Landgrabs, forests & finance: Issue brief #3

The case against land grabbing: How corporations and investors are pushing people off their land and wreaking havoc on the environment

Around the world, a rush for resources has led to a wave of land concentration of epic proportions. In developing countries, as much as 227 million hectares of land — an area the size of Western Europe, or about a quarter of the lower 48 U.S. states — has been sold or leased since 2001, mostly to international investors.[1] While the problem of local communities being forced to abandon their land to more powerful interests is not new, the problem is occurring today at a frightening scale and pace. Multinational corporations, investors, and private individuals are taking over large swaths of land to extract profitable resources — including commodity crops, minerals and carbon offsets — at the expense of livelihoods, rights and the environment. Without national and international measures to defend the rights of people living in poverty, this modern-day land-rush is leaving millions worse off, often evicted from their land with little or no recourse to justice.

What do we mean by land grabbing?

The polite way to say it would be 'large-scale land acquisitions:' land purchases often involving tens or even hundreds of thousands of hectares, and often intended to produce commodities for foreign food and biofuel markets. The International Land Coalition,[2] comprised of organizations from community groups to the World Bank, considers a land grab to be any land purchase that involves one or more of these elements:

- Violations of human rights, and particularly the rights of women;
- Violations of the free, prior and informed consent[3] of the affected land users, particularly indigenous peoples;
- Failure to account for impacts on social, onomic and gender relations, and on the environment;
- Lack of clear and binding commitments on employment and benefit sharing;
- Lack of democratic planning, independent oversight and meaningful participation.

More generally, the use of the term 'land grabs' applies to land that was previously used by local communities, typically for subsistence agriculture, and then leased or sold to outside investors (including corporations and governments), harming community interests. Land grabbing is broadening and deepening the trend of privatization that has deepened poverty and threatened the food sovereignty of billions of the world's most vulnerable people.

Free, Prior and Informed Consent is a right established in the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights instruments that guarantees that Indigenous Peoples and other local communities have the right to say "yes" or "no" to any project that will affect their lands, territories, natural resources, knowledge or culture. FPIC is an important policy mechanism to keep extractive industries, international financial institutions and other interests at bay. Unfortunately, it is poorly understood and poorly implemented.

What is driving the trend?

The recent rise in land acquisitions took off during the dramatic spike in food prices in 2007–08, which led investors and governments to turn their attention towards agriculture after decades of neglect. At a time when other markets were declining, land and agriculture seemed a safe bet.[4] At the same time, burgeoning markets for biofuels, and national biofuel mandates, spurred a huge rise in land conversion to fuel crops. For example, more than 60 percent of the land grabs in Africa over the past decade have been for biofuel production.[5]

Rising commodity prices and the rapid growth of new commodities such as palm oil have also spurred the land

Immelda Nabirimu and her husband are smallholder farmers in Uganda. Palm oil company BIDCO, owned by Wilmar International, has threatened them in an effort to take their land for palm oil.

rush. Palm oil, for example, has become the world's most consumed edible oil and is found in more than half of all packaged food and hygiene products on supermarket shelves. It is used in Europe for biofuels as well, with production expected to double by 2050.[6] Other non-food crops are also expanding, to produce both conventional goods such as paper and textiles, to new goods such as bio-plastics and bio-energy.

While some land investments are explicitly for agricultural production, many investors are purchasing land for speculative purposes, in anticipation of rising land prices ('land-banking').[7] A 2011 World Bank study of large-scale land deals showed that, of 56 million hectares purchased, 80 percent had not been put into production in any way, suggesting a significant amount of land banking.[8] Carbon markets are further stimulating land speculation and investment, with steadily rising hopes of earning money through carbon credits.[9] For example, Oxfam International documented that more than 22,000 people in Uganda were thrown off their land to make way for a tree plantation established by London-based New Forests Company to produce carbon offsets.[10]

Who benefits and who suffers?

When it is managed responsibly, international investment can play an important positive role in poverty reduction and infrastructure development. Investments in physical and policy infrastructure can improve the long-term viability of smallholder farming and promote business models that support small-scale producers, with related benefits for poverty reduction, social cohesion, and natural resource management.[11] And when national laws successfully prevent land grabbing, such investments can reap real rewards, not just economically, but in terms of equity. Research shows that secure access to and ownership of land has significant impacts in reducing hunger and poverty[12] largely because landholders are able to produce for their own needs as well as for markets, and to plan for the long-term. On a broad scale, countries with more equitable distribution of land have growth rates two to three times higher than those with less equitable distribution.[13]

But managed poorly and without full participation by local people, proper regulation by governments and oversight by international agencies, land investments become land grabs, leading to environmental destruction, human rights abuses and deepening poverty. Transparency International has documented an "enormous prevalence of bribery in the land sector" that makes administrative services "inaccessible to people who are not able to afford illegal payments."[14] In this setting, large-scale land purchases stimulate a cycle of corruption, where administrators are encouraged to take bribes, thus reinforcing corrupt practices and leading to a 'race to the bottom' in order to attract investors.[15] By creating a disincentive to register property transactions, the informality and insecurity of land tenure are increased and national land reform efforts undermined. People are left with little or no protection under the law, making them vulnerable to evictions and other abuses.[16]

And while investors are seeing significant returns from land banking, carbon speculators are reaping rewards for 'protecting forests,' and multinational corporations are increasing profits, the most marginalized groups in society — smallholder farmers, pastoralists, and especially women — are paying the price.

Export-driven food production can lead to food insecurity[17,18,19]and investors' short time scales can encourage unsustainable cultivation practices, undermining agricultural production in the long-term, and damaging valuable farmland through heavy reliance on agrochemicals and other industrial methods. Impacts of both food insecurity and land grabbing tend to affect women most severely, as women's rights (to land and in general) are less secure, and women tend to be responsible for providing both food and water for their families. Gender-based violence is a common feature in conflicts over land.[20]

In forest areas, land grabbing can bring destruction of high-conservation value forest and conversion to monoculture plantations. In Cameroon, for example, American-owned Herakles Farms has purchased 73,086 hectares of land in the midst of a biodiversity hotspot to develop a palm oil plantation[21] — a move that the African Conservation Foundation warns will be "an environmental disaster for the rainforests of Cameroon."[22] In Indonesia, 10 million hectares of peatland have already been deforested and drained for palm oil plantations,[23] largely by massive companies with little accountability to national laws and global norms. When Indonesia imposed a moratorium on new palm oil plantations to protect its remaining rainforests, agribusiness giants like Wilmar and Sime Darby responded by expanding operations in Africa.[24]

What can be done to prevent land grabs?

Investors often take advantage of weak or non-existent governance at the national level to acquire land.

Land cleared for palm oil in the Kalangala Islands, Uganda

Many countries have overlapping norms and policies governing land ownership and land rights, and investors commonly exploit this confusion, either intentionally flouting established norms or unintentionally failing to recognize them when misled by corrupt officials or local interests. National governments must do a better job in improving governance in the land sector and protecting the rights and interests of local communities and land rights-holders. They must also strengthen land tenure and recognize the traditional customary rights of rural and indigenous peoples, as mandated by the United Nations Declaration on the Rights of Indigenous Peoples. Finally, national governments and local communities need timely and accurate information on investors' scope and intent with respect to land purchases, and they need to be aware of the policies and norms that should guide such deals.

Creditors and investors should also institute tougher policies for the companies they finance and own, regardless of where they operate, in order to promote transparency, regulate business practices, and enable communities to find remedy. The United Nations has recently established guidelines for human rights and business known as the UN Guiding Principles on Business and Human Rights, or the Ruggie Principles.[25] According to these principles, in order for businesses to meet internationally recognized human rights obligations, they must:

- Identify, prevent and mitigate the adverse human rights impacts of their operations;
- Exercise due diligence pertaining to adverse human rights impacts that the business enterprise may cause through its own activities, or which may be directly linked to its operations, products, or services by its business relationships (in other words, a company should take responsibility for its entire supply chain);
- Communicate externally how the company is addressing its human rights impacts; and
- Give victims access to effective remedy.

The UN Special Rapporteur on the Right to Food, Olivier de Schutter, has noted that human rights conventions contain clear provisions in relation to the negotiation of large-scale land deals: "in general, any shifts in land use can only take place with the free, prior, and informed consent of the local communities concerned."[26] Companies and investors can apply these principles when they contemplate investing in overseas land deals, as a way to help avoid land grabbing. Gaining the consent of affected communities at the outset of any land negotiation is not only in line with international norms — it can also prevent projects from being plagued by conflicts, uphold national laws and interests, and protect investors from reputational risk.

There are also sector-based principles which focus on commodities that are closely associated with land grabbing risks. Examples include the Principles and Criteria of the Roundtable on Sustainable Palm Oil, which govern the production and processing of palm oil, and the standards of the Forest Stewardship Council, which certifies forestry investments that adhere to best practices regarding social, environmental and labor issues. Unfortunately, these principles are non-binding and the application of the principles tends to fall short of the intent behind them. For example, FSC certified New Forest Company's aforementioned carbon forestry plantations in Uganda,[27] and even the World Wildlife Fund, one of the founders of RSPO, has said it no longer considers RSPO certification sufficient for responsible companies.[28] Due to these shortcomings, such voluntary certification schemes tend to whitewash land grabbing and environmental destruction, rather than to halt it.

The World Bank's private-sector lending facility, the International Finance Corporation has been frequently targeted as a body responsible for financing land grabs and related abuses, and real reform of its lending practices could contribute significantly to stemming the tide of land grabbing. Thanks to years of popular pressure, the IFC has criteria to determine which projects to invest in, including community consultation, social and environmental safeguards and a complaint redress mechanism through its Compliance Advisor/Ombudsman. There are cases in which the CAO mechanism has worked in practice,[29] but many more in which it has not.

In July 2007, 19 NGOs filed a complaint with the CAO about the IFC's funding of the palm oil company Wilmar,[30] a global company implicated in land grabbing.[31] The CAO report found that "Because commercial pressures dominated IFC's assessment process, the environmental and social due diligence reviews did not occur as required." Two years later, the IFC imposed a moratorium on funding Wilmar and other palm oil companies.[32] In 2011, with new provisions in place, the IFC reinstated its policy of lending to the palm oil sector.[33] However, the current policy still contains fatal weaknesses, among them that it will "discourage but still allow the takeover of indigenous peoples' and local communities' lands without their Free, Prior and Informed Consent."[34]

In the face of such half-hearted policy reform, rural people in Indonesia, where the palm-oil related land grab is most extensive, are still demanding that the World Bank Group keep out of further investment in palm oil until national legal reforms secure rural people's land rights and until past abuses are redressed.[35]

In order to truly prevent land grabs, all of these international standards and guidelines must be strengthened and upheld, national governments must institute deep policy reform in the land sector, and the balance of power must be shifted in favor of local rights-holders and communities. Those financing and sourcing from land acquisition projects, and companies further down the value chain, including institutional investors and consumer-facing companies, must use their influence to end bad practices, acknowledge and support good practices, and help build transparency and accountability.

1 Oxfam (2011), "Land and Power. The growing scandal surrounding the new wave of investments in land" 1. http://www.oxfam.org/sites/www.oxfam.org/files/bp151-land-power-rights-acquisitions-220911-en.pdf

2 http://www.landcoalition.org/about-us/aom2011/tirana-declaration

3 Free, Prior, and Informed Consent is a right established in the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights instruments that guarantees that Indigenous Peoples and other local communities have the right to say yes or no to any project that will affect their lands, territories, natural resources, knowledge or culture.

4 http://www.grain.org/article/entries/93-seized-the-2008-landgrab-for-food-and-financial-security

5 http://www.ase.tufts.edu/gdae/Pubs/rp/ActionAid_Fueling_Food_Crisis.pdf

6 WWF (2010) "Living Planet Report 2010. Biodiversity, biocapacity and development", Gland:WWF, p. 59. http://awsassets.panda.org/downloads/wwf_lpr2010_lr_en.pdf

7 Oxfam (2011), "Land and Power. The growing scandal surrounding the new wave of investments in land" p. 7. http://www.oxfam.org/sites/www.oxfam.org/files/bp151-land-power-response-sgs-report-121211-en.pdf

8 World Bank (2011) "Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?".Washington D.C., World Bank.

9 BiofuelWatch (2011). "Carbon Trading in Forests, Soils and Farmlands: Industry's Recipe for Land Grabs,

Yet More Profits and Maintaining 'Business As Usual'". http://www.biofuelwatch.org.uk/files/lulucf_leaflet1.pdf; African Biodiversity Network et al (2011)."The CDM and Africa: Marketing a new land grab. Briefing by the African Biodiversity Network, Biofuelwatch, Carbon Trade Watch, Gaia Foundation and the Timberwatch Coalition. February 2011. http://www.africanbiodiversity.org/system/files/PDFs/CDM%20Report_Feb2011_lowres.pdf

10 Oxfam (2011).Op cit. pp. 14-17

11 http://www.oxfam.org/sites/www.oxfam.org/files/rr-tipping-balance-agricultural-investments-markets-061212-en.pdf

12 D. Maxwell and K. Wiebe (1998) 'Land Tenure and Food Security: A Review of Concepts, Evidence and Methods', Research Paper No 129, Wisconsin: Land Tenure Center; R. Singh, P. Kumar, and T. Woodhead (2002) 'Smallholder Farmers in India: Food Security and Agricultural Policy', Rome: FAO; R.S; Srivastava (2004) 'Land reforms and the poor in India: an overview of issues and recent evidence', in H. Gazdar and J. Quan (2004) 'Poverty and Access to Land in South Asia: A study for the Rural Support Programmes Network, Pakistan', Vol. 2: Country Studies, Department for International Development (DFID) / Rural Support Programmes Network (RSPN) / Natural Resources Institute (NRI); H. Gazdar and J.Quan (2004) 'Poverty and Access to Land in South Asia: A study for the Rural Support Programmes Network, Pakistan'. Vol. 1: Regional Overview. DFID / RSPN / NRI.

13 K. Deininger (2003), 'Land Policies for Growth and Poverty Reduction. A World Bank Policy Research Report', Washington, DC, and Oxford: World Bank and Oxford University Press.

14 http://www.fao.org/docrep/014/am943e/am943e00.pdf

15 Transparency International (2009) 'Global Corruption Barometer', Berlin: Transparency International, p. 9, http://www.transparency.org/policy_research/surveys_indices/gcb/2009

16 Op cit

17 http://www.jstor.org/discover/10.2307/4404563?uid=3486616&uid=3739936&uid=2&uid=3&uid=67&uid=62&uid=20291&uid=3739256&sid=21102348120857

18 http://sites.tufts.edu/jha/archives/1241

19 http://www.fao.org/docrep/014/i2330e/i2330e.pdf

20 Elizabeth Daley, 'Gendered impacts of commercial pressures on land', ILC/CIRAD/Mokoro, 2011, pp 6–8

21 Oakland Institute (2012)."Massive Deforestation Portrayed as Sustainable Development: The Deceit of Herakles Farms in Cameroon". http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Land_deal_brief_herakles.pdf

22 The African Conservation Foundation, http://www.africanconservation.org/201106302271/network/stop-blackstone-deforestation-in-cameroon

23 Greenpeace (2011) "How the Palm Oil Industry is Cooking the Climate". http://www.greenpeace.org.uk/files/pdfs/forests/cooking-the-climate-1.pdf

24 http://www.illegal-logging.info/item_single.php?it_id=5385&it=news

25 9 J. Ruggie (2008) 'Protect, Respect, and Remedy: A Framework for Business and Human Rights. Report of the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises', 7 April 2008, UN OHCHR, Para. 3, http://www.businesshumanrights.org/Documents/RuggieHRC2008 .

26 UN General Assembly Human Rights Council (2009) 'Report of the Special Rapporteur on the right to food, Olivier De Schutter. Addendum: large-scale land acquisitions and leases: a set of minimum principles and measures to address the human rights challenge', A/HRC/13/33/Add.2, New York: UN Human Rights Council. Among other agreements, he refers to: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the General Comment on the right to adequate housing; the Declaration on the Rights of Indigenous Peoples; the International Convention on the Elimination of All Forms of Racial Discrimination; and various ILO instruments on workers' rights and working conditions.

27 http://www.fsc-watch.org/archives/2011/10/29/New_Forests_Company_

28 http://awsassets.panda.org/downloads/wwf_statement_revised_rspo_principlescriteria_april_2013.pdf

29 http://www.forestpeoples.org/topics/responsible-finance/international-finance-corporation-ifc; Wilmar International Ltd (2009) 'Sustainability Report', Singapore: Wilmar International Ltd, pp.52, 53-54, 56; CAO (2009) 'Final Ombudsman Assessment Report, March 2009, on the Complaint from Communities in Kalimantan and Civil Society in relation to activities of the Wilmar Group of Companies', Washington, D.C.: Office of the Compliance Advisor/Ombudsman (CAO); CAO (2007) 'Preliminary Stakeholder Assessment, November 2007, Regarding Community and Civil Society concerns in relation to activities of the Wilmar Group of Companies', Washington, D.C.: Office of the Compliance Advisor/Ombudsman (CAO).

30 http://www.redd-monitor.org/2009/08/12/will-the-world-bank-ever-learn-ifc-violates-its-own-standards-in-palm-oil-sector-in-indonesia/

31 http://www.cleanbiz.asia/news/agri-business-land-grabs-forcing-poverty-millions

32 http://www.reuters.com/article/2009/09/09/us-worldbank-palmoil-idUSTRE5886OD20090909

33 http://www.brettonwoodsproject.org/art-568287

34 http://www.brettonwoodsproject.org/art-568287

35 http://www.brettonwoodsproject.org/art-568287