

CELADA BRIEFING II

Uncharted Territory: International Responses to Land Grabbing

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“The poor have sometimes objected to being governed badly. The rich have always objected to being governed at all.”
– G.K. Chesterson

INITIAL CONSIDERATIONS

The rules and regulations governing human interactions require inputs from various actors with different interests and priorities. As contemporary ‘land grabs’ unfold in increasingly globalized settings,¹ situating *international* responses within an inherently *transnational* context reveals the patchwork character of policies that overwhelmingly affect *nation*-state level realities. In the absence of universally adopted parameters and the deficit of enforcement mechanisms to oversee land grab activities, existing global governance efforts to fill these gaps must be recognized to co-exist with and/or contradict national legislation and policies, or the lack thereof.

Increased media attention and academic discourse on large-scale land acquisitions gain traction from the enormity of finance devoted to the control of vast tracts of land, but also on account of these dealings’ adverse or uncertain impacts on human, social, and natural capital. To this end, the significance of grassroots and civil society cannot be overstated as they provide vital watchdog functions and provide important contributions to global policy-making processes.

The notion of framing has been central for alternative thinking among dominant policy-making processes. Civil society can mobilize and exert pressure through advocacy networks that employ strategies of information politics, symbolic politics, accountability politics, and/or leverage politics. For much of civil society’s work, acclimatizing public awareness to land grabbing issues and spearheading new dialogues typically concerns the informative category. For instance, the international non-profit organization GRAIN has been widely accredited for its contributions in disseminating the ‘land grabbing’ lexicon, documenting the pace and patterns linked to the global land rush, and prescribing the way forward for food systems that are equitable, sustainable, and inclusive for empowered populaces.

¹ For an overview of land grabbing’s conceptualization and other fundamental issues, readers can refer to CELADA Briefing I, “Land Grabbing: Facts and Issues”.

The International Land Coalition has likewise played an important role in attracting international attention with its denunciation of land grabs in its 2011 *Tirana Declaration*. Its Land Matrix is equally important as a monitoring database that delves into the methodologically demanding task of quantifying the ever-changing landscape of large-scale land acquisitions for greater accountability, advocacy, and transparency. Transnational movements, including *La Via Campesina*'s work on advancing social justice among marginalized social strata and agrarian populations, FIAN (FoodFirst Information and Action Network) International's contributions on food systems-based exclusion, and EJOLT's (Environmental Justice Organisations, Liabilities and Trade) research on environmental injustices emerging from land grabs, are further examples of bottom-up agency affecting international policy-making. Such organizations are considered part of burgeoning 'Transnational Agrarian Movements'.

Indeed, as one of the early conferences concerned with putting a 'stop to land grabbing,' the 2011 International Conference of Peasants and Farmers held in Mali was the outcome of collaboration among participants from many sectors in over thirty countries. The conference produced a rights-based, environmental justice declaration that called for securing small-scale producers' rights to natural resources, enhanced food sovereignty, and the protection of the global commons. A more recent step towards converging global civil society positions on such disparate issues emerged in the *Dakar Declaration Against Water and Land Grabbing* at the African Social Forum in October 2014. While civil society networks have clearly been active, the international community has also been busy developing a global governance framework within which to oversee the growing land rush.

INTERNATIONAL POLICY MILESTONES

In the period following the 2008 world food, fuel and financial crises, policy windows were identified within the international community in response to renewed 'scrambles' for land and natural resources, much of which was fuelled by private equity finance. Shortly thereafter in 2009, the *Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods, and Resources* (PRAI) were jointly developed by four bodies: the World Bank (WB), the Food and Agriculture Organisation (FAO), the International Fund for Agricultural Development (IFAD), and the UN Conference on Trade and Development (UNCTAD).

The PRAI consist of seven principles that seek "to distil the lessons learned and provide a framework for national regulations, investment agreements, global corporate social responsibility initiatives, and individual investor contracts". They do not concern land grabbing specifically but encompass all types of agricultural investment. Enjoying

strong support predominantly among G8 members like Japan and the US, the PRAIs have experienced a backlash from civil society organizations (CSOs). The latter view these principles as legitimizing land grabs, and sidestepping the issue of these deals as problematic outcomes of commercial agendas irrespective of ‘responsible’ investment. The PRAIs were also met with disapproval from countries including Senegal, South Africa, and Egypt that felt they were not adequately consulted. Moreover, approval from the governing bodies of the WB, FAO, IFAD, and UNCTAD was not sought.

However, the design of the PRAIs nevertheless pointed to a reorientation of policy on investor norms by taking into account social and distributional impacts, the consultation of materially affected parties, the strengthening of food security, and the upholding of land rights. But implementation has been an ongoing issue for the creator agencies. After scaling back its early operationalization amidst criticism, the Bank has since reformed its approach. Moreover, in-depth case studies across Africa and Asia have been carried out to evaluate the effectiveness of the PRAIs.

Advances were subsequently made in 2012 with the Food and Agriculture Organisation’s *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGTs) on the issue of tenure-- a crucial facet of land governance that bears considerable weight on how large-scale land acquisitions can play out to either safeguard or undermine inhabitants and the natural environment. These guidelines were later adopted by the Committee on World Food Security (CFS), a committee associated with UN’s Food and Agriculture Organization agency, in May 2012 and are widely acknowledged for their far-reaching scope after three years of grassroots consultations.

Recognizing that strengthening land tenure is crucial for making inroads for the enhanced protection of human rights and food security, at least in principle, civil society observers have cautioned that government adoption of the VGGTs remain a necessary prerequisite for concrete changes. The VGGTs comprise seven guidelines, and are impressive in setting ambitious targets for the governance of tenure. They recognize that failure to regulate how access to land, water and other natural resources is creating resource competition, intensified environmental degradation, conflict, poverty, and the exacerbation of hunger and food insecurity.

While its lengthy name specifies the governance of land, fisheries, and forests, these guidelines additionally identify the cross-sectorial nature and linkages that arise from diversified livelihood practices. Not only do the VGGTs cover a range of tenure systems (communal, customary, indigenous, informal, private, and public), they also

place special emphasis on women's marginalization-- a concern that is gaining momentum in the land grab literature.

Moreover, centralized systems of land ownership administered in countries with weak property rights like Ethiopia, Nigeria, Sudan, and Zambia, is problematic for the security of tenure. Relative progress has been made as the VGGTs have been endorsed by the G20, Rio+20, and the UN General Assembly. In the private sector, Coke and Nestlé stated in November 2013 that these guidelines would be adopted in their corporate policies.

More recently, the CFS's Principles for Responsible Investment in Agriculture and Food Systems, commonly referenced as RAIs (to distinguish them from the similarly-titled "PRAIs" that preceded them), have been at the forefront of the international community's discourse on the governance of land tenure. The RAIs were the result of a series of discussions under the CFS culminating in Rome in October 2014. The agreement that emerged, articulated in a document 'Making a Difference in Food Security and Nutrition' comprises ten key principles (mentioned below), and its conceptual framework is rooted in precepts of international law. These include indigenous rights (embodied in the UN Declaration on the Rights of Indigenous Peoples), corruption (in the Convention Against Corruption), environmental protection (in the Rio Declaration on Environment and Development), and labour rights (in the International Labour Organization's Declaration on the Fundamental Principles and Rights at Work).

Central to this document are the four pillars of food security and nutrition (availability, access, stability, and utilization), and the fact that responsible agricultural investment is an essential part of realizing these objectives. Particularly noteworthy is the RAI's attempt at defining the roles and responsibilities of key stakeholders that include states, CSOs, research agencies, financial institutions, and smallholder organizations. These actors are outlined as both beneficiaries and affected parties to responsible investment in agriculture.

Relatedly, the RAIs also demarcate parameters for these stakeholders to engage in investment on a mutually reinforcing basis. These shared roles are significantly contingent, however, on domestic governments. To this end, governments have varying degrees of political will, capacities, and prerogatives relative to the application and interpretation of the RAIs insofar as they concern large-scale land investments within their borders. In the Canadian setting, the concept of 'Corporate Social Responsibility' is becoming a government buzzword concerning voluntary parameters for the commercial activities of Canada's economically significant extractive industry sector abroad. On the international scene at the 2014 World Conference on Indigenous Peoples, Canada

adopted a controversial position where it objected to provisions of ‘free, prior and informed consent’ (FPIC) interpreted as running counter to constitutional provisions. This position has in turn come under criticism for signalling the arguably further erosion of Aboriginal representativeness in the governance of land and natural resources.

While in some respects they represent an advance, the RAIs are yet another policy initiative that has met with concern from transnational civil society actors, who see this as another attempt at ‘normalizing’ land grabbing in accordance with ‘business as usual.’ It remains to be seen whether the RAIs’ ‘real’ impacts will mitigate investment-induced risks on the land grabbing front. In the parlance of the RAIs, the ten principles of ‘responsible agricultural investments’ are meant to accomplish the following:

RAIs: 10 Principles

1. Contribute to food security and nutrition.
 2. Contribute to sustainable and inclusive economic development and the eradication of poverty.
 3. Foster gender equality and women’s empowerment.
 4. Engage and empower youth.
 5. Respect tenure of land, fisheries, forests and access to water.
 6. Conserve and sustainably manage natural resources, increase resilience, and reduce disaster risks.
 7. Respect cultural heritage and traditional knowledge, and support innovation.
 8. Promote safe and healthy agriculture and food systems.
 9. Incorporate inclusive and transparent governance structures, processes, and grievance mechanisms.
 10. Assess and address impacts and promote accountability.
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ADDITIONAL GLOBAL RESPONSES

The international initiatives aimed at establishing norms of responsibility among agricultural investors, described above, have intersected with a number of other current initiatives intended to enhance development in Africa. These endeavours often blur public-private boundaries of policy collaboration.

Dating back to 2003, the *Grow Africa* partnership uniting the African Union Commission, the New Partnership for Africa’s Development (NEPAD), and the World Economic Forum (WEF) has sought to “accelerate investments and transformative

change in African agriculture”. With projects like the Beira Agricultural Growth Corridor (Mozambique), the Southern African Growth Corridor (Tanzania), and the Bagre Growth Pole (Burkina Faso), this initiative has not been found to deliver growth, at least not in a widely allocated sense. According to the NGO GRAIN, consultations between MNCs and government representatives have excluded farmers affected by these projects.

The need for more participatory-oriented initiatives has nonetheless emerged to countervail top-down approaches. For example, the African Union’s 2009 *Declaration on Land Issues and Challenges in Africa* created its own set of guidelines on land policy for equitable usage of land, promoting greater inclusivity on the continent. In addition, the 2011 *Nairobi Action Plan on Large-scale land based investments in Africa*, a collaborative initiative of the AU, the African Development Bank, and the UN Economic Commission for Africa, acknowledges the way in which land is valued among various groups. Finally, a recent policy initiative by the African Union and the UN Economic Commission for Africa, launched in November 2014, resulted in the *Guiding Principles on Large Scale Land Based Investments in Africa*. This document has been celebrated as a promising step toward enhancing the region’s capacity building for responsible land governance.

However, it is the prominence of heavily funded initiatives like the *New Alliance for Food Security and Nutrition* led by the United States during its G8 presidency in 2012 that raise the greatest concerns in recent years. Under this initiative, USD 3.75 billion in private investment has been secured for projects in eight African countries. Debate stems from the fact that multinational agribusinesses like Cargill, DuPont, Monsanto, and PepsiCo-- some of the private actors with known and considerable stakes in land acquisitions-- are also persuading donors to fund policy reforms that facilitate questionable land deals. These projects have been heavily criticized by Oxfam, as well as by the former UN rapporteur on the right to food, Olivier De Schutter, who have voiced concerns about the lack of local involvement and disregard for the long-term sustainable livelihoods of smallholders.

Clearly, there are profound differences and nuances between market-based and rights-based approaches to land investment in particular and agricultural development in general that is not sufficiently acknowledged and need to be more explicit. For instance, the Alliance for a Green Revolution in Africa (AGRA) that receives funding from both the Bill and Melinda Gates and Rockefeller Foundations with high-profile individuals including Kofi Annan on its board of directors, has received criticism for undermining food sovereignty through contested involvement with biotechnology industries and GM seeds as undercurrents to this ‘green revolution’. Along with the often-cited prevalence of China, the Gulf States, India, and South Korea as prime ‘land grabbers’, the EU is

inconsistent about its domestic policies versus its foreign practices with to responsible land investment. These critiques stem from domestic land policies of member states including Belgium, France, Germany, and the UK that ostensibly run counter to reformist, supranational legislation such as the 2004 *EU Land Policy Guidelines for Support to Land Policy Design and Land Policy Reform Process in Developing Countries*. These incongruities between *de jure* principles and *de facto* practices require further investigation on a comparative and inter-regional basis as they currently remain relatively under-examined.

THE WAY FORWARD?

The topic of international responses to land grabbing cannot be neatly compartmentalized or summarized. As one academic put it, this issue is “unlikely to exhibit the characteristics of a singular, self-contained international regime.” Nevertheless, there has been some progress towards a rules-based system in the governance of international land deals. Efforts to close the global governance gap are ongoing alongside market-driven land deals that continue to raise deep concerns about their pervasive social inequities and environmental degradation. Better governance will require careful navigation through these currents if the interests and rights of the governed are to remain uppermost.

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