agriculture may imply a range of environmental consequences. These include land degradation, water pollution, excessive use of fresh water, and heavy dependence on fossil fuels for machinery, fertiliser, pesticides, storage, and transportation (Montemayor 2009). Regarding pollution, cases include land, air, and water pollution related to industrial developments in different SEZs in India (Rawat et al. 2011) and pollution linked to intensive mining in Peru (Durand 2011). Land acquisitions can also indirectly lead to negative environmental impacts elsewhere. This is shown by the case of the municipalities neighbouring Cotonou, where rural emigrants who have lost their lands have settled en masse on unserviced plots, leading to extreme pollution and health problems (Dossou 2011).

Meanwhile, the conversion of forested and uncultivated lands is associated with biodiversity loss, degradation, diversion of water from environmental flows, and loss of ecosystem services such as the maintenance of soil and water quality, as well as carbon sequestration (African Union 2009; Markelova and Meinzen-Dick 2009). Several reports emphasise the depletion of forests. Observations of deforestation are widespread in the context of

Observations of deforestation are widespread in the context of increasing commercial pressures on land

increasing commercial pressures on land (Molnar et al. 2011; Colchester 2011). Logging and conversion to oil palm plantations are the main causes of the massive rate of forest loss in Indonesian Borneo. From 2000 to 2005, FAO reported Indonesia as having the fastest rate of deforestation in the world at 1.871 million hectares of forest lost every year. It is estimated that half of the country's 143 million hectares of tropical forest area have been lost or degraded (Ravanera and Gorra 2011). Forest loss can also have knock-on ecological impacts. In the Philippines, the conversion of mangroves has endangered marine species (Calvan and Ablola 2011).

BOX 6: AQUACULTURE, FISH PONDS, AND PRESSURE ON AQUATIC RESOURCES IN THE PHILIPPINES

The process of transformation from a predominantly agriculture- and fishery-dependent economy to one targeting modern eco-tourism and agro-industries can be seen in the experiences of artisanal fisherfolk in the municipality of Calatagan, Batangas. Its extensive municipal waters and shoreline were once utilised as a traditional route to fishing grounds, as docking areas for fishing boats, and as a recreational area for local residents. The municipality's mangrove forest areas provided fertile ground for the abundant fish catch that in the past supplied about 25% of Batangas' total fish catch. But now the shoreline is slowly being enclosed for private and commercial development of beach resorts, while the mangroves have been progressively converted into fish and shrimp ponds, adversely affecting the natural spawning area of fish and other marine species, endangering biodiversity, and threatening fishers' incomes. (Calvan and Ablola 2011)

Conclusions

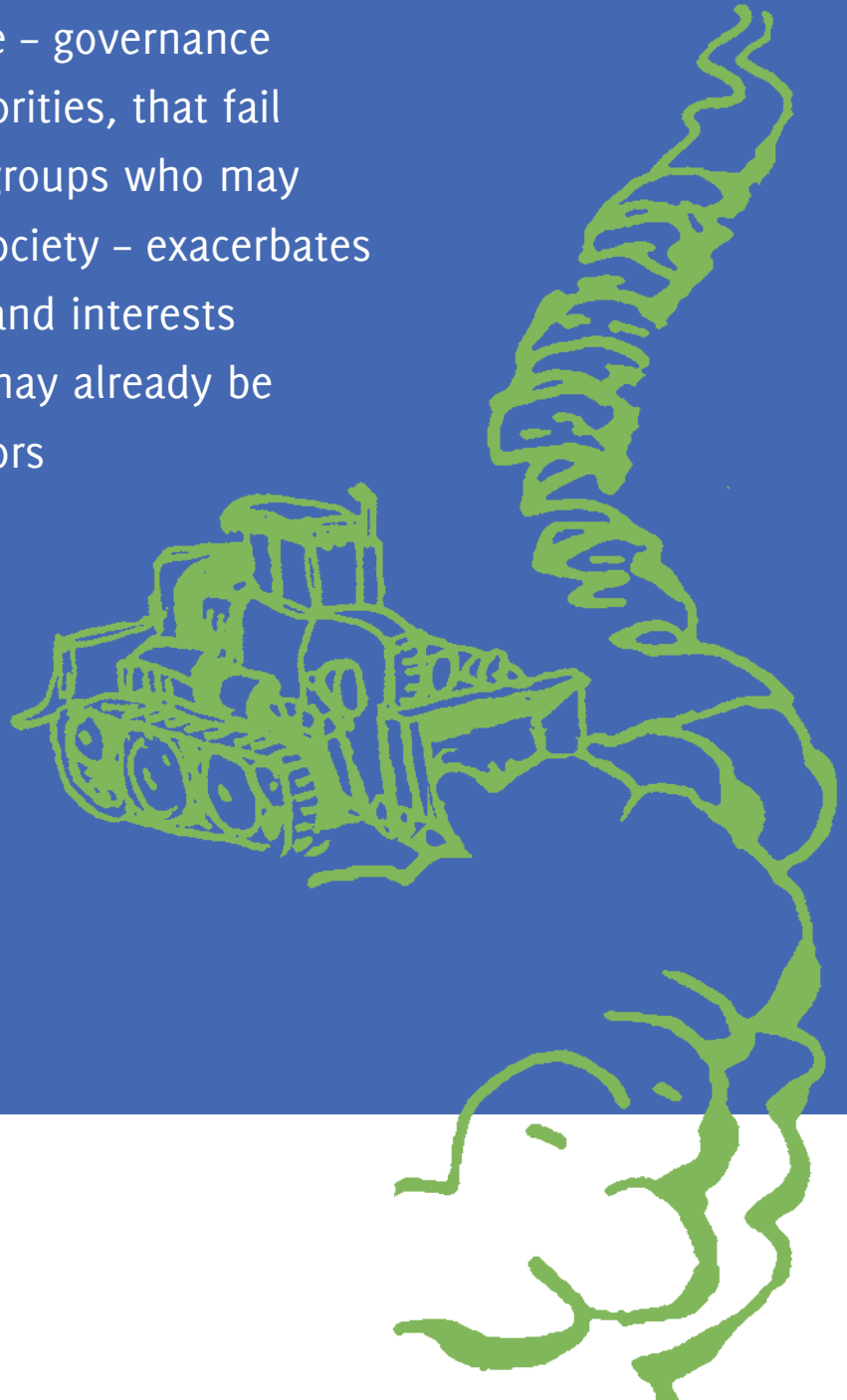
The overall picture that emerges from the case studies carried out under the Commercial Pressures on Land project is not a positive one. There are, and will be, winners, and the commercial viability of some sectors such as oil palm or logging is well established. But many proposed projects are highly speculative, and many schemes have so far been characterised by delays and difficulties. And where land tenure rights are transferred to investors on a large scale, there are also likely to be very many losers, no matter how commercially successful the venture. The benefits for host countries as a whole are questionable. While the effects on local and national economies are still uncertain in most cases, governments are foregoing opportunities to benefit directly from natural resource rents through taxation and lease fees.

The situation for local communities appears still worse, throughout the cases investigated. The allocation of large land areas to outside investors can always be assumed to mean the dispossession of local land users, and their exclusion from resources that are critically important to their livelihoods. Compensation payments are typically inadequate, if paid at all, and wage labour and outgrowing or share-cropping opportunities are typically limited and low-paid. The reallocation of land customarily owned and occupied by communities typically hits hardest those who have least power and the weakest tenure rights. Poor rural communities as a whole are losing their land, while within such communities women are likely to bear a disproportionate share of the costs. Those who rely on extensive access to the commons, especially pastoralists, hunter-gatherers, fisherfolk, and forest-dwellers are also particularly vulnerable.

The allocation of large land areas to outside investors can always be assumed to mean the dispossession of local land users, and their exclusion from resources that are critically important to their livelihoods

CHAPTER FOUR: Factors shaping the land rush

Weak democratic governance – governance processes that fail poor majorities, that fail women, and that fail other groups who may not have a strong voice in society – exacerbates failure to protect the rights and interests of those whose livelihoods may already be precarious due to other factors



Introduction

Chapter Two described the factors driving the land rush, and Chapter Three presented evidence on the impacts it is having, particularly at the local level. But the drivers described are not, on their own, enough to explain the impacts detailed. The question remains, why is the land rush having the largely negative impacts that it is? To answer this question, it is necessary to examine the contextual factors that are shaping it and enabling harmful large-scale land acquisitions to take place.

It is possible to identify four key factors shaping the land rush that can all be described as failures of governance. They are as follows:

- **Weak democratic governance:** Despite advances in democratisation around the world, huge deficits of transparency, accountability, and popular empowerment exist and contribute to elite capture of resources.
- **Land governance that fails the rural poor:** Many national legal systems centralise control over land and do not legally recognise the land rights of local land users, thereby paving the way for the large-scale allocation of land to prospective investors.
- **Economic governance that fails the rural poor:** The emerging trade and investment regime increasingly provides extensive legal protection to investors, while far fewer and less effective arrangements have been established to protect the rights of the rural poor or to ensure that greater trade and investment translate into inclusive sustainable development and poverty reduction.
- **The sidelining of smallholder production:** Agricultural development policy has increasingly been captured to the benefit of large-scale commercial ventures, undervaluing the potential of family farming.

Weak democratic governance

Land acquisition for commercial ventures implies a range of decision-making processes within host countries. It implies policy decisions about the type of agricultural development that is envisaged and promoted, about the sustainable management of the nation's natural resources, about the entry of the state into commitments with external parties, and about the discretionary use of powers typically held by the state over the allocation of land. Democratic governance is thus a cross-cutting issue. Weak democratic governance – governance processes that fail poor majorities, that fail women, and that fail other groups who may not have a strong voice in society – exacerbates failure to protect the rights and interests of those whose livelihoods may already be precarious due to other factors.

At the most general level, weak governance may mean weak national institutions of governance, often facilitating state capture by elites. Despite the widespread adoption of multi-party electoral systems in the South since the 1990s, members of parliament in many of these new regimes are still able to place their private interests above those of their constituents, and measures of “voice and accountability” in this area remain poor (Herbst 2008). Often the interests of politicians and senior officials are commercial interests, and these individuals are often both public officers and businessmen. Such figures may be closely involved as facilitators and partners in large-scale domestic and foreign land-based enterprises.

This “neo-patrimonialism” is pronounced in many, and perhaps most, of the countries where lands are being acquired at scale by investors, from Cambodia to Mali, the DRC to Indonesia. Such regimes combine the architecture of seemingly modern democratic states with the informal reality of persisting “personalised, unaccountable power and patron-client ties”. These often reach down to the local level through chiefs and connected “fixers”, but leave the majority poor without a

say (Diamond 2008). The partial integration of judiciaries in such networks can make recourse to justice difficult. O'Brien (2011) illustrates the results in a plethora of not just irregular but seemingly permissible illegal land grabbing by connected elites in Kenya. Speculative land acquisitions by members of political elites appear in a large proportion of case studies and commentary relating to the land rush, including those produced under the ILC project.

More specific problems include lack of transparency and corruption. Decision-making and negotiations for land deals usually happen behind closed doors. Only rarely do local land holders have a say in such negotiations and few contracts are available to the public. This reduces scope for public scrutiny and creates a breeding ground for corruption. Transparency International defines corruption as "the abuse of entrusted power for private gain".¹⁰ Defined in these broad terms, corruption is endemic in many key countries leasing lands at scale, including much of Africa and parts of Asia. In Transparency International's Corruption Perceptions Index, Sudan, Laos, and Cambodia are close to the bottom of the ranking (172nd and joint 154th out of 178, respectively), while other key land acquisition target states such as the Philippines (134th), Madagascar (123rd), Ethiopia, Mali, Mozambique, and Tanzania (all at 116th) score only marginally better. It is not just high-level corruption on a large scale that is at stake. Case studies from the Philippines (de la Cruz 2011) and from Nepal (Shrestha 2011) illustrate the role of corruption at all levels of government.

Another aspect of governance is the following of due process in decisions that affect rural land users. The principle of obtaining Free, Prior, and Informed Consent, in particular, is central to an understanding of the right to freedom from eviction and respect for other rights such as the rights of indigenous peoples. Breaches of such

due process are widely reflected in the ILC studies. For example, local communities are often not informed and may be evicted in the context of logging concessions (Molnar et al. 2011). Thousands of communities in Indonesia affected by the oil palm boom have no means of complaint or recourse to justice (Colchester 2011). A case study from the Philippines shows how local officials routinely turn a blind eye to irregular development on foreshore lands, dispossessing local fishing communities (Calvan and Ablola 2011). In the context of the Polepally SEZ in India, Rawat et al. (2011) describe a process of (mis)information and consent extraction that makes a mockery of required due process.

A further problem concerns the limited development of genuinely devolved local government that can legally represent the interests of rural communities. Following political reforms in the 1990s a wave of decentralisation occurred in Africa and Asia. In some cases, as in Francophone West Africa, this included decentralisation of land administration. In practice, such developments have (with exceptions) ultimately been either cosmetic or have devolved only certain powers, leaving land-related decision-making vested in central government or remote provincial or regional state entities. While the rural poor as a whole are disadvantaged in the absence of fully localised governance machinery, groups such as women, pastoralists, and youth – the future land holders – are generally even more remotely connected and represented in decision-making (Daley 2011).

Decision-making and negotiations for land deals usually happen behind closed doors. Only rarely do local land holders have a say in such negotiations

¹⁰ http://www.transparency.org/policy_research/surveys_indices/cpi/2010/in_detail.

Land governance that fails the rural poor

As shown in Chapter Three, large-scale land acquisitions are resulting in the widespread dispossession of existing land users. This need not be the case, for “acquisition” can imply a voluntary, negotiated transfer of ownership, and there are cases of such transfers occurring where there appears to be genuine local support for an agricultural project (Da Via 2011; Deng 2011). “Dispossession”, by contrast, implies an involuntary loss of land and resources by those who formally possessed them. Dispossession may take place through an *illegal* transfer, but it is in fact far more common in the context of the current land rush for landholders to be legally dispossessed. Legal dispossession may occur through compulsory acquisition of privately titled lands or, far more commonly, through the appropriation of land and other resources that are possessed by local communities under customary form of tenure but are not given formal legal recognition as being owned by them.

There are several common features among contemporary land governance systems that facilitate such dispossession:

- *Legal failure in many poor agrarian countries to recognise that lands acquired and held through customary/indigenous tenure systems amount to real property, therefore deeming these lands to be merely occupied, or possessed, but not owned.* This normally affects most of the rural population in these countries, such as an estimated half a billion people in sub-Saharan Africa.
- *Legal failure to acknowledge that large parts of traditionally held lands are even occupied or used; this places the greater portion of the customarily held estate in Africa and Asia in the category of not just being unowned but “vacant and idle” and “available to investors”.* This is so even though these collective lands, such as forests, rangelands, and marshlands, are actively used and may constitute an even greater source of livelihood than farm production.
- *The practice of regarding only lands which have been made formally subject to statutory entitlement as private property deserving of protection by the law.* This is in circumstances where often very little of the national area is under such title. For example, no more than 10% of all rural lands in sub-Saharan Africa are subject to statutory entitlements, and most of this acknowledged “private property” relates to former white-owned farming areas in South Africa, Namibia, and Zimbabwe (Alden Wily 2011).
- *The tendency of governments to vest all untitled lands in the state.* Several versions of this are common: “government lands”, “state lands”, and “public lands”. Laws often describe the first two as the private property of the state. “Public land” refers to lands which the state owns in trust for the nation, or for populations living in those areas. In practice, all three turn the government of the day into the effective landowner or landlord of all untitled lands. This is common in both Asia and Africa. Land nationalisation since the 1960s in many African states has made untitled landholders still more vulnerable (Alden Wiley 2010, 2011b).
- *The practice of vesting certain resources directly in the state.* While this includes sub-soil resources such as oil and minerals in most of the world, in many African and Asian countries state ownership tends to extend to land and surface resources such as foreshores, water resources, and sometimes forests, despite the customary ownership of these resources by local communities.
- *The adoption of market-oriented measures in new national land policies and laws, including allowing lands to be sold where this was not previously the case.* This includes widespread legal changes since the 1990s, which have enabled foreigners to acquire leases or even to purchase land outright; the removal of development conditions or other constraints against land hoarding and speculation; and abandonment of ceilings originally designed to inhibit landlessness, in service of private acquisition-based land developments.

- The emphasis in policies and laws that private purposes such as investment may be considered a *lawful public purpose* for which governments may take occupied or customarily held land, or expropriate titled land through compulsory acquisition, with due cause. Public interest grounds have been repeatedly used to facilitate expropriation for the establishment of SEZs in India (Rawat et al. 2011).
- *The failure of laws to sufficiently prescribe procedures*, enabling officials to stretch the boundaries of their powers to dispose of public lands. This is such a problem, for example in Kenya, that such practices have for some time been referred to as “irregular” allocations of public land to distinguish them from illegal allocations (O’Brien 2011).
- *Centralised land governance systems* which, while permitting communities to regulate day-to-day transactions in land within communal areas, have gathered to themselves authority over virtually all significant aspects of land holding and disposition.

These factors are explored at length by Alden Wily (2011a). Nearly all the studies contributing to the Commercial Pressures on Land research project remark upon or illustrate the centrality of tenure issues in the current land rush, including the thematic studies by Huggins (2011), Cotula (2011a), and Molnar et al. (2011), and especially the regional and country studies from Asia, Latin America, and Africa.

Dispossession may take place through an illegal transfer, but it is in fact far more common in the context of the current land rush for landholders to be legally dispossessed

There are exceptions to these trends. A number of states have always given customary land rights due legal respect as property interests, Ghana and Botswana being main if imperfect examples in Africa. Recent tenure reforms in Tanzania, Uganda, Mozambique, Southern Sudan, and Burkina Faso have given rural lands a similar status, presuming them to be already privately owned by individuals, families, or communities under customary law. This makes the state sale or lease of these lands more difficult in these countries, requiring local communities to first either surrender their lands voluntarily to the state or to reach agreement themselves with the company. However, in practice, governments in these countries have found ways to coerce or manipulate access to large areas of community-held lands (Alden Wily 2011a).

There are also a number of other countries in Africa which have improved, if not entirely reformed, the legal status of properties held under customary tenure, including Benin and Madagascar. However, such improvements are seriously impeded by conditions such as requiring customary landowners to first formally survey and register their holdings, or by limiting formal recognition to house plots and farms, leaving the much more expansive collective land assets of communities exposed. As has been noted, these community commons are often the target of large-scale allocations as they provide large areas less interrupted by settlements.

A last key avenue of dispossession occurs where traditional leaders are recognised as trustees of lands traditionally owned by communities, and where such local elites coerce or manipulate access to these lands on behalf of investors and speculators. There are examples of this from Ghana, where over one million hectares of community lands have been leased by chiefs to 17 different biofuels developments (Schoneveld 2010). In Kenya, the trustee owners of customary lands are partially elected county councils whose land administration

powers are by law shared with the centrally located Commissioner of Lands. While both are bound to act in the presumed interest of communities, state law neither defines that interest nor requires popular consultation. Accordingly, in one case, the Siaya and Bondo county councils were legally able to lease 6,900 hectares of community wetlands to a US investor for rice production, even though these lands are crucial to local rice production, grazing, reed cutting and fishing (FIAN 2010).

As another case study in Nicaragua describes, such developments can pit local elites against poorer community members who are likely to be most dependent upon communal resources (Monachon and Gonda 2011). Institutionally weaker sections of communities are particularly vulnerable to dispossession. This is usually acute for women, who are likely to be disproportionately more negatively affected by decisions made outside their realm of control (Daley 2011). The ILC case study from Ethiopia (Fisseha 2011) illustrates how pastoralists are also very vulnerable, especially given the large number of land deals being made that affect pastoral areas such as in Mali, Ethiopia, and Sudan.

The overall result of all these factors is that governments in many Asian and African countries are not only the main legal landowners but also the legal controllers of land disposition over most of the lands traditionally owned and used by their citizens. This makes it perfectly legal for governments to sell or lease out lands on which their citizens live or which they use. This is important to prospective land acquirers who would not proceed unless they were assured that the lands they acquire are free from any private ownership claims that could stand up in court. Some recent land leases include a "Warranty of Ownership and Use" clause, whereby the state pledges to the lessee that no lands being leased "are encumbered by any lien, mortgage, charge, easement, use right, right of way or other encumbrance and not subject to any right or privilege of any standing" (a typical article in contracts signed by the Government of Cameroon, for example). These clauses imply use of expropriation to compulsorily clear any existing rights (Cotula 2011b).

Governments in many Asian and African countries are not only the main legal landowners but also the legal controllers of land disposition over most of the lands traditionally owned and used by their citizens

Economic governance that fails the rural poor

Economic governance in this context includes both domestic economic policy and management and the international rules and institutions that make up global, regional, and bilateral trade and investment regimes, as well as international human rights law.

Considering the massive funding gaps that many countries in the South face in revitalising rural development, it is to be expected that many governments see the private sector as a key contributor to achieving their aims. Host countries go to great lengths to attract and legally protect FDI in agriculture and extractive industries. Measures include the creation of tax relief and other incentives for FDI involving the purchase or lease of lands, something highlighted in all the regional studies for ILC (OECD/SWAC 2011; Ravanera and Gorra 2011; Odhiambo 2011; Wiener Bravo 2011) and as noted above in respect of Ethiopia (Fisseha 2011) and SEZs in India (Rawat et al. 2011).

Other measures include the creation of promotion agencies or offices, often with the duty to identify lands for prospective land acquirers and to speedily facilitate their lease; this is now almost uniformly the case among countries hosting large-scale land deals. These bodies also usually provide technical assistance and advisory services. Projects may also be given insurance, for example through the World Bank's Multilateral Guarantee Agency or the African Trade Insurance Agency accords (Gehne 2011). Another measure particularly important in the context of large-scale land acquisitions is the maintenance of very low prices for land purchase or lease, particularly in Africa (Dossou 2011 on Benin; Milimo et al. 2011 for Zambia; O'Brien 2011 for Kenya; and Fisseha 2011 on Ethiopia).

Large-scale land acquisition has also been enabled by the rapid development of international law over the past few decades. This has strengthened the legal protection of actors involved in acquiring large areas of land. The signing of the WTO agreement and related treaties,

including the Agreement on Agriculture, signalled a new wave of trade liberalisation that has reduced barriers to trade in agricultural commodities (Bürgi Bonanomi 2011). Trade liberalisation has also been pursued through a growing number of bilateral or regional free trade agreements (FTAs), which are especially influential in Latin America, while the EU and African, Caribbean and Pacific states are negotiating comprehensive Economic Partnership Agreements.

In addition to trade liberalisation, a burgeoning number of treaties (over 2,600 by 2010) and growing state consent for settling disputes through international arbitration rather than through domestic courts have considerably strengthened international safeguards for foreign acquirers of land. Treaties usually require host governments not to discriminate against investors from the other state party, to treat investors in a fair and equitable way, and to pay compensation in case of expropriation. Treaties may also strengthen the legal value of investor-state contracts, by requiring states to respect their contractual commitments vis-à-vis investors from the other state parties (Cotula 2011b).

However, the playing field is uneven. Depending on how treaties are interpreted and applied, their implications may be far-reaching. For example, regulatory measures that undermine the viability of an investment project – such as revising a contract's water allocation to meet the water needs of other users – may be considered as an act of expropriation. In these cases, the host would be required to compensate the investor for the losses suffered. While payment of compensation is fair where investors are victims of opportunistic host state action, it raises concerns where host state action genuinely pursues a public purpose. Indeed, where public finances are strained, an obligation to pay compensation may make it more difficult for host governments to act in the public interest.

If an investor feels that the host government has breached its obligations under a land deal or an applicable treaty, it may refer the dispute to international arbitration, where the host state has consented to this. Where breaches have been found, international arbitrators have awarded investors large amounts of public money in compensation. And where governments are unwilling to pay up, investors may choose to seize host state assets held abroad, encouraging enforcement. In addition, governments are often under pressure to comply with contracts in order to continue attracting investment.

The legal playing field is therefore arguably uneven for host states, let alone for local communities who are affected by large-scale land acquisitions. Bürgi Bonanomi (2011) shows that treaties tend to provide an international standard of protection for investors without, however, also defining investor obligations with regard to, for example, social and environmental matters.

On the other hand, international conventions supporting the land rights of indigenous peoples and communities (most notably ILO 169 and the 2007 UN Declaration on the Rights of Indigenous Peoples) lack legal teeth (Alden Wily 2011a). A detailed legal analysis of international and human rights law carried out by Cotula (2011c) shows that human rights law provides much weaker protection than investment law – in terms of both substantive standards of treatment and legal remedies. For example, with regard to remedies, while treaties typically enable investors to access international arbitration directly, human rights law requires domestic remedies to be exhausted before petitions can be filed with human rights courts. Considering that domestic remedies may themselves involve several stages, including appeals, this requirement can make international processes significantly less accessible. Also, under the American Convention on Human Rights (ACHR) and the African Charter on Human and Peoples' Rights (ACHPR), petitioners must first bring the dispute to a commission, which may then refer it to the relevant regional court. The African Commission's non-binding decisions contrast with the final and binding nature of awards issued by

arbitrators. Even for the binding judgements of the African Court (for those states that have ratified the African Court Protocol), enforcement mechanisms are less effective than those established to enforce arbitral awards (Cotula 2011c).

In addition, advances in international human rights and environmental law described by Heri (2011) have not been widely ratified or adopted into domestic legislation. In Africa, for example, Central African Republic is the only country to have ratified ILO Convention No. 169 of 1989 on indigenous and tribal peoples. Only about half of African states have ratified the African Court Protocol, meaning that the other countries can only be held accountable before the African Commission on Human and Peoples' Rights.

Host countries go to great lengths to attract and legally protect FDI in agriculture and extractive industries

Only one recent decision of the Commission (*CEMIRIDE and Minority Rights Group International v. Kenya*) has dealt directly with the protection of local land rights against arbitrary dispossession. The content of that decision was greatly influenced by the fact that the group affected was an indigenous people, who enjoy a special status under international law. Therefore, it is not clear whether the reasoning and safeguards developed in the CEMIRIDE decision would be found to be applicable to the land rights of non-minority groups. In any event, the decision of the Commission was not legally binding, but served only as a strong recommendation to the Government of Kenya (which at the time of writing has yet to apply it).

Many other developments towards the rights of communities affected by large-scale land acquisitions are even weaker, having the status of voluntary guidelines which investors and host governments may adopt at their will.

The sidelining of smallholder agriculture

The rush for land comes against a background of an under-performing smallholder sector. Interest by global investors in large-scale, industrialised agriculture has been seen by many host countries as a new way forward, even as a solution to the problem of rural development. Large land acquisitions are thus being enabled by a policy bias, and indeed an ideological bias, towards such industrialised agriculture. Why has smallholder agriculture come to be seen as such a lost cause?

In many countries, agriculture has suffered from neglect in public policies and programmes for several decades. This emerges strongly in several of the case studies (Andrianirina-Ratsialonana et al. 2011; de la Cruz 2011). Two factors explain this neglect. The first has to do with scarcity of public resources. This in turn has stemmed especially in Africa from a shift in donor sector support to generalised macro-economic budgetary support, and to demands of urbanisation and infrastructure (Anseeuw and Wambo 2008). Structural adjustment in the 1980s and 1990s exacerbated this problem, and forced many states to further limit support to agriculture.

The second set of factors relates to prioritisation in the allocation of available resources. For many governments, agriculture has not been a priority due to politics and perceptions that agriculture is a backward sector, that smallholder farming cannot be competitive in global markets, or that other economic sectors are more promising in terms of job creation and revenue generation. This sentiment against smallholder farming was prevalent in the colonial era as well as in much development discourse in the post-colonial era.

This legacy is reflected in governments' commitments towards agriculture in general, and to smallholder farming in particular. For example, by signing the Maputo Declaration in 2004, African governments pledged to spend 10% of their national budget on agriculture. In practice, only four of the 53 country signatories had in fact done so by 2009 (Wambo 2009). In Asia, although

several countries developed major agrarian reforms from the 1960s, most of these remained unimplemented, including developments which required significant injections of support to small farmers. This was true, for example, in India, Indonesia, the Philippines (with its controversial Comprehensive Agrarian Reform Program), Nepal, and Pakistan (Ravanera and Gorra 2011). In a similar vein, the Green Revolution of the 1960s and 1970s managed to effectively increase food production overall, but it did so in a manner that primarily benefited upper-middle-class farmers.

The longstanding neglect of agriculture in many developing countries has resulted in dwindling agricultural production and productivity. Africa, for example, where most of the population remains dependent upon self-produced food, has become a net importer of basic food commodities since the 1970s. In 2007 the continent as a whole imported 15% of its basic consumption at a cost of USD 119 billion (Anseeuw and Wambo 2008).

The sidelining of smallholder agriculture helps open the door to the land rush for industrial farming. On one hand, the under-investment in family farms makes farmlands vulnerable to these commercial interests (Tambler and Giudice 2011) and to mining (Durand 2011; Burneo and Chaparro 2011), tourism, and urban development (Dossou 2011). On the other hand, with reduced public spending and ODA, the renewed interest of investors (private, public, or parastatal) is seen as an opportunity to overcome gaps and attract funds into agriculture and land-based activities.

Large land acquisitions are thus being enabled by a policy bias, and indeed an ideological bias, towards such industrialised agriculture

In Ethiopia, for example, foreign investment rose from USD 135 million in 2000 to USD 3,500 million in 2008, according to UNCTAD (2009). Much of this is for production for export, including flowers, vegetables, cereals and rice, livestock, and biofuels. This production stands in stark contrast to the risk of periodic famines, including the current crisis in the Horn of Africa. Tremendous institutional support has been given to encouraging foreign investment, including establishment of the Agricultural Support Directorate to find lands for investors and facilitate development. Incentives to produce for export include five-year tax holidays, low land use fees, and availability of concessional lending for up to 70% of the project costs from the Development Bank of Ethiopia. Companies from India, Germany, Israel, and Saudi Arabia have actively responded. Saudi Star Agricultural Development PLC already exports rice from 10,000 hectares in Gambella Regional State, with plans to expand to 500,000 hectares (Horne 2011).

None of this means that family farming is intrinsically less productive than large-scale farming

But none of this means that family farming is intrinsically less productive than large-scale farming. Indeed, there are longstanding arguments that, all else being equal, and while acknowledging much diversity in contexts and crops, efficiency considerations in inputs tend to favour family-sized units in agriculture, partly because of issues linked to labour costs and supervision. It is often pointed out that in now developed countries family farming has always been the norm. Large-scale agriculture, particularly plantations, has also proved profitable, but it is not possible to conclude from this that it is more productive. Economies of scale favouring large-scale agriculture tend to exist not in production, but upstream (e.g. access to credit, fertilisers, etc.) and downstream (processing), and these factors may contribute towards greater concentration in primary production.

The smallholder sector has failed to become the engine of economic growth, not because – as its detractors have argued over several decades – it is “backward” and intrinsically unable to do so, but because of a consistent lack of support. The sidelining of smallholder agriculture should be seen as a policy failure or failure of governance. A critically important public debate around this subject needs to take place, but is itself being sidelined in the enthusiasm for industrial-scale agricultural investment.



Conclusions: are we reaching a tipping point?

The land rush is seeing ever greater land areas opened up to commercial exploitation, including land held under customary regimes that has not previously been available for such exploitation (Huggins 2011). This also implies the expanding and deepening commercialisation of rural communities and farming systems, with local production systems and societies increasingly having to adapt to the demands of global commodity markets. This is illustrated in case studies for the Commercial Pressures on Land project, perhaps most clearly in those relating to land market liberalisation in Nicaragua (Monachon and Gonda 2011), land concentration and social unrest in Peru (Burneo 2011; Durand 2011), land conversions in the Kathmandu Valley of Nepal (Shrestha 2011), and in studies conducted in the Philippines (de la Cruz 2011; Calvan and Ablola 2011).

But these trends, in themselves, are nothing new. They are a continuation of processes that began with colonisation, and the legacy of colonialism is apparent in many of the factors that are shaping and enabling the current wave of large-scale land acquisitions. The main inherited factor is the sustained use of colonial tenure norms by otherwise modern developing states to limit the right of rural communities to recognition as owners of the lands they and their forefathers have lived on for many decades, if not centuries.

What is new is the rate of change since 2005, and the prospect that today's enhanced commercial interest in land resources is unlikely to go away for the foreseeable future. Rural communities throughout the South have had to live for decades with insecure and threatened claims to land, but now increasingly face the prospect of finally losing access to these resources to a new wave of expropriation. In this sense, we may be said to be facing a crisis or tipping-point beyond which we will see large-scale and irreversible changes in ownership and control over land and water, in agricultural systems, and in rural societies.

It is clear that the governance failures described above create conditions that disable good decision-making and enable harmful transfers of land. However, the impacts are even more far-reaching. There is reason to expect that a vicious cycle could be developing: the rush for land could be in turn aggravating and worsening the governance failures that are allowing it to develop in the first place.

With regard to democratic governance, intensified commercial interest in land is undermining due process and driving regulatory and policy bias. Global capital flows and government efforts to attract capital can have a profound influence on key areas of national policy, including land governance, labour law, environmental regulation, and agricultural policies, while also driving corruption.

With regard to land governance, large-scale land allocations such as concessions have the effect of creating uncertainty for local landholders, aggravating their tenure insecurity, even where the deals are not implemented and land use conversions may never take place. Weak land administration systems may be overwhelmed, while the mere prospect of a large-scale land acquisition creates uncertainty for potentially affected land users, undermining their *de facto* security of tenure and acting as a deterrent to investment by smallholders themselves. Land reform processes are also being undermined in countries where these have begun. This was prominently the case in sub-Saharan Africa, with more than 30 states having made new policies designed to recognise customary land holdings and to provide mechanisms for delivering this at scale. However, enthusiasm for this is wilting and even reversing, with governments increasingly keen to keep unfarmed lands free of formal rights and more easily available for large-scale acquisition.

With regard to economic governance and the sidelining of smallholder agriculture, the current wave of land acquisitions and priority given by governments to attracting and supporting, indeed subsidising, large-scale schemes further disables the ability of smallholder producers to compete effectively and to influence agricultural and trade policies in their favour. Smallholder production systems find themselves even further under pressure.

A vicious cycle could be developing: the rush for land could be in turn aggravating and worsening the governance failures that are allowing it to develop in the first place

But it would be wrong to imagine that rural communities are merely passive bystanders of these processes. Social movements and popular resistance are increasingly major factors in determining the effects that global commodity prices and flows have within target countries. In many of the case studies, popular discontent has taken the form of peaceful advocacy and protest movements (Rawat et al. 2011; de la Cruz 2011; Calvan and Ablola 2011). In Indonesia, NGOs have recorded 630 land disputes between local communities and palm oil companies. But where injustice is seen as being unresolved, the risk that such disputes and movements can lead to violent confrontations is real (Colchester 2011). Such “political risks” for land acquirers and governments, whether peaceful or not, are likely to have an increasing impact on the number and type of acquisitions and other forms of investment that are agreed and successfully implemented.

CHAPTER FIVE: Conclusions and policy considerations

The problem is not irresponsible investment as such, but the impact of global market forces in the context of governance failures at global, national, and local levels



The findings of this report

As a synthesis, this report seeks to summarise and interpret the evidence that has emerged from the case studies carried out under the Commercial Pressures on Land research project and that is emerging from the Land Matrix project. The picture that emerges is not of a short-lived “land panic”, but of a trend of growing competition for land that is likely to continue for the foreseeable future. This “land rush” is being driven by diverse and growing global market demands, not least for food, biofuels, other non-food agricultural commodities, timber, minerals, and carbon offsetting opportunities.

There is little that can be done about these trends. And in a sense, they are value-neutral, creating both opportunities and risks. But at present they are driving a wave of large-scale land acquisition and expropriation from rural land users and customary owners. There is little in the findings of this report to suggest that the term “land grabbing” is not widely deserved. However, it is predominantly host governments, leasing their citizens’ untitled lands to investors and speculators, who in such cases are arguably the “land grabbers”.

The purported benefits of land acquisitions have generally so far not lived up to expectations, either for local populations or for host governments. At the moment, poor, resource-dependent communities, the majority in most affected countries, disproportionately bear the costs. Within this sector, certain groups can be expected to be even more disadvantaged. Women, who typically do not have secure land rights and may be excluded from decision-making processes, yet are often primarily responsible for household food security, face grave risks of further exclusion. Likewise, pastoralists, fisherfolk, hunter-gatherers, and forest-dependent people, whose land use and management practices are not recognised, are particularly vulnerable. The land rush

is prompting increasing land concentration, and there are signs that it is deepening economic inequality and social divisions, creating poor conditions for social justice, peace, and stability.

The analysis provided in this report helps to explain why the impacts described are so negative. The rush for land must be seen as a broad, historically and politically embedded phenomenon. Specifically, it can be seen as being shaped by several failures of governance. These are most notably:

- The failure in most land governance systems to recognise and protect customary land rights as having equal force with rights to land acquired through statutory entitlement;
- The failure of agricultural policy to support smallholder agriculture and the commensurate and questionable enthusiasm and concrete support for a modernist vision of agriculture driven by FDI;
- The failure of the international legal system to give due weight to human rights and sustainability considerations, and to the need of governments to protect and promote these; and
- The failure to take decisions affecting the future use of land and the future of agricultural systems and rural societies, not to say global food security and ecosystems, in a way that is transparent, fair, and inclusive, particularly of those local land users who have most to lose.

There is little in the findings of this report to suggest that the term “land grabbing” is not widely deserved

In the rush to sign large-scale deals by governments and prospective land acquirers, decision-making is thus ignoring the wider social functions of land – the ways in which secure access to land provides a foundation for dignified employment, a safety net for the poorest, and a foundation for cultural identity – as well as vital ecosystem functions. As such, we observe the rush for land taking place in a manner which firmly subordinates the economic, social, and cultural rights and interests of millions of the rural poor.

This land rush has grabbed global attention and prompted debate within the media, national parliaments, civil society, and global bodies such as the Committee for World Food Security (CFS). Efforts are under way to develop benchmarks or standards of good practice for large-scale land acquisition and in agriculture, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, and the Principles for Responsible Agricultural Investment.

The development of global standards of good practice is to be welcomed. A wide range of organisations, including both intergovernmental and civil society members of ILC, are involved in the formulation and promotion of these, and they can be expected to provide an important reference point for those firms choosing to invest equitably and ethically. Yet the evidence and analysis presented in this report suggest that such measures can only be a part of the solution. The problem is not irresponsible investment as such, but the impact of global market forces in the context of governance failures at global, national, and local levels. The challenge is to address these failures. Only in this way can growing global demands for food and other commodities be met in a way that is sustainable and equitable, and respects the rights of the world's rural poor.

The picture that emerges is not of a short-lived “land panic” but of a trend of growing competition for land that is likely to continue for the foreseeable future



Policy considerations: halting the accelerated disenfranchisement of the rural poor

1. Acknowledge and respect the resource rights of rural people in all large-scale land transactions

Governments and private sector actors need to prevent and refrain from any land acquisition that entails a forced transfer of land and water resources from the rural poor.

This means that:

- The assessment of land for acquisition and investment purposes must proceed from the assumption that no land is “idle”, “wastelands”, or “unused”, but that it is all used and important to the livelihoods and food security of rural communities, and is under some form of customary collective or individual ownership, including land classified as “state land” or “public land”. Large-scale land acquisitions should therefore be an investment model of last resort;
- All existing users and claimants of land must be regarded as having a moral right of possession, regardless of the formal legal status of their claims; and
- In cases where acquisition of land, whether purchase, lease, or concession, or other form of rights transfer, is a necessary and legitimate component of an investment strategy, it must proceed on the basis of a rigorous application of the principles of Free, Prior, and Informed Consent of existing users and claimants.

Concerned parties at all levels need to work hard to bring to the attention of governments and investors the travesty of justice and sustainable development, and the false economy, which wilful allocation of citizens’ lands to private actors at scale is engendering.

2. Legally recognise the land rights of the rural poor, including over the commons

The weak legal status of the land rights of the majority of the rural poor must be remedied. A particular focus should be on strengthening the protection of customary common property rights to land that is often not continuously farmed but used for grazing, shifting cultivation, collection of forest products, or hunting. It is this land that is most vulnerable to wrongful reallocation on a large scale.

Improving the legal recognition of the land rights of the rural poor carries the following policy implications:

- Individual and collective customary ownership and use rights over land and water resources, whether held individually or communally, must be accorded equivalent legal force to statutory entitlements, even if these customary interests are not formally certified, recognising that such customary tenure systems are often diverse, flexible, and plural;
- The delimitation and demarcation of community land areas, or territories, must be implemented as a priority in the face of increasing competition for land; and
- A wider shift must be implemented towards people-centred land policies that recognise the central role that local populations – in particular women – play in land use and management, building institutions at the local level that are empowered to administer land and natural resources, and addressing power asymmetries, by explicitly prioritising the interests of vulnerable groups of land users including the landless, land-poor, and rural workers.

Governments, civil society, and development partners can all play a role in driving forward such legal reforms and policy implementation. They are achievable.

With respect to the delimitation of communal lands, innovative and participatory methods using new technologies have been developed which can help enable the registration of land rights on a large scale at a fraction of the cost of previously used surveying

methods. Civil society can play a key role both in ensuring that the voices of all land-dependent groups – including women – are heard and respected in national-level policy-making processes, and in mobilising communities for participation in policy implementation.

3. Put smallholder production at the centre of strategies for agricultural development

Meeting future needs for food, energy, and other commodities – in a manner that is sustainable – demands a reassessment by many governments and development partners of the role that the estimated 500 million smallholders and other small-scale producers can play. Contemporary large-scale land acquisitions seem uniformly informed by an ill-considered modernist vision of agricultural development. Such schemes are being given massive public support, often in terms of hidden subsidies such as public infrastructure, negligible lease fees, or tax breaks. Smallholder producers, by contrast, have suffered from decades of neglect.

Instead, recognition is needed of the potential of small-scale investors who are already the backbone of food production in most countries and the principal investors in agriculture. Failure to do so would represent a missed opportunity to enable these producers to contribute to meeting global food demand, while simultaneously creating employment, reducing poverty, promoting sustainable livelihoods, and building environmentally sustainable agro-ecological food production systems.

Recognising and protecting the rights of smallholder producers to the land and water resources they use are prerequisites for them to play this role. But they are also not sufficient. It is necessary to:

- Provide support to smallholder producers with the necessary capacity, finance, and regulation to increase their productivity, production, and competitiveness, and to cope with risks and vulnerability;
- Support the organisation of smallholder producers, helping them to represent their interests and achieve economies of scale in market access and value chains, thus helping them to benefit from world market trends and capital flows; and
- Consider alternative models that are not based on land acquisition but on partnerships between companies and communities, such as equity sharing or contract farming, that may provide mutually beneficial solutions where communities have the necessary secure resource rights, organisation, and negotiating capacity.

Governments and development partners need to play a key role in supporting national smallholder production sectors and in nurturing alternative models. Civil society, meanwhile, can contribute to the strengthening of social movements and organisations representing smallholders, women, landless people, fisherfolk, pastoralists, and agricultural labourers. Development partners can support civil society in this role. The private sector (national and transnational firms/investors) can play a vital role in pioneering innovative partnership approaches.

These are not new recommendations. Many were made in the milestone IAASTD report, launched by almost 60 governments in April 2008. They have been echoed by many farmers' organisations and other observers, including the Special Rapporteur on the Right to Food

Governments, civil society, and development partners can all play a role in driving forward such legal reforms and policy implementation

(De Schutter 2011) and by Oxfam as a prelude to the launch of its GROW campaign (Wegner and Zwart, 2011) but they have as yet been largely ignored in practice by many governments. Concerted efforts will be required to promote a genuine shift in national policy and practice.

Recognition is needed of the potential of small-scale investors who are already the backbone of food production in most countries and the principal investors in agriculture

4. Make international human rights law work for the rural poor

Secure local land rights are crucial for the enjoyment of internationally recognised human rights such as the right to food and the right to property. As stated by the UN Special Rapporteur on the Right to Food, large-scale land conversions that involve loss of local land rights and undermine local food security violate the right to food. International human rights law should guide decision-making and provide effective redress against adverse decisions, especially where safeguards under national law fall short of international standards. But in its present form, international law offers little redress to people adversely affected by large-scale land acquisitions: key treaties such as ILO Convention No. 169 on indigenous peoples' rights have had limited ratification. Moreover, legal remedies under ratified treaties tend to have few teeth; for example, only about half of African countries have ratified the protocol establishing the African Court on Human and Peoples' Rights.

Much progress has been made with the development of international guidance on specific human rights (such as the Voluntary Guidelines on the Right to Food and the principles on land-based investments developed by the UN Special Rapporteur on the Right to Food) and

on the human rights responsibilities of business entities (namely, through the Guiding Principles developed by the Special Representative on Business and Human Rights). However, there is a need to build on this work through strengthening the legal remedies that could be provided by binding treaties.

This carries the following policy implications:

- Extend the ratification of existing treaties that set human rights standards pertinent to the protection of rural communities;
- Work to strengthen the effectiveness, availability, and accessibility of legal remedies for poor rural communities and individuals affected by land acquisitions; and
- Pursue and assist test cases with international bodies such as the African Court to push the boundaries of human rights law through authoritative interpretation of existing treaties.

As the key actors in international law-making, states should ratify relevant human rights treaties, promote the ratification of these treaties by others, and work to strengthen legal remedies. Civil society can also play a key role, by monitoring respect for human rights, challenging action that adversely affects the enjoyment of those rights, and filing cases with international bodies. Development partners and the multilateral system can support both governments and civil society in these roles.

As the key actors in international law-making, states should ratify relevant human rights treaties, promote the ratification of these treaties by others, and work to strengthen legal remedies

5. Make decision-making over land inclusive, transparent and accountable

Large-scale acquirers of land have shown themselves to be the most influential parties in determining the terms of agreements, and are driving many of the processes associated with large-scale land-based investments and acquisitions. They are able to do this in part because of the marginalisation of local populations in wider decision-making processes. Until local land users are empowered to play this role, dispossession by those with vested interests is likely to continue.

It is critically important that governments open debate at the *local* and *national* levels on how land users themselves want to work towards territorial development, and how they want to use the greatest asset they have – their land – as a basis for building a future of their own choosing.

A major obstacle to the democratic governance of land resources is the lack of transparency that characterises many deals. Without transparency, accountability cannot be exercised for investors to either voluntarily adhere to benchmarks for good practice, or to meet national legal obligations where these exist. Some countries, such as Liberia, require certain types of contract to be posted publicly. This is a good start, but improved transparency and disclosure need to happen at those critical stages in the process of state land and natural resource use planning, land contract negotiation, allocation of rights, and project management that would allow poor decisions or corrupt practices to be identified and reversed *before* they are formalised or implemented. More transparent practices would not only protect local populations, but also investors willing to invest in a transparent way. It is therefore necessary to:

- Call for and enable inclusive national and local debates on large-scale land acquisitions (both in general and on specific applications) and on wider issues, with a view to developing agreed national frameworks for land-based investments, food security, and rural development;
- Support the capacity for collective action and networking by local populations, in particular social movements representing direct stakeholders, including those representing farmers, women, landless people, and indigenous peoples;
- Fully disclose information on existing contracts and all acquisitions under consideration; and
- Support civil society monitoring of large-scale land acquisitions, as well as of the realisation of contractual obligations such as provision of employment and infrastructure, so as to exercise accountability where necessary, and more widely to provide an evidence basis for action.

Governments need to open space for democratic debate and enable accountability through the disclosure of information. Considering the risks inherent in making decisions with longstanding and often irreversible implications for rural populations, governments should consider the imposition of temporary moratoria on large-scale land acquisitions to allow meaningful and inclusive debate to take place and national frameworks to be agreed. Private sector actors can also contribute through voluntary disclosure of information and through collaboration with civil society transparency and accountability initiatives.

Civil society organisations, supported by development partners, can mobilise different user groups to develop evidence-based positions and contribute to decision-making at national level on land and investment. Indeed, initial evidence suggests that direct action by local populations – often with support from larger global organisations – may be the most effective way of preventing illegitimate dispossession.

Civil society also has a key role to play in monitoring and building accountability at national, regional, and global levels, building on existing initiatives such as the Land Matrix Project of ILC, CIRAD, CDE, GIGA, and GIZ (the source for the data in Chapter Two) and the regional land observatories of ILC members such as Landwatch Asia and the Observatorio de Tierras for the Andean region.

The development of global standards for responsible investment, such as those convened by the CFS, need to continue. However, the voices of those with the most to lose if this is done badly – the land users themselves – have not been adequately heard. Actors in the multilateral system should ensure that the ongoing development of standards follows an open and inclusive process.

Direct action by local populations – often with support from larger global organisations – may be the most effective way of preventing illegitimate dispossession

6. Ensure environmental sustainability in decisions over land and water-based acquisitions and investments

Decisions over large-scale land conversions should be made with a full appreciation of the costs of doing so, including implications for the provision of environmental goods and services, not least water, on which local livelihoods depend. It is necessary to:

- Demand comprehensive and independent Environmental Impact Assessments, which should be undertaken in an open and transparent manner, and their results made public;
- Place enforceable limits on water extraction in contracts, based on thorough assessments of sustainable extraction rates and competing (local, downstream, and future) demands for water;
- Prioritise investments and production models that minimise negative environmental impacts, in particular based on agro-ecological principles rather than production models reliant on high inputs of chemicals, machinery and water, and low crop diversity.

Governments have a key role to ensure that legislation on EIAs is followed, and that contractual limits on water extraction are set and enforced. Civil society can support the independent monitoring of the implementation of EIAs, and promote accountability for adherence to global and national environmental standards. Development partners can facilitate good decision-making by supporting the development and application of techniques to define the full costs of land conversions, including to ecosystem service provision.

Implications for members of ILC

ILC is a global coalition of diverse organisations which share a commitment to the land rights of the world's poor. The findings of this and related research and advocacy reports on the land rush require practical action programmes that can speedily be put into place. In addition to the broader implications above, both intergovernmental and civil society members could consider the following immediate and concrete steps, in collaboration with others:

- Facilitate active local-level public reporting by ILC members of the impact of large-scale allocations upon communities;
- Monitor the full range of large-scale land allocations at country level as a means of promoting open and informed decision-making and accountability;
- Support local institution-building to enable affected communities to speak for themselves;
- Promote targeted reforms in land tenure, local government, and law which legitimise wrongful loss of land, resources, and livelihoods at scale; and
- Assist case development to challenge outstanding instances of abuse in domestic, regional, and international courts.

Land at the crossroads: time to change direction

The place of land, water, and other natural resources within global economic and political processes can be said to be entering a new era. Questions of land use and land tenure, and their role in economic development and food security, have grabbed the attention of policy-makers and even of the general public to an unprecedented extent. The value of owning and controlling these resources in a world of rising consumption is becoming starkly apparent.

Yet it is clear that governance systems are not adequate to the task of coping with these new and rising demands. The governance failures described in this report are, in a sense, just business as usual. They were always problematic. The land rush just makes it newly urgent that these failures are addressed. Our analysis suggests that we are at a critical juncture – a crossroads – beyond which appears to lie a path of rapid and irreversible change in the ownership and control of land resources, in agricultural systems, in rural societies, in ecosystems, and in how we try, globally and locally, to feed ourselves.

The Commercial Pressures on Land research project provides clear evidence of the rush for land hastening polarisation, further pauperising the poor, and sowing seeds of conflict. Despite the unusual level of global public concern prompted by the land rush, large-scale land allocations continue. Nor do we see much evidence of improved governance. Globally, there has been no significant rise in transparency of the contracting process. The development of new host country regulation and pro-poor transaction conditionality has been limited. No new impetus has been given to land tenure reforms, nor is the Free, Prior, and Informed Consent of affected communities increasingly required.

Yet a crossroads is also an opportunity to change direction. Managing growing demand for land in an increasingly unequal world requires a deliberate and proactive response that considers the full range of consequences for the almost one billion people who face daily hunger. This starts with the crucial step of recognising their legitimate land rights. It goes beyond this to rethinking the development models we are presently engaged in. It implies a need for a strategic vision, based on vigorous public debate, and a willingness to consider a broad package of measures and instruments, at global and also at national and local levels, acting together in order to bring into reality fairer and more equitable societies. In short, land and other natural resources should not be treated as mere commodities, but rather as elements of a complex and diverse social, cultural, and ecological systems. Only then can land resources fulfil their complex social role and contribute to the achievement of a fair, equitable, and sustainable existence for all.

Managing growing demand for land in an increasingly unequal world requires a deliberate and proactive response that considers the full range of consequences for the almost one billion people who face daily hunger

And there are moves in this direction. Faced with challenges that could fundamentally and irreversibly change their societies, rural populations are organising themselves and building global alliances. Their voices are beginning to be heard, triggering the need to challenge presumptions about the way forward for agrarian societies. In many parts of the world, whether on land allocated to SEZs in India or on land allocated to foreign interests in Southern Sudan, in Madagascar, or in Uruguay, the rural poor are becoming more politicised as a result of the changes taking place. They are recognising that in many cases they are not landowners in the eyes of the law after all.

It is to be hoped that the rush for land will act as a wake-up call, provoking a reconsideration of the path we are on

This is providing a focus for organising activities by rural communities, user groups, and their allies, triggering popular mobilisation around land- and resource-related grievances. It gives voice to demands for devolved governance of land and natural resources, a move which could provide a fairer and more just foundation for expanded and more equitable investment in agriculture. Optimistically, it may even be hoped that rural communities in many parts of the world are able to finally achieve secure access to and control over their land through struggles catalysed by the impacts of increasing demand for it. It is to be hoped that the rush for land will act as a wake-up call, provoking a reconsideration of the path we are on.

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This report is part of a wider initiative on Commercial Pressures on Land. If you would like further information on the initiative and on the collaborating partners, please contact the Secretariat of the International Land Coalition or visit <http://www.landcoalition.org/cpl>

International Land Coalition

Secretariat

Via Paolo di Dono, 44

00142 – Rome, Italy

tel: +39 06 5459 2445

fax: +39 06 5459 3628

info@landcoalition.org

www.landcoalition.org



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