Contemporary Land Grabbing: Research Sources and Bibliography

Jootaek Lee
Northeastern University, joo.lee@neu.edu

Follow this and additional works at: http://lsr.nellco.org/nusl_faculty
Part of the Human Rights Law Commons, and the International Law Commons

Recommended Citation
http://lsr.nellco.org/nusl_faculty/31

This Article is brought to you for free and open access by the Northeastern University School of Law at NELLCO Legal Scholarship Repository. It has been accepted for inclusion in School of Law Faculty Publications by an authorized administrator of NELLCO Legal Scholarship Repository. For more information, please contact tracy.thompson@nellco.org.
Contemporary Land Grabbing: Research Sources and Bibliography*

Jootaek Lee**

This article investigates issues related to contemporary land grabbing. First it defines contemporary land grabbing and identifies the difficulties of research. Next, it delineates various mechanisms and international principles that can be useful in protecting those affected by contemporary land grabs. Finally, it selectively reviews current literature that provides useful starting points for contemporary land grabbing research.

Introduction ................................................................. 260
Contemporary Land Grabbing and Its Definitions .......................... 262
International Principles, Mechanisms, and Movements .................... 265
Recent Development of International Principles Relating to Contemporary Land Grabbing .................................................. 265
Traditional Human Rights Principles That Apply to Contemporary
Land Grabbing ................................................................. 267
United Nations Charter (1945) ........................................... 267
Universal Declaration of Human Rights (UDHR) (1948) .............. 267
International Convention on the Elimination of All Forms of Racial
Discrimination (CERD) (1965) ........................................... 268
International Covenant on Economic, Social and Cultural Rights
(ICESCR) (1966) ......................................................... 268
Limburg Principles on the Implementation of the International Covenant
on Economic, Social and Cultural Rights (ICESCR) (1986) ...... 269
Maastricht Guidelines on Violations of Economic, Social and Cultural
Rights (1998) ............................................................... 269
International Covenant on Civil and Political Rights (ICCPR) (1966) .... 269
Declaration on the Rights of Persons Belonging to National or Ethnic,
Religious and Linguistic Minorities (1992) .................................. 270


** Senior Law Librarian for Foreign, Comparative, and International Law, and Affiliated Faculty of the Program of Human Rights and Global Economy, Northeastern School of Law, Boston, Massachusetts.
¶1 Contemporary land grabbing often involves large-scale land acquisitions by foreign or nonindigenous investors. These acquisitions, in turn, create issues such as land alienation from local communities, human rights violations, and loss of livelihoods and culture. Since the early twenty-first century, investors—whether large- or small-scale, state or nonstate, from developed or developing countries—have been buying large areas of land in developing countries, mostly in Sub-Saharan Africa, Southeast Asia, and Latin America. Between 2006 and the middle of 2009, 37 to 49 million acres of arable land were either intended (where there has been an expression of interest and where a contract is under negotiation, but not yet signed) or acquired in the developing countries by foreign investors. According to Land Matrix, since 2000, land deals for agriculture have been made for about 18.5 million hectares of land, and “intended” deals for agriculture cover around 32 million hectares of land.

¶2 Many complicated factors have stimulated this new contemporary land grabbing; examples include the 2008 price spikes in food and fuel prices, the motivation of states and investors to secure food supplies under market volatility, safe investment alternatives under land and commodity price increases, the search for alternative energy sources such as biofuels, and expected compensation for carbon


2. According to Food & Agricultural Organization (FAO) estimates, there are 400 million hectares of available land—land with less than twenty-five people per square kilometer—of which 202 million can be found in Sub-Saharan Africa. STEFANO LIBERTI, LAND GRABBING: JOURNEYS IN THE NEW COLONIALISM 91 (Enda Flannelly trans., 2013). Two-thirds of the Sub-Saharan African land deals are made in Ethiopia, Ghana, Liberia, Madagascar, Mozambique, South Sudan, and Zambia. See LESTER R. BROWN, FULL PLANET, EMPTY PLATES 104 (2012).


4. See Dynamics Overview, supra note 1.

5. Between 2008 and 2013, tens of billions of dollars were transferred from the purely financial sector into agriculture through the commodity market, including grain, corn, rice, and soya, and through direct investments by investment funds linked to agricultural production. LIBERTI, supra note 2, at 100.
sequestration. To the investors, the land is considered as “a new asset in differentiating one’s investment portfolio and guaranteeing high returns.” This global land rush has threatened rural and indigenous people’s access to various resources including food, causing hunger and poverty. This situation is newly defined as a “new era of colonization” or “neoliberalism.”

Investors such as multinational and transnational business entities, various types of investment banks, and funds normally backed by investing countries and international financial institutions (IFIs) such as the World Bank have also been supported and protected by the governments of target countries, putting local and indigenous people in a weaker position. Furthermore, investments from the outside world have worsened rural and indigenous people’s land tenure problems. Once alienated from their traditional lands, people who lack access to education often cannot find alternative income sources, and their lack of marketable skills leads to unemployment. This results in poverty, alcoholism, and domestic violence, which are followed by dismantled social and cultural structures and ultimately an insecure society with high crime rates. In addition, contemporary land deals have changed household dynamics and roles to the detriment of women, and aggravated the already poor conditions of women’s land access and ownership, or exacerbated women’s inability to generate income. Worst of all is that local and indigenous people have lost land that has important cultural, ancestral, or religious significance to the communities in question.

Researching contemporary land grabbing issues is more complicated than researching those of traditional land grabbing, typically defined as occurring between the colonial period and the early twenty-first century. Research is made more difficult by the complex reasons and motivations behind contemporary land grabbing, the number of stakeholders involved, the interdisciplinary nature of research, the many different types of legal sources to search (for example, international treaties, custom, jurisprudence, soft law, and domestic statutes and customary law), lack of empirical evidence, and scattered resources in many different places. The research is a mixture of international and domestic legal research and legal and nonlegal research.


7. LIBERTI, supra note 2, at 79–80.

8. See generally id. This is distinguishable from a neocolonial divestment process where certain states or private companies deal with other corrupt governments; this provides only a limited explanation of the new land grabbing issues. Id. at 3.


12. See id.


14. Id. at 54.
In this article, I first investigate contemporary land grabbing and land alienation and their definitions and identify the difficulties of research. Next, I delineate various mechanisms and international principles that can be useful for protecting the rights of indigenous and local people from the attack of state and nonstate actors. Finally, I selectively review several books and articles that provide excellent starting points for contemporary land grabbing research.

Contemporary Land Grabbing and Its Definitions

Land grabbing is not a new phenomenon. It has existed since the imperial era and has been closely associated with colonialism. Contemporary land grabbing, however, is not related to only imperialism and colonialism. It represents a global land rush by a diverse group of actors, such as investors seeking new financial opportunities and states seeking guaranteed food production for their citizens. Also involved are various stakeholders, including asset management firms; commercial banks and development finance institutions; parent companies; principal enterprises; brokers and intermediaries; contractors, suppliers, and buyers; investing and hosting governments; local communities; and indigenous people. Changing dynamics of globalization in a polycentric world add complexities to land grabbing issues and make it hard to resolve the issues in a simple global legal mechanism because of the multi-layered stakeholders involved. Transnational corporations (TNCs)—backed by their states, IFIs, and financially unstable target states—are aggressively investing in the developing countries and their lands without regard to the livelihoods and rights of local and indigenous people. Contemporary land grabbing is not a matter of the North-South divide any more. Even middle-income countries, including the Arab Gulf countries and the BRICS countries (Brazil, Russia, India, China, and South Africa), are actively participating in land grabbing, looking for the production of staple crops and accompanying food security.

The motivations behind contemporary global land rushes are not simply foods and lands anymore but include water, energy, climate change and environmental protection, and financial safe havens. Increasing urbanization, population growth, and tourism add complexities to this global land rush. The new phenomenon of “flex crops”—crops that have multiple uses as food, feed, fuel, and industrial material and are easily interchanged, such as soya, sugarcane, oil palm, and corn, depending on various economic environments—illustrates the complexities now faced.

15. Liberti, supra note 2, at 2. Investors include high net worth individuals, commercial banks, pension funds, mutual funds, life insurance firms, sovereign wealth funds, and development finance institutions. See Lorenzo Cotula & Emma Blackmore, Understanding Agricultural Investment Chains: Lessons to Improve Governance 70 (2014).


17. After the 2008 food crisis, many producing countries from which the Arab states had imported foods started blocking exportation, which caused the Arab states to seek guaranteed lands for food supply. Id. at 10.

18. Behrman et al., supra note 13, at 50.

The term “land grabbing” has been defined both broadly and narrowly, depending on the source. Policymakers, nongovernmental organizations (NGOs), and scholars tend to define the term narrowly and descriptively by considering only certain factors, such as land area; subjects (types of land grabbers); purpose, direction, and change of land use; relationships between the affected people and those who receive profits; and so on. For example, the Tirana Declaration, made by more than 150 representatives of civil society organizations, grassroots organizations, international agencies, and governments, primarily blames powerful local elites and denounces only large-scale land grabbing. While the declaration tried to cover all the land grabbing issues—deals that were not based on a thorough assessment, transparent contracts, or effective democratic planning that result in human rights violations—it failed to take into account small-scale land investments and foreign actors such as TNCs, international actors such as IFIs, and states. Foreign, state, and international actors who are not included in this type of narrow definition tend to avoid legal or nonlegal responsibility.

Furthermore, simple hectare-centric data analysis of contemporary land grabbing fails to consider methodological and epistemological issues and, as a result, also fails to consider the different levels of capitalization to the land and the environmental and social impacts of land grabbing. Simply looking at the size of land grabbed and country of origin for investment, researchers do not sufficiently appreciate the complexities and ambiguities of analyzing issues relating to land tenure on the ground.

Recognizing the problems that result from a narrow definition of land grabbing, scholars and civil movements have begun to provide broader definitions. The more broadly the term is defined, the more comprehensively activists can address and deal with land grabbing issues. Borras and other scholars criticized the limit of previous definitions, especially the definition provided by the Food and Agriculture Organization of the United Nations (FAO)—large-scale land acquisitions involving foreign governments and undermining good security of a country—as too narrow and focused only on large-size land deals, the involvement of foreign governments in the land deals, and the negative impact on food security of the recipient country. This resulted in catching only two land grabs in Brazil and Argentina.
among seventeen countries in Latin America and the Caribbean.28 To remedy these problems, Borras et al. have suggested a new definition of contemporary land grabbing:

[C]ontemporary land grabbing is the capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms that involve large-scale capital that often shifts resource use orientation into extractive character, whether for international or domestic purposes, as capital’s response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital.29

¶11 Another broad definition was introduced by an international activist organization concerned with world hunger, FIAN International. Its definition identifies five types of contemporary land grabs that do not fall completely within any existing definitions of land grabbing:30

1. Land acquisitions related to mining by corporations from the Organization for Economic Cooperation and Development (OECD) and Global South countries
2. Large-scale infrastructure development funded by IFIs such as the World Bank, regional development banks, and international banks; and state and private development banks from the BRICS countries
3. Land and livelihood alienation from local communities by the OECD and non-OECD countries for commercial agricultural production of commodities such as coffee, rice, and forest plantations
4. Land alienation by land policy reforms and services financed through official development assistance, which is highly discriminatory and exclusionary against poor households living in the areas
5. Land alienation facilitated by the international regime for proliferated investment protection and the difficulty of expropriation/redistribution by state governments31

A case following out of FIAN’s five definitions above caused by the countries for commercial agricultural production most directly affects the rights to land and livelihoods of the local communities; local people lost their access to farmland for subsistence agriculture, could not gather fruits and medicinal plants, and could not find resources for home construction and energy.32 In addition to the environmental impacts, this loss of access to lands and forests could not be compensated by scarce, temporary, and poorly paid jobs and has considerable impacts on the enjoyment of fundamental freedoms and human rights of the local people.33

28. Id. at 849.
29. Id. at 851.
31. Id.
32. Id. at 125.
33. Id. at 126–27.
International Principles, Mechanisms, and Movements
Recent Development of International Principles Relating to Contemporary Land Grabbing

¶12 Various global-level efforts have been made to address land grabbing issues such as food scarcity, human rights violations, and right to land. One of the major developments is the Guiding Principles on Business and Human Rights,\(^{34}\) adopted as Resolution 17/4 by the U.N. Human Rights Council on June 16, 2011.\(^{35}\) The Guiding Principles emphasize the state duty to protect human rights, the corporate responsibility to respect human rights, and victims’ access to remedy, the so-called Protect, Respect, and Remedy Framework.\(^{36}\) The corporate responsibility to respect human rights is followed by the OECD in Guidelines for Multinational Enterprises, the International Organization for Standardization in the Guidance on Social Responsibility (ISO 26000), the International Finance Corporation in the Sustainability Framework and Performance Standards, and the European Commission in Communication on Corporate Social Responsibility.\(^{37}\) However, the Guiding Principles have been criticized as no more than recommendations because they do not effectively restrain corporations’ behaviors and do not clearly impose extraterritorial obligations on states to prevent their corporations from human rights abuses.\(^{38}\)

¶13 Another major development to address and fix the human rights protection gap was made in Maastricht.\(^{39}\) A group of experts in international law and human rights adopted the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights on September 28, 2011.\(^{41}\) The Maastricht Principles preamble emphasizes that the extraterritorial acts and omissions of state and nonstate actors alike threaten the human rights of people, espe-


\(^{36}\) See Shift, supra note 35.

\(^{37}\) \(\text{Id.}\)

\(^{38}\) Künnemann & Suárez, supra note 20, at 134.

\(^{39}\) The gaps include:
- the lack of human rights regulation and accountability of transnational corporations (TNCs)
- the absence of human rights accountability of Intergovernmental Organizations (IGOs), in particular international financial institutions (IFIs)
- the ineffective application of human rights law to investment and trade laws, policies and disputes
- the lack of implementation of duties to protect and fulfil ESCRs abroad, inter alia through the obligations of international cooperation and assistance


\(^{40}\) The forty experts included current and former members of international human rights treaty bodies, regional human rights bodies, and special rapporteurs of the U.N. Human Rights Council.

\(^{41}\) Maastricht Principles, supra note 39.
cially their economic, social, and cultural rights. Further, these acts deprive and deny access to essential land, resources, goods, and services. The Maastricht Principles address states’ extraterritorial obligations (ETOs) and is a culmination of efforts by the human rights community starting from 1999 by the U.N. Committee on Economic, Social, and Cultural Rights.

¶14 In 2007, the ETO Consortium was launched by NGOs and experts. This transnational network of experts is making efforts to strengthen ETOs and to counteract the negative effects of TNCs in developing countries by strengthening ETOs. It established a thematic focal group devoted to land grabbing. In 2010, the World Bank, the FAO, the U.N. Conference for Trade and Development (UNCTAD), and the International Fund for Agricultural Development (IFAD) adopted the Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources (PRAI). The FAO separately adopted a broad land-related principle, Voluntary Guidelines on the Responsible Governance on Tenure of Land, Fisheries and Forests in the Context of National Food Security in 2012. While the Voluntary Guidelines do not directly provide, protect, and guarantee the right to land, they suggest that securing tenure rights and equitable access to land, fisheries, and forests is essential for realization of the right to adequate food.

¶15 The special rapporteur on the right to food, Olivier De Schutter, also presented a report to the Human Rights Council, entitled Large-Scale Land Acquisitions and Leases: A Set of Minimum Principles and Measures to Address the Human Rights Challenge of Large-Scale Land Acquisitions or Leases. It suggests that the human right to food cannot be realized if local people lose access to land without being provided with suitable alternatives. The Minimum Principles extend the principle of free, prior, and informed consent to nonindigenous rural communities and urge states to assist local communities to make collective registration of lands. While the Minimum Principles suggest desirable, ethical directions to the investors and target states, they were endorsed by only a small number of states since they were presented as an annex of a special rapporteur without being discussed in depth among international actors and states. Some transnational activists

42. Id.
43. Id.
46. PRAI, supra note 6.
48. Id.
50. Id. at ¶ 4.
51. Id. Annex, principle 2.
52. Id. Annex, principle 3.
criticized the Minimum Principles since they could legitimize the very practice of land grabs. The biggest problem of these guidelines and principles is that they are nonbinding.

Traditional Human Rights Principles That Apply to Contemporary Land Grabbing

¶16 Many general principles drawn from human rights instruments and documents, however, do apply to state and nonstate actors and protect the rights of rural and indigenous people from land alienation. The following compilation of international instruments and documents lists numerous examples.

United Nations Charter (1945)

¶17 In its preamble, the U.N. Charter takes a universal principle of fundamental human rights: the dignity and worth of the human person and the equal rights of men and women. To create the conditions of stability and well-being based on respect for the principle of equal rights and self-determination of peoples, U.N. members will universally respect and observe human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, and will commit to take joint and separate action. The U.N. Charter takes an “indirect” approach to protect the rights of minorities based on the general principle of human rights and does not have enforcement mechanisms.

Universal Declaration of Human Rights (UDHR) (1948)

¶18 The UDHR was adopted as a U.N. General Assembly resolution in 1948. It provides a standard-setting and fundamental framework for prospective human rights law and lists recognized human rights. Some of the provisions of the UDHR are considered part of customary international law and binding on all states. The following rights recognized in the UDHR apply to contemporary land grabbing issues: freedom and equality (art. 1); nondiscrimination (art. 2); right to life and security of person (art. 3); prohibition of slavery (art. 4); prohibition against inhuman treatment (art. 5); equal protection (art. 7); prohibition again arbitrary arrest and detention (art. 9); the right to own property alone as well as in association with others and prohibition again arbitrary deprivation of one’s property (art. 17); the right to realization of the economic, social, and cultural rights indispensable for

54. Even in 2009, it was unclear that existing national laws and international standards were sufficient to regulate this emerging phenomenon of land grabbing; some scholars viewed this land grabbing as a “simple resurgence of investments typical of the colonial era.” Id. at 193.
55. U.N. Charter art. 55, ¶ c.
56. Id. art. 56.
human dignity (art. 22); the right to just and favorable conditions of work and to protection against unemployment (art. 23); and the right to a standard of living adequate for human health and well-being (art. 25). The UDHR was later reaffirmed in the Vienna Declaration and Programme of Action (1993)\textsuperscript{60} and the United Nations Millennium Declaration (2000).\textsuperscript{61}

**International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965)**

§19 The CERD\textsuperscript{62} was the first human rights treaty adopted by the United Nations. The term “racial discrimination” is defined as any distinction based on race, color, descent, or national or ethnic origin that has the purpose of nullifying or impairing the recognition, enjoyment, or exercise of human rights and fundamental freedoms in the political, economic, social, and cultural fields of public life (art. 1). When land grabbing is backed by a state and is related to racial minorities in the state—such as Afro-descendants making up a local community—this instrument may be cited and applied. Under the CERD, the racial minorities enjoy the right to security of person and protection by the state against violence or bodily harm, whether inflicted by government officials or by any individual, group, or institution and the right to own property alone as well as in association with others (art. 5). They are also supposed to enjoy economic, social, and cultural rights, including the rights to work, housing, public health, education, and equal participation in cultural activities (art. 59(e)). The Committee on the Elimination of Racial Discrimination is created to implement the CERD (art. 8).

**International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)**

§20 With the UDHR and the International Covenant on Civil and Political Rights (ICCPR),\textsuperscript{63} the ICESCR\textsuperscript{64} comprise the International Bill of Rights.\textsuperscript{65} Unlike the UDHR, the ICESCR and the ICCPR recognize right of self-determination by all people (art. 1(a)), and the right to own property mentioned in article 17 of the UDHR disappeared.\textsuperscript{66} Under the ICESCR, all peoples freely pursue their economic, social, and cultural development (art. 1.1). The following rights recognized in the ICESCR apply to contemporary land grabbing issues: the right of self-determination (art. 1.1); equal protection without discrimination (art. 2.2.); the equal right of men and women to the enjoyment of all economic, social, and cultural rights (art. 3); the right to work (art. 6); the right to the enjoyment of just and favorable conditions of work (art. 7); the right of trade unions (art. 8); the right to social security (art. 9); the

---

\textsuperscript{61} G.A. Res. 55/2, ¶ 25, U.N. Doc. A/55/2 (Sept. 8, 2000). Additionally, it pledges to strive for the full protection and promotion of civil, political, social, and cultural rights including minority rights.
\textsuperscript{64} Opened for signature Dec. 16, 1966, 993 U.N.T.S. 3.
\textsuperscript{65} See Humphrey, supra note 59, at 528.
\textsuperscript{66} Id. at 533.
right to an adequate standard of living, including adequate food, clothing, and housing, and to the continuous improvement of living conditions (art. 11); the right to the enjoyment of the highest attainable standard of physical and mental health (art. 12); the right to education (art. 13); and the right to take part in cultural life (art. 15).


¶21 A group of international experts prepared a set of principles and interpretations relating to economic, social, and cultural rights, which contributed to the development of General Comment No. 3 (1991) of the Committee on Economic, Social and Cultural Rights regarding the nature and extent of state parties’ obligations under the ICESCR.

**Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1998)**

¶22 The Maastricht Guidelines suggest promotional and monitoring bodies that can address violations of economic, social, and cultural rights just like General Comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social, and cultural rights.

**International Covenant on Civil and Political Rights (ICCPR) (1966)**

¶23 The International Bill of Rights is composed of the UDHR, the International Covenant on Economic, Social, and Cultural Rights, and the ICCPR. As has been mentioned, unlike the UDHR, the ICESCR and the ICCPR recognize right of self-determination by all people (art. 1(a)), and the right to own property mentioned in article 17 of the UDHR disappeared. Under the ICCPR, all people enjoy the right to nondiscrimination (art. 2.2), the equal right of men and women to the enjoyment of all civil and political rights (art. 3), the right to life (art. 6), the right to liberty and security of person (art. 9), the right to liberty of movement and freedom to choose one’s residence (art. 12), the right to peaceful assembly (art. 21), and the right to freedom of association with others (art. 22). Additionally, minorities enjoy the right, in community with the other members of their group, to enjoy their

---

67. Under article 11.2(b), the state parties to the covenant must take the steps to take into account the problems of both food-importing and food-exporting countries to ensure an equitable distribution of world food supplies in relation to need. International Covenant on Economic, Social and Cultural Rights art. 11.2(b), opened for signature Dec. 16, 1966, 993 U.N.T.S. 3.


69. Id. annex 4, at 115.

70. Id. at 7.

71. Id. at 117.


73. See Humphrey, supra note 59, at 528.


75. Humphrey, supra note 59, at 533.
own culture (art. 27). Slavery (art. 8) and discrimination (art. 26) are prohibited by the ICCPR. A Human Rights Committee was established to implement the convention (arts. 28–45).

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)

¶24 The Declaration assures that states must protect the existence of the national (or ethnic) cultural identity of minorities within their respective territories and must encourage conditions for the promotion of that identity (art. 1). Also related to the contemporary land grabbing issues are the right to enjoy minorities’ own culture; the right to effective participation in cultural, religious, social, economic and public life; and the right to practice their own language (art. 2). These minority rights may be exercised in community with other members of their group (art. 3), and states should encourage knowledge of the history, traditions, and culture of the minorities existing within their territory (art. 4).


¶25 The Declaration recognizes the individual and collective rights of indigenous peoples to ownership of land and to live as they wish (arts. 1, 26), and the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas, and other resources (art. 25). Under the U.N. Declaration, indigenous people must not be forcibly removed from their lands or territories (art. 10). Before adopting and implementing laws and measures that may affect indigenous people, states must consult in good faith with them to obtain their free, prior, and informed consent (art. 19). In addition, the U.N. Declaration provides indigenous peoples with the right to equal protection without any kind of discrimination (art. 2); the right to self-determination (art. 3); the right to the political, social, and cultural life of the state (art. 5); the right to life (art. 6); the right not to be subjected to forced assimilation or destruction of culture (art. 8);78 the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned (art. 9); the right to keep cultural traditions and customs (art. 11); the right to the dignity and diversity of indigenous cultures, traditions, histories, and aspirations (art. 15); the right to development (art. 23); the right to traditional medicines (art. 24); the right to the conservation and pro-

---

78. For this purpose, states must provide effective mechanisms to prevent dispossessing them of their lands, territories, or resources and prohibit racial or ethnic discrimination against them (art. 8.2(b) & (e)).
tection of the environment and the productive capacity of the lands or territories and resources (art. 29); and the right to determine and develop priorities and strategies for the development or use of lands or territories or other resources (art. 32).

**Convention Concerning Indigenous and Tribal Peoples in Independent Countries (1989)**

§26 This convention\(^79\) comprehensively recognizes and safeguards land and property rights for indigenous peoples. The provisions relating to land, territories, and resources are similar to the ILO Convention No. 107,\(^80\) which is partly revised by the current convention and no longer accepts accession since the adoption of the ILO Convention No. 169. The U.N. General Assembly also endorses the convention and encourages states to accede to it.\(^81\) This convention applies to tribal people\(^82\) or indigenous people (art. 1). The convention tells governments to adopt coordinated and systematic action to promote the full realization of the social, economic, and cultural rights of these people (art. 2.2(b)). Under the convention, these people enjoy the right to nondiscrimination (art. 3.1); the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and the lands they occupy or otherwise use, and the right to exercise control over their own economic, social, and cultural development (art. 7.1); and the right of full enjoyment of their customs and customary laws (art. 8). Land is specifically dealt with as a part of their lives (part II) from article 13 to article 19. Lands are defined as territories that cover the total environment of the areas that the people concerned occupy or otherwise use (art. 13). The rights of ownership and possession over the lands that these people traditionally occupy and to which they have traditionally had access for their subsistence and traditional activities are recognized; governments are asked to take proactive measures and steps to identify and safeguard the rights (art. 14). The convention also asks for special safeguards for the rights of the people concerned to the natural resources (art. 15). The people also enjoy the freedom of movement and must not be removed from the lands that they occupy, except on special occasions, and must be consulted whenever consideration is being given to alienate their lands or otherwise transmit their rights outside their own community (arts. 16, 17.2). The convention also covers topics such as recruit-

---


82. Tribal people are defined as people “whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.” ILO Convention No. 169, supra note 79, art. 1(a).
ment and conditions of employment (part III); vocational training, handicrafts, and rural industries (part IV); social security and health (part V); education and means of communication (part VI); and contacts and cooperation across borders (part VII).

Global Institutionalized Systematic Mechanisms and Movements to Protect the Land Rights of Indigenous People

¶27 Various intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs) have been working to protect indigenous people’s right to land. IGOs working on this issue include the U.N. Permanent Forum on Indigenous Issues (UNPFII), the U.N. Human Rights Council through the Expert Mechanism on the Rights of Indigenous Peoples, the Working Group on Indigenous Population, the Special Rapporteur on the Rights of Indigenous People, the Office of the Special Rapporteur on the Rights of Indigenous Peoples of the Organization of American States (OAS),83 the African Commission on Human and People’s Rights: Working Group on Indigenous Populations/Communities in Africa,84 the Asia Indigenous Peoples Pact (AIPP),85 and the International Labor Organizations (ILO). NGOs include the Assembly of First Nations,86 the World Council of Indigenous Peoples, and Survival International.87

¶28 Until 2007, however, few global, institutionalized systematic mechanisms were available to protect the land rights of local and rural people and minorities who cannot be included under the category of indigenous people. As mentioned above, in 2007, the ETO Consortium was launched by NGOs and experts.88 The World Bank, the FAO, the UNCTAD, and the IFAD also collaborated on contemporary land grabbing issues and adopted the PRAI and the Voluntary Guidelines, even though they are merely recommendations. FAO sees land grabbing as an emerging issue and devotes a webpage to it with the title of Foreign Investments in Agriculture for Food Security.89

88. ETO CONSORTIUM, supra note 44.
The U.N. Committee on World Food Security (CFS) and the World Food Programme may be good starting points to approach land grabbing issues based on the right food and food security policies. The final report of the fortieth session of the CFS notes the multiple and complex relationships between biofuels and food security, dynamic and complex food prices affected by the production and consumption of biofuels, and competition between biofuel crops and food crops due to current biofuel production. The report asks states to add to existing guidelines, to minimize the risks and maximize the opportunities of biofuels in relation to food security. The report also invites the FAO to propose a program of work considering food security concerns and legitimate land tenure rights. Furthermore, the report tells members to “strongly promote responsible governance of land and natural resources with emphasis on securing access and tenure for smallholders, particularly women, in accordance with the Voluntary Guidelines.”

International agrarian movements such as La Vía Campesina and International Land Coalition, and NGOs such as GRAIN and FIAN are also striving to solve the issue of agrarian land alienation of local and rural communities and to protect their access to land and water. These organizations scrutinize investors and lenders, especially by leveraging reputational risk, and make investors and lenders pressure agribusiness companies and local enterprise to protect local people’s land rights. Furthermore, they suggest alternatives to large land deals and help to facilitate “constructive dialogue” with investors, lenders, agribusiness companies, governments, and federations of rural producer organizations on how these alternatives could be upscaled. The following international movements, coalitions, and NGOs are actively working on resolving contemporary land grabbing issues, and their websites are excellent sources for cutting-edge information and empirical data.

90. The Committee on World Food Security (CFS) is an intergovernmental body providing a forum for food security policies. It also created the High Level Panel of Experts on Food Security and Nutrition (HLPE) in 2009 to provide expert advice. Comm. on World Food Sec., http://www.fao.org /cfs/cfs-home/en (last visited May 2, 2015).
92. These include the CFS Global Strategic Framework for Food Security and Nutrition (GSF); the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT); the Voluntary Guidelines for the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (RtF); The Global Bioenergy Partnership (GBEP) Sustainability Indicators for Bioenergy and FAO Bioenergy and Food Security (BEFS). Id.
93. Id. at ¶ 22.
94. Id. at ¶ 41.
95. Cotula & Blackmore, supra note 15, at 72–73.
96. Id. at 73. They sometimes bring transnational litigation for corporate accountability and leverage opportunities provided by international trade arrangements. Id. at 78.
97. General international human rights and environmental NGOs (e.g., Greenpeace, Amnesty International, Human Rights Watch, Human Rights First, Oxfam) are not dealt with in this article although they are also vigorously working on contemporary land grabbing issues.
• Center for World Indigenous Studies (CWIS)

¶31 The CWIS has been advocating that the states take the primary responsibility for formulating and instituting international principles relating to indigenous peoples. It drafted the International Covenant on the Rights of Indigenous Nations. Its website includes tribal and intertribal resolutions and papers; U.N. documents, treaties, agreements, and other constructive arrangements; and internationally focused documents. The Center also maintains the Indigenous Node of the WWW Virtual Library, which provides annotated links to many different resources.

• GRAIN

¶32 GRAIN is an international not-for-profit organization that assists small farmers and social movements in Asia, Africa, and Latin America with research and analysis, advocacy, and networking; it also encourages alliances and cooperation for biodiversity-based food systems under the control of local communities. Even though GRAIN is a small organization, many research institutes and researchers rely on its research and data. In 2012, while dealing with financial problems, GRAIN underwent external evaluation on its work on land grabbing between 2008 and 2011. The evaluation concluded that GRAIN was “extremely effective in its mission to expose the risks of land grabbing” and was remarkably influential on the global debate on land grabbing. GRAIN maintains and continues to update the Farmlandgrab.org website, even though it has stopped publishing its magazine, Seedling. GRAIN’s publications include Against the Grain, Reports, Seedling, and Biodiversidad; it also produces photos, videos, and audio programs. Most notably, Reports provides excellent empirical data and background information.

100. GRAIN monitors land acquisition projects throughout the world from 2009. See GRAIN, http://www.grain.org (last visited May 2, 2015).
102. BROWN, supra note 2, at 103.
103. The evaluation focused on the relevance of GRAIN’s emphasis on land grabbing, assessment of specific outputs, outcome and impact of GRAIN’s work on land grabbing, effectiveness and efficiency, sustainability of GRAIN’s involvement in the field, future priorities and strategies, and organizational issues. See Göran Eklöf, Joan Baxter & Alberto Villareal, Evaluation of GRAIN’s Work on Land Grabbing: Executive Summary and Recommendations (June 2012), available at http://www.grain.org/media/BAhbBlsHOgZmSSj3MjAxMi8wOC8wMS8xMF8yMF8zMF80MjVfR1JBSU5RXh0RXZhbF8yMDEyX3dlYi5wZGYGOGZFV.
104. Id. at 2.
• Earth Policy Institute

§33 This institute106 does in-depth research on food, population, water, and sustainable development, striving for public awareness and to provide a global plan for sustainable development and demonstrative examples.107 Its founder, Lester R. Brown, and his team have researched the recent food crisis and land and water grabbing issues and published Full Planet, Empty Plates: The New Geopolitics of Food Scarcity.108 Its website maintains a data center that provides data in Excel format relating to five different topics: (1) population, health, and society; (2) natural systems; (3) climate, energy, and transportation; (4) food and agriculture; and (5) economy and policy. For example, it provides useful data on World Grainland Area Per Person, 1950–2011 under the food and agriculture category. It also maintains a very useful blog and press release pages.

• ETO Consortium

§34 The ETO Consortium109 is a network of about eighty human rights civil society organizations and academics trying to solve the contemporary land grabbing issues by regulating transnational corporations, IGOs, and IFIs.110 The Consortium supports and emphasizes the idea of imposing extraterritorial obligations (ETOs), which are specifically stated and confirmed in the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Affairs. Its thematic focal groups include finance regulation, tax, corruption, trade, investment, intellectual property rights, extractive industries, land grab, transnational corporations, eco-destruction, climate change, international financial institutions, development cooperation, food rights, health, conflict, occupation, and war. The website provides a library that compiles documents for the topics above and a bibliography relating to ETOs.

• International Food Policy Research Institute (IFPRI)

§35 The IFPRI111 is a global research institute that, since 1975, has sought sustainable solutions for ending hunger and poverty.112 The library of the IFPRI is an e-brary knowledge repository, which contains various digitized publications, including annual reports, global food policy reports, discussion papers, working papers, briefs, IFPRI Insights Magazine, as well as a catalog, datasets, a journals list, and FAO policy repository. The institute produces documents relating to land

108. See id.
112. IFPRI’s 2020 Vision is to make sure every person in the world has “access to sufficient food to sustain a healthy and productive life, where malnutrition is absent, and where food originates from efficient, effective, and low-cost food systems that are compatible with sustainable use of natural resources.” 2020 Vision, Int’l Food Policy Research Inst., http://www.ifpri.org/program/2020-vision (last visited May 2, 2015).
grabbing such as “Land Grabbing” by Foreign Investors in Developing Countries, which provides great data tables as of July 2009.

- **International Institute for Environment and Development (IIED)**
  
  ¶36 IIED is a policy research organization dealing with international development and environment, trying to bridge between policy and practice. It works with a wide variety of organizations that includes NGOs, indigenous people’s groups, and grassroots movements. One of its publication topics is Land Acquisitions and Rights, for which there are about 127 papers published including the IIED briefing; the most representative one is Understanding Agricultural Investment Chains: Lessons to Improve Governance.

- **International Land Coalition (ILC)**
  
  ¶37 As a successor of the Popular Coalition to Eradicate Hunger and Poverty, the ILC is an international alliance of about 152 organizations that focuses on land access issues. It strives to ensure secure and equitable access to land with the reduction of hunger and poverty. Particularly, the ILC’s works cover setting up National Engagement Strategies in focus countries, land monitoring, drafting global and regional policy, promoting women’s land rights, responding to increasing commercial pressures on land and safeguarding tenure rights of land users, supporting indigenous peoples, protecting the land and resource rights of range-lands, clarifying and recognizing community land and resource rights, and protecting the rights of land defenders. It has published numerous documents and publications, including briefs and opinion papers, newsletters, presentation materials, reports, and videos, which are available from its website. The ILC is a partner of the Global Observatory of the Land Matrix.

- **International Work Group for Indigenous Affairs (IWGIA)**
  
  ¶38 IWGIA, established in 1968 by a group of anthropologists, examines and documents the realities of indigenous people and advocates for the improvement of their rights. The IWGIA’s network of researchers and activists extends all over the world. It also concerns environment and development, and culture and iden-

---


116. See id.


120. Id.


- Land Matrix
  
  ¶39 The Land Matrix is a very important global initiative to monitor lands and investments in addition to the Farmlandgrab.org and Commercial Pressures on Land online databases. It visualizes decisions over land and investment, promoting transparency and accountability. Its Global Observatory shows visualized information on large-scale land acquisitions and strives to catch most land deals as accurately as possible in the fast-evolving environment of land deals. Admitting that land deals are “notoriously un-transparent,” it strives to remove errors and mistakes. Deals include land deals for agricultural production, timber extraction, carbon trading, industry, renewable energy production, conservation, and tourism in low-income and middle-income countries based on the World Bank country group classification. Its partners include the ILC, Centre de Coopération Internationale en Recherche Agronomique pour le Développement (CIRAD), Centre for Development and Environment (CDE), German Institute of Global and Area Studies (GIGA), and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).

- La Vía Campesina: The International Peasant’s Movement
  
  ¶40 Created in 1993, La Vía Campesina is one of the most active grassroots peasant movements, connecting about 164 local and national organizations from all over the world. It seeks and defends “food sovereignty” as addressed at the World Food Summit in 1996. La Vía Campesina tries to realize the right of peoples to healthy and culturally appropriate food produced by a model of small-scale sustainable production benefiting communities and their environment. It further ensures that local and indigenous peoples, not the corporations, have rights to use lands, territories and water, and to enjoy biodiversity. The current and rotating secretary is in Harare, Zimbabwe. Its website provides news updates, announcements of

---

125. _Id._
126. _Id._
127. _Id._
128. _Id._
131. _Id._
132. _Id._
133. _Id._
actions and events, and various publications, including annual reports and links to newsletters and conference materials.\textsuperscript{134}

- **Shift, U.N. Guiding Principles on Business and Human Rights**

\textsuperscript{134} The Shift\textsuperscript{135} is a nonprofit organization for protecting, respecting, and rem- edying human rights in relation to business. It was established in 2011, following the adoption of the *U.N. Guiding Principles on Business and Human Rights* by the Human Rights Council.\textsuperscript{136} The organization tries to “shift” the *Principles* into practice, making companies be aware of and respect human rights, encouraging gov- ernments to protect human rights, and allowing people access to effective remedies. Its programs include business learning, associated with the Corporate Social Responsibility Initiative at the Harvard Kennedy School of Government; engage- ments with individual governments; international partnerships with key interna- tional organizations, industry, or multi-stakeholder groups; and public awareness through workshops and conferences. Under Resources, its website provides about eighty documents and reports it has produced since 2011.

- **The Oakland Institute**

\textsuperscript{137} The Oakland Institute\textsuperscript{138} is a California-based nonprofit organization with the mission “to increase public participation and promote fair debate on critical social, economic and environmental issues in both national and international forums.”\textsuperscript{139} The organization specifically covers the issues of land rights, high food prices, sustainable food systems, foreign investment, international aid, trade agree- ments, climate change, and poverty. Its website devotes a separate webpage to each issue and provides related data, recent news, and links to numerous reports and policy briefs. With its primary focus on land rights, the Oakland Institute strives to increase “transparency about land deals including the terms of negotiation, theo- retical consequences of investment, real impact on the ground, and ultimate impact on development,”\textsuperscript{140} mostly in African countries such as Sierra Leone, Ethiopia, South Sudan, Cameroon, Zambia, Tanzania, Mozambique, and Mali. It also analyzes land grabs in terms of human rights and international financial poli- tics. One of its representative reports is *The Great Land Grab: Rush for World’s Farm- land Threatens Food Security for the Poor.*\textsuperscript{141}

- **World Conference on Indigenous Peoples (WCIP)**

\textsuperscript{142} WCIP\textsuperscript{143} was a high-level plenary meeting of the U.N. General Assembly, assembled in 2014 at the U.N. headquarters in New York. Under the U.N. General

\begin{thebibliography}{9}
  \bibitem{134} See *Nyeleni*, http://www.nyeleni.org (last visited May 2, 2015).
  \bibitem{136} *Id.*
  \bibitem{137} *Oakland Inst.*, http://oaklandinstitute.org (last visited May 2, 2015).
  \bibitem{138} *About Us*, *Oakland Inst.*, http://oaklandinstitute.org/about (last visited May 2, 2015).
  \bibitem{140} *Daniel & Mittal*, supra note 3.
\end{thebibliography}
Assembly Resolution A/RES/65/198, members planned to “share perspectives and best practices on the realization of the rights of indigenous peoples.”\textsuperscript{142} Its website provides information on regional indigenous groups with links.

\textbf{Selected Treatises, Articles, and Reports}

\textsuperscript{144} Since the 2007–2008 world food crisis, plenty of literature on contemporary land grabbing has been created. Several comprehensive land grabbing books have been published.\textsuperscript{143} IGOs such as FAO, NGOs such as GRAIN\textsuperscript{144} and FIAN,\textsuperscript{145} consortiums such as the ILC, and research institutes such as the IFPRI have produced numerous reports and articles relating to contemporary land grabbing issues. Scores of scholarly articles also have been published, mainly in the \textit{Journal of Peasant Studies}, the \textit{Journal of Agrarian Change}, the \textit{Journal of Development Studies}, and the \textit{Third World Quarterly}. What follows is a selectively reviewed list of books, articles, and reports with annotations, which will provide great starting points for contemporary land grabbing research.

\textbf{Selected Treatises}


This book is a product of the Earth Policy Institute research team to raise public understanding of the recent challenges relating to food, including world food shortages and food price spikes since 2007, and to call for action by political leaders and new policies to reduce hunger. It vividly draws the map of the world food crisis with detailed explanations on the ecology of population growth, the food chain, selection between food and fuel, eroding soils, water scarcity, environmental change, and increased production of soybeans, also providing historical backgrounds. Notably, chapter 10 deals with the global land rush, recognizing that this new global land rush since 2007 focuses more on basic food and feed crops such as wheat, rice, corn, and soybeans, and on biofuels. Land acquisitions are also seen as “lucrative investment opportunity” (p.105). While the author notes the difficulty of acquiring accurate information and data on land deals, he strives to grasp and describe in detail the contemporary land grabbing rushes by countries and explain the resulting effects on local people, human rights violations, and political instability.


This book provides realistic solutions for new land grabbing issues raised by the liberalization of trade, international investment in export-oriented agriculture such as soy for biofuels, and indecisive legal reforms and lack of implementation in Bolivia. It provides a history of resource struggles with vivid stories about the author traveling across the country, participating in various demonstrations and

\textsuperscript{143} See, e.g., \textit{Land Grabbing and Global Governance}, supra note 20; \textit{Liberti}, supra note 2.
\textsuperscript{144} See, e.g., \textit{GRAIN}, supra note 1.
\textsuperscript{145} See, e.g., Künnemann & Suárez, supra note 20, at 128.
activities against Bolivian government projects threatening the life of local communities. The author identifies new forms of displacement and socioeconomic dispossession and analyzes issues and causes behind the current problems. Finally, the author emphasizes the importance of movements such as the landless peasant movement—called MST—and the new social projects and political practices of the left and their connection to the state. Recognizing the importance of economic and ecological transformation and culture as a shield, the author asks for the state’s centralized and strong role to create “a truly redistributive and protectionist agenda and the power to reroute transnational capital” (p.200).


This book updates Liberti’s previous version, published in 2010. The author traces the causes of land grabbing starting from 2008, examines the FAO guidelines, and offers predictions about future developments. The author provides many qualitative empirical data collected on the ground, including observatory notes from meetings and interview scripts. The book provides novel-like narratives of land grabbing, from Ethiopia’s agrofuel greenhouses to land grabbing in Saudi Arabia, Brazil, Rome, Geneva, and Tanzania to Chicago’s stock market and Iowa’s ethanol factories.


This book is part of a series titled Rethinking Globalizations, which covers various issues of globalization. The book itself tries to capture a distinct historical event of contemporary land grabbing, closely tied to the changing dynamics of the global agrifood, feed, and fuel complexes. In this collected work, contributors theorize land grabbing and identify transnational actors under emerging global land governance. The final chapter reviews several recent instruments relating to global land governance. Chapters 7 and 12 deal with human rights issue relating to land grabbing.


This book deals with the difference between the theory and practice of development mainly in Central America. Various topics such as food, water, energy, mining, deforestation and reforestation industrialization, indigenous groups, and violence of development are dealt with in depth, relating to the benefits of development. Figures, tables, and boxes summarize land grabbing research such as change in forest cover, number of organic farms, population with access to improved drinking water sources, and population estimates of indigenous groups in Central America and elsewhere from 1990 to 2010. The chapter entitled “Indigenous Groups: The Fourth World Fights Back” succinctly explains and offers examples of land disputes and encroachments on indigenous territories in Central America.


This pamphlet-format report updates a report titled *Land Alienated from Indigenous Minority Communities in Ratanakiri*. This report analyzes land alienation from indigenous communities in the Ratanakiri province in the northeast of
Cambodia. The report concerns the illegality of the vast majority of land sales in Ratanakiri, which is mainly caused by a lack of law enforcement. Some communities have been disintegrated to the extent that cultural and social resources are severely lost. To make things worse, community councils and higher levels of government acquiesce to these sales. The report recommends strict enforcement of the 2001 Land Law, suggesting that the government of Cambodia needs to declare a moratorium on land sales affecting indigenous people. The report redefines “land alienation” to include loss of land that is accompanied by “a sense of powerlessness and alienation within indigenous communities” (p.8). The report also includes graphic maps showing change in land alienation between 2004 and 2006, charts of the impacts of land alienation, and case studies for each indigenous community in the Ratanakiri province.

Selected Articles and Reports


The authors approach land grabbing with a new domestic perspective based on gender equality. They comprehensively overview each phase of large-scale land deals—preexisting situation, consultation and negotiation, contracts and compensation, implementation and changes in production structure, and enforceability—and its varying gender implications. They also show two case studies in two different countries in South East Asia and Africa—a Hibun Dayak community in Sanggau District, West Kalimantan, Indonesia, and a community in the Maputo Province of Mozambique—illustrating different forms of large-scale land deals and different ways women are affected. They conclude that without taking into account local gender implications, investments will, at best, perpetuate existing gender inequalities and, at worst, contribute to increased levels of resource scarcity, poverty, and conflict. While the article directly applies international principles to current gender inequality phenomena, it emphasizes the role for the international research community to play. It also recognizes the lack of empirical evidence on the differential effects that land grabbing has on men and women. Finally, the authors emphasize the role of effective government enforcement to ensure that land deals lead to greater gender equality.


This article analyzes the land grabbing that has occurred in Latin America and the Caribbean based on the FAO studies in seventeen countries. The authors suggest four factors driving land grabbing in the region: production for food security, biofuels, climate change mitigation strategies, and the dynamics of global capital reconfiguration and emerging accumulation imperatives and strategies. They also suggest that land grabbing occurring in this region is unique in that it is wider than previously assumed; is not completely centered on food, land, or new global food regime players; and is intraregional in character. The article criticizes previous definitions of land grabbing which can explain land grabbing in only two countries—Argentina and Brazil—and suggests a new broader definition. The article provides useful tables with qualitative empirical evidence relating to contexts and extent of land grabbing in Latin America and identifying state and capital actors in intraregional land grabbing and its dynamics.

This report was prepared for the U.N. Special Rapporteur on the right to food, Olivier De Schutter. It provides four case studies of Tanzania, Sudan, Pakistan, and Mali, and Mali is introduced as a best-practice case. Admitting the necessity of investment in agriculture in developing countries, the report asks critical questions: what types of investment are needed, for the benefit of whom, and with what impacts on rural poverty and rural development? The authors pay attention to the gap between investment commitments made on paper and their effective implementation. The book also deals with local governments’ dilemmas and choices as they consider channeling investment into their rural societies, the opportunity costs involved, and the surrounding regulatory frameworks.


This report, funded by the FAO, IIED, and the U.K. Department for International Development, analyzes an “investment chain,” a complex web of multiple parties relating to land transactions in three different phases of money flow—“upstream” for project financiers, “midstream” for the enterprise that leads project implementation, and “downstream” for various contractors and suppliers (p.1). The report supplements the *Voluntary Guidelines* by the FAO and provides a solution to implement the *Voluntary Guidelines*, ensuring that investments are balanced with development. Particularly, the report strives to identify various “pressure points” where “public action can influence the behavior of actors or the nature of relations between those actors” (p.2–3) to make an effective implementation of the *Voluntary Guidelines*, which includes action to improve land deals, restrict or cancel such deals, or promote alternative models of agricultural investment. The authors suggest that “midstream” relations provide significant pressure points for public action where strong rights to land and natural resources can be provided to local communities with “robust local consultation and consent requirements and with rigorous and transparent impact assessment process.”

They also suggest that “upstream” relations within the corporate structure can be significant pressure points for public actions, and lenders and investors can have significant leverage over the local enterprise. Finally, they suggest that to effectively implement the *Voluntary Guidelines*, public actions are needed at multiple pressure points together with alliances between stakeholders. The report is based on ten case studies of recent large-scale land deals in Brazil, Cambodia, Cameroon, Ethiopia, Ghana, Laos, Liberia, Mali (two), and Sierra Leone.

---

146. Midstream pressure points also include actions such as regulation of land acquisition by foreign investors and capacity support for governments to govern investment processes effectively, and for communities to analyze, deliberate, and negotiate. Cotula & Blackmore, supra note 15, at 4.

This early report analyzes land grabbing issues, suggests implications and potential consequences of land grabbing, stimulates the discussion of land grabbing issues, and draws attention to the actors. It examines the roles of IFIs and criticizes their “win-win” arguments that simplify and fail to solve the contemporary land grabbing issues by commercial land acquisitions and fail to secure food supply for poor and vulnerable populations. The report contains case studies and data from Africa, Southeast Asia, and Latin America, and provides an appendix table showing thirty-two countries in crisis that require external assistance.


Edelman discusses the conundrum of relying on hectare-centric data in the analysis of contemporary land grabbing. He suggests that current land grabbing data do not accurately reflect what is occurring on the ground, not only including preliminary, unverified, and faulty data such as unimplemented land deals, but also epistemologically failing to reflect the levels of capitalization into the land, the availability of water, and social impacts. The author further emphasizes the danger of using quantitative hectare-centric analysis of land grabbing because it ultimately weakens the arguments of activists due to the lack of credibility of quantitative evidence and finally suggests the necessity of case studies. He emphasizes the responsibility of social scientists or historians to explain the reliability of the sources they use.

Eklöf, Göran, Joan Baxter, and Alberto Villareal. “Evaluation of GRAIN’s Work on Land Grabbing: Executive Summary and Recommendations.” June 2012. http://www.grain.org/media/BAhvbBIsHOgZmSSl3MyMjAxMiwOC8wMS8xMF8yMFBzMFi80My8zMF80MjVR1JBSU5RXh0RXZhbF8yMDEyX3dlYi5wZGYGogZFV.

Like other nonprofit organizations, GRAIN needs strategies to cope with new financial environments that limit funding and cause the organization financial problems. This report recommends highly visible GRAIN’s online presence, its effective communications, and close and mutually respectful relations with grassroots organizations—particularly in Africa—and strategic communications strategies and policies that prioritize reaching out to the media and new audiences, including social media. It also suggests that for GRAIN to remain sustainable as a small organization, it should hire dedicated fund-raising personnel and diversify its sources of funding, including from individual users, thus emphasizing new generations and supporters of GRAIN’s work.


This article empirically analyzes large-scale land investments by transnational corporations in four countries: Cameroon, Gabon, the Democratic Republic of

147. “The IFC and FIAs are employing a number of methods to assist investors to overcome obstacles that inhibit investment in foreign land markets.” Daniel & Mittal, *supra* note 3, at 7.

148. “Commercial land deals are coming into direct conflict with land reform efforts in many developing countries.” Id. at 14.
Congo, and the Republic of Congo. The article shows the recent increase of large-scale land acquisitions in Central Africa since 2000, mainly due to the relative political stability in the region. The report contains figures and tables to show the amount of acquired lands, historical trends, major investors, and compulsory procedures for industrial plantations in Central Africa. Instead of focusing on land alienation from the perspective of indigenous people, Feintrenie focuses on multinational corporations, showing the appropriate, transparent ways of investments such as constant, regular environmental and social impact assessments, and signature of free, prior, and informed consent.


This report notes that rural peoples’ access to land is under attack everywhere, emphasizing that their land and territories are their “backbone of their identities, their cultural landscape and their source of well-being” (p.2). It identifies the limitations (and irony attached) to recent data prepared and cited by the FAO and U.N. agencies that state family farms manage most of the world’s arable land. The report concludes that (1) farms are getting smaller; (2) small farms are less than a quarter of the world’s farmland; (3) big farms are getting bigger; (4) small farms are still major food producers in the world; (5) small farms are overall more productive than big farms; and (6) most small farmers are female. The report includes an interactive map visualizing the number of small farms and percentage of agricultural land in the hands of small farmers; tables showing global distribution of agricultural land; a list of countries that are losing farms, concentrating land, or where more than seventy percent of farms are small yet control less than ten percent of domestic agricultural land; and charts showing the global encroachment of the industrial crops of soybeans, rapeseed, sugar cane, and oil palm. The report finally indicates the difficulty of gathering and analyzing data on land distribution and food production because data are often patchy, slanted, or influenced by the politics, and classification criteria and definitions are highly variable. The report mainly relies on government data and data provided by FAOSTAT and research papers.


This October 2008 report first drew attention to the contemporary land grab issue, recognizing two unique drivers of contemporary land grabbing: seeking food security for the world food crisis and a new source of profit for the world financial crisis. China, India, Japan, Malaysia, South Korea, Egypt, Libya, Bahrain, Jordan, Kuwait, Qatar, Saudi Arabia, and United Arab Emirates are identified and examined as the food security seekers. Deutsche Bank, Goldman Sachs, Black Rock Inc., Morgan Stanley, Black Earth Farming, and Landkom are identified as investors for farmland in poor countries. It suggests that contemporary land grabbing is restructuring the local communities and society, transforming them from small farms or forests into large industrial estates for foreign markets that remove the hope of local farmers to return to their lands.

This report deals with the issue of Africa’s sophisticated water management systems that were destroyed by contemporary land grabbing. It indicates that countries such as Saudi Arabia and India, which lack water for food production, are attacking the African lands, advocating that water is abundant in Africa even though it is not true. In addition, large-scale land deals consume massive amounts of water, threatening the life of local farmers, pastoralists, and other rural communities. The report introduces a graphic and a table showing how the lands near the Nile were given to foreign investors, how much has irrigation potential, how much has already been irrigated and leased out since 2006, and surplus/deficit relating to the Nile basin. The report emphasizes that the land grabs and the accompanying water grabs do not help to reduce hunger and poverty; rather they represent “theft on a grand scale of the very resources—land and water—which the people and communities of Africa must themselves be able to manage and control” (p.18).

**Conclusion**

¶45 The lack of understanding on issues relating to contemporary land grabbing among investors, lenders and agribusiness companies, and governments in investing countries has worsened problems relating to contemporary land grabbing, even though these powerful actors control many elements of contemporary land grabs. Comprehensive and effective research, based on both quantitative and qualitative empirical evidence, contextually explains the contemporary land grabbing issues in a specific time and place, and also reflects various international legal principles and mechanisms. The research can help all parties better understand various aspects of large-scale land deals and their accompanying problems.

¶46 Other fruitful areas of research would include relevant legal and social science theories, such as the right to dignity, which can support the arguments of land grabbing movements and activists. Furthermore, alternative solutions and strategies to industrial agriculture and corporate-controlled food systems could be analyzed and suggested resources given. Various examples and models of agro-ecological and bio-diverse family farming, which can ensure food sovereignty of local and indigenous peoples, could also be useful additions to the dialogue. 149

---

149. See Göran Eklöf, Joan Baxter & Alberto Villareal, Evaluation of GRAIN’s Work on Land Grabbing: Executive Summary and Recommendations, June 2012, http://www.grain.org/media/BAhbBlsHOGZmSS13MjAxMi8wOC8wMS8xMF8yMF8zMF80Mj1vR1JBSU5fRXh0RXZhbF8yMDEyX3dIYi5wZGYGoGZFA.