

LAND STRUGGLES

LRAN Briefing Paper Series 2

August 2011

***Defending the Commons, Territories
and the Right to Food and Water***

Land
STRUGGLES
Struggles

Defending the Commons, Territories
and the Right to Food and Water

Land Struggles: LRAM Briefing Paper Series no. 2
August 2011

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Publication Support: Grassroots International

This publication was first released online on October 2010 in
celebration of the World Food Day.

About LRAM

The Land Research Action Network (LRAM) or Red de
Investigación-Acción sobre la Tierra is a working group of
activist researchers working on land, agrarian reform and
resource access issues. LRAM is a response to a gap in research/
analysis support for grassroots movements around the world
who are engaged in struggles over access to land and other
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Also available online at www.focusweb.org and
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ISSN 2243-917x

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Defending the Commons, Territories and the Right to Food and Water

On World Food Day, 16th October 2010, it is estimated that almost a billion people around the world are now suffering from hunger and malnutrition - a dramatic rise in number since the soaring food prices over the last three years. Of these, about half are estimated to live in smallholder farming households, while roughly two-tenths are landless, another tenth are pastoralists, fisherfolk, and forest users, and the remainder live in the cities. This crisis of world hunger is set to deepen as livelihood resources such as land and water continue to be transferred from such groups to the financially powerful in ever larger areas and longer timeframes.

In support of social movements and grassroots activists working to defend the rights of local people to land and natural resources and to re-orient policies towards food sovereignty in a new era of fuel scarcity, climate volatility, and economic readjustment, LRAN launches its second series of briefing papers in contribution to the Global Campaign for Agrarian Reform. This series takes up the theme of Defending the Commons, Territories and the Right to Food and Water.



Addressing the Food, Finance, Energy and Climate Crises through Food Sovereignty and Agrarian Reform

In April 2010, social movement representatives from all over the world gathered in Cochabamba at the World People's Conference on Climate Change. Highlighting their respect for Mother Earth, they presented evidence of the dire injuries she is suffering, and put forward their proposals for urgently redirecting development policies towards a more sustainable and just future. Two of Mother Earth's most important forms - land and water - are being exploited, abused and destroyed by human beings under the banners of economic development, growth and progress. Today, the world is faced with multiple, inter-related crises of climate, food, energy, and finance that have resulted after several decades of corporate-driven globalisation, neoliberal policy domination, unsustainable resource extraction and unchecked financial liberalisation.

This second collection of the Land Research Action Network (LRAN) briefing papers take up these themes of concern and presents some of the experiences of activist researchers working to defend the commons and vulnerable territories. As before, the papers have been written and edited for readers who are not native speakers of English, and it is intended that they can be relatively easily translated. They are particularly aimed at activists and community leaders within social movements working on land and agriculture.

This series contributes to the Global Campaign for Agrarian Reform (GCAR), which serves as a platform for promoting effective agrarian reform in countries with highly unequal patterns of land ownership. Initiated by La Via Campesina, an international peasant movement, and Foodfirst International Action Network (FIAN), GCAR assists the already existing national peasant movements struggling for agrarian reform in their own countries and

to strengthen them internationally. Effective agrarian reform is understood by peasant and landless organisations throughout the world as a bundle of policies that ensure that agricultural land is distributed to landless peasants and smallholders swiftly and equitably. For more information, please visit <http://viacampesina.org> or <http://www.fian.org/programs-and-campaigns/projects/global-campaign-for-agrarian-reform>.

The papers can be grouped in three parts. The first part presents analyses of the concurrent crises and highlights the impact they have brought for vulnerable people who directly rely on their land.

The first paper, "Land and World Food Crisis" by Peter Rosset, presents the soaring prices of staple crops in 2008 and 2009 as the clearest evidence yet of the structural problems in the world food production and supply system. The short-termism of industrial agriculture that provides high returns for rich investors and wealthy classes is contrasted with agro-ecological peasant agriculture, where the returns largely go to local communities, society at large, and to the future generations. However, family farms, which produce over two-thirds of the food in Asia, Africa and Latin America, receive insufficient genuine support (infrastructure, institutional, participatory research, and capacity building) and financial investment. The Food Sovereignty alternative proposed by small-scale farmers and social movements is put forward as the only long-term approach for resolving the current food crisis.

The second paper turns the focus on the crisis exposed by the starkly unjust agrarian structure of many countries of the global South. A case in point is presented in the second paper entitled "Sugarcane Monocropping and



Counter Agrarian Reform in Brazil” by Maria Luisa Mendonça, which describes the grave problems associated with the expansion of monocultures in Brazil despite the urgent need for land redistribution within a comprehensive agrarian reform to provide a genuine long-term means of livelihood for the millions of landless and displaced people. Her analysis focuses on the vast sugar plantations that continue to be promoted to increase ethanol production for export, and describes how large-scale plantations pull migrants, typically displaced from farmlands and forests elsewhere, to work on these plantations, which have a long history of treacherous conditions and labour law violations.

The third paper presents a brief exposition of the climate crisis. Most climate change models predict that damages will disproportionately affect the regions populated by small scale fisherfolk, smallhold producers and particularly rainfed agriculturalists in the South. However, the major causes of climate change lie far from their control. Equally, many of the climate ‘solutions’ are also designed exclusively in the global North but implemented in the South. Controversial initiatives currently put forward at the international policy level, such as the REDD proposals (Reducing Emissions from Deforestation and Forest Degradation) and the Clean Development Mechanism (CDM), agrofuel development are strongly criticised by many in the social movements for their counterproductive results, the hidden theft of resources, and the countless problems of accountability. Many such schemes intensify the difficulties facing forest and other rural communities, who are rarely involved in key decisions regarding the use of natural resources in project areas. Meanwhile, the traditional technologies and knowledge of smallhold producers, pastoralists, fishers, and indigenous communities are subject to steady erosion through a variety of external pressures,

undermining a storehouse of lessons in adaptive capacity and resilience to weather and climate change.

The second set of papers relates to different ways in which land and territory are viewed from different perspectives. The papers present brief examinations of the issues and dynamics of common resource tenure, the international work to define and recognise rights to land, and the threat of massive dispossession of land as global land grabbing expands.

Setting the context for all the papers in this section, the fourth paper entitled “In Defense of the Commons” by Shalmali Guttal and Mary Ann Manahan examines the critical importance of preserving the natural commons, particularly land and water, as a vital, community-managed resource available for successive generations. The value of collective resources has been greatly, and sometimes entirely, overlooked in national development strategies in the South, and this paper examines the various ways in which they have been placed under threat. A critical factor is the weakening of common property management systems, undermined as the paradigms of privatisation and market commodification have dominated policy development. As the paper points out, networks and movements of the poor around the world are reacting to the destruction of their natural resources, and standing up in defense of the commons and the common property systems which sustain them.

The fifth paper in our series entitled “Rights to Land and Territory” by Sofia Monsalve examines the subject of ensuring access to land as a basic human right. While international legal instruments do not yet recognise a human right to land, there are international instruments that recognise the importance of access to land in ensuring the right to food and as a foundation of the rights of indigenous peoples. However, she



points out, in country after country, States choose to build alliances with wealthy private companies and transnational corporations (TNCs) in privatising land and extracting natural resources rather than preserving them as the commons and upholding peoples' rights to food. Alternative models for development, such as the food sovereignty model formulated and proposed by Via Campesina, take a rights-based approach, recognising the right of self-determination of local communities including their rights to govern, manage, and care for their eco-systems and natural wealth. The food sovereignty model also focuses on redistributive tenure reforms without which, it is argued, it would not be possible to overcome discrimination based on gender, age, ethnicity, race, caste.

A contrasting perspective sees land not as a right, but as a commodity. This considers that land is not only a productive, but also a financially valuable asset that should be tradable in order to extract the highest value from it. In this perspective, other values that community groups often attach to land such as the possibility of self-reliance in working the land, the availability of a social and kinship safety net where there is land for the poor, the spiritual elements endowed in land, trees and water, the educational value of learning from the land, and more fundamental values of heritage and identity tend not to be counted. The increasing international interest in the agricultural land resources of other countries has led to discussions on placing limits to trading land. A recent meeting of social movement representatives in Kuala Lumpur drew attention to the increasing instance of aggressive land purchases throughout the Global South. Based on their discussions, Mary Ann Manahan asks the question "Is Asia for Sale?" (our sixth paper). She critically examines the foreign acquisition of agricultural lands in Asia that have included

the expropriation of lands and territories for industrial agriculture. A variety of other mechanisms by which land is being grabbed throughout the region are also highlighted in this paper. The loss of these lands is often disastrous for the local people. It means dispossession of the means of subsistence and of living spaces, resulting rapidly in reduced standards of living and often, the complete destitution of families and communities involved.

The two annexes to this set of briefing papers are particularly relevant to the issues put forward in this paper. The first presents the text of an urgent open letter to international finance institutions, including the World Bank, entitled "Stop land grabbing now!" that was supported by over 100 civil society groups from around the world. The third annex reproduces the main sections of the report summarising the Asian Civil Society consultation meeting on the FAO Guidelines on Good Governance of Land and Natural Resources. This report identifies some of the key problems relating to land and natural resource tenure in the region and sets out some of the principles, actions and proposals for improved governance of land.

The final section of this edition of our briefing papers turns to focus on the experience of the local, and the campaigns conducted from grassroots to the national level to call for redressing the wrongs of dispossession, renewed action to redistribute land, and changes to government policies on agriculture and trade.

In the paper entitled "The Grand Theft of Dey Krahorm", David Pred tells the story of a vibrant urban community in Cambodia, whose land was sold beneath their feet to a property developer, in collusion with local chiefs. The paper presents the struggle as it unfolded, from the perspective of someone working closely with the community throughout the



resistance campaign. The destruction of their homes, ruthlessly torn down by bulldozers and hammers in the early hours of one morning, had devastating consequences for the community. While the campaign to keep their homes was lost, the author reflects on the moderate successes in drawing national and international attention to this case, and the startling number of other cases of forced evictions and speculative land grabs within Cambodia. The determination of the Dey Krahorm community is clearly evident from this story, which has inspired other threatened communities in the country to resist eviction and make use of the lessons learnt.

Our eighth paper, “Bringing Filipino agrarian reform back to life?”, by Carmina Flores Obanil, presents an account of the trials and tribulations of the campaign that eventually saw the passage of the renewed comprehensive agrarian reform law in the Philippines. She describes some of the actions that helped to draw the attention of the media, the nation and the Parliamentarians, to the uncompleted project for land reform in the country. With strong grassroots support, pressure was brought on Parliament to allocate further resources and budget to the Department of Agrarian Reform, dismissing the earlier political pressure for the Department to abandon its land redistribution role. She notes that not only will further vigilance be required to ensure implementation of the Bill, but that further campaigning work will be needed to promote the development of a more comprehensive view of agrarian reform that goes beyond questions of land distribution and ensures protection for the commons and the farmlands of smallholder communities and indigenous peoples.

The final paper entitled “Formalizing Inequality”, by Natalie Bugalski and David Pred, refers to the programme of land titling in Cambodia. The paper takes up the case of a

community threatened with eviction from its city centre location at the heart of Pnohm Penh. In this case, the Boeng Kak community was placed under threat at exactly the time when the international donor-supported land titling programme should have allocated the residents secure long term rights to their land. As the area was exempted from the programme, local people’s rights to the land were downgraded and dismissed. The focus of this piece is the responsibilities of the Land Management and Administration Project of the World Bank. The paper describes the local campaign to bring the Bank to account for the damages caused by the denial of their rights, the diminishing of their claims, loss of their land and the dismantling of their community. The case has been brought to the World Bank’s Inspection Panel and the outcome is awaited.

Altogether these briefing papers present some of the central issues in the continuing struggle to ensure that the poor and the peasantry regain their rights to govern and steward the commons and other natural resources on which they build their livelihoods. They emphasise the multiple crises facing the countries of the South of climatic instability, unsustainable development, and excessive resource extraction, of food price instability, the systematic undermining of food sovereignty and the long-term viability of the small-scale farming sector, and of a new wave of land grabbing. They argue for a human rights based approach and reject the notion that land is no more than a tradable commodity. They call for public policies and resources to be redirected towards supporting peasants and smallhold producers and the urban poor, so that they can live and work on the land that they identify with and rely on. Collectively, they call for greater international, regional national and local policy attention to the importance and value of the commons and strong community institutions for a functioning and sustainable society.



The Land Research Action Network brings together activist researchers working on land and resource access issues with grassroots movements struggling for land and other productive resources. LRAN is coordinated by Centro de Estudios para el Cambio en el Campo Mexicano, FIAN International, Focus on the Global South, and Rede Social de justiça e direitos humanos. For more action alerts, updates, articles and other information please visit www.landaction.org.





Land and the World Food Crisis

October 2010

Peter Rosset

Soaring prices of staple crops in 2008 and 2009, and the devastating impacts they had for poor communities, presented the world with the clearest evidence yet of the structural problems in the world food production and supply system. This article examines the causes of the price escalation and summarises the broad lines of the solution proposed by small scale farmers and social movements. It argues that Food Sovereignty presents the only long term approach for resolving the current crisis.

Peasant groups are calling urgently for a new direction in food and agricultural policies, in support of the smallholder production sector and under the right to food sovereignty.

In today's world we recently found ourselves mired in a global food price crisis that has accentuated hunger on all continents. It seemed odd to find ourselves in a crisis of high food prices, when the past twenty to thirty years had seen a crisis of low crop prices. Prices had been so low that millions of peasant and family farmers around the world were driven off their land and into national and international migrant streams. To confront that harsh reality, La Via Campesina, the international alliance of organizations of peasant and family farmers, farm workers, indigenous people, landless peasants, and rural women and youth, developed a comprehensive alternative proposal for restructuring food production and consumption at the local, national and global level, called "food sovereignty" (Rosset, 2006). Food sovereignty stands squarely on the basis of land in the hands of food-producing peasant families, rather than export producing agribusinesses.

Under food sovereignty, and in contrast to the "one size fits all" proposals of the World Trade Organization (WTO), every country and people is deemed to have the right to establish its own policies concerning its food and agriculture system, as long as those policies don't hurt third countries. Food sovereignty would allow countries to protect their domestic markets against major agro-export powers dumping foodstuffs at prices below the cost of production. Such dumping practices have been a major factor driving local farmers out of business (Rosset, 2006). But now that we have shifted from a period of artificially low prices, to a period of high and more volatile prices, does food sovereignty still make sense? An examination of the causes of the current crisis, which turn out to be not so different from the previous crisis, show that it indeed does. Food sovereignty may well offer our only way of the current conundrum.

Sudden food price volatility

In the global market, after a low and stable 25-year trend, prices of agriculture commodities started to rise slightly between 2004 and 2005, followed by an acceleration between the end of 2007 and the summer of 2008. World market rice prices tripled in 2008, wheat prices more than doubled, and corn prices almost doubled (see Figure 1). The profits from higher prices were largely captured by corporations, and by farmers (Wise and Harvie, 2009). And following the dramatic hikes, the prices for rice and wheat fell by 55% in late 2008 and corn fell 64%. In January 2009 rice prices began increasing again. When prices jumped, we were told that the world was facing a *new* crisis and that food prices, like petroleum prices under "peak oil," would now stay up forever. But prices soon began to drop (although analysts predicted that they will rise again¹). The key point is that we have apparently moved into a new era of more volatile, wildly fluctuating commodity prices. For example, *The New York Times* reported in April 2008 that farmers in the U.S. were experiencing – and expected to continue facing – monthly price swings for corn, wheat and soybeans several times greater than normally observed.

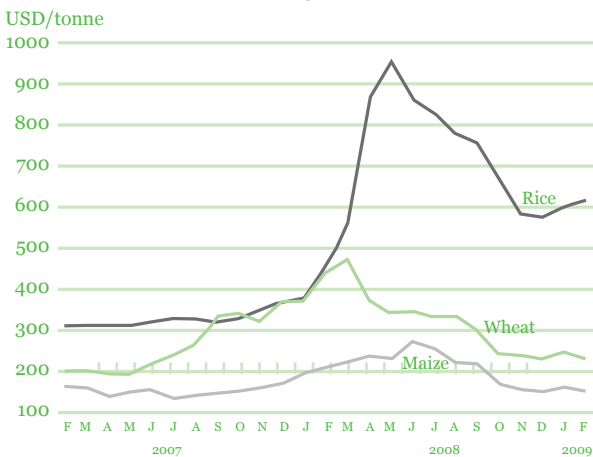
What were the causes of the extreme food price hikes?²

There are both long-term and short-term causes. Among the former is the long-term decline in access to land for peasant and family farm producers. This is the cumulative result of government-sanctioned land grabs by agribusiness interests, and three decades of neoliberal budget-cutting, privatization and tariff barrier elimination under free trade agreements. In most countries around the world, national food production capacity has been systematically dismantled and replaced by a growing capacity to produce agro-exports, stimulated by enormous government subsidies



Figure 1: Recent cereal price fluctuations in the global market

Selected international cereal prices



Note: Prices refer to monthly average

Source: FAO, International Cereal Export Prices

<http://www.fao.org/GIEWS/english/ewi/cerealprice/2.htm>

World market rice prices tripled in 2008, wheat prices more than doubled, and corn prices almost doubled.

to the business sector, using taxpayer and donor money (Rosset, 2006).

It is peasants and family farmers who feed the peoples of the world, by and large. Large agribusiness producers, on the other hand, in almost every country have an export “vocation”, seeking the most profitable markets. But policy decisions have stripped the former of access to land, minimum price guarantees, para-statal marketing boards, credit, technical assistance, and above all, markets for their produce. Local and national food markets were first inundated with cheap imports, and now, when transnational corporations (TNCs) have captured the bulk of the market share, the prices of the food imports on which countries now depend have been jacked up drastically (Rosset, 2006).

Meanwhile the World Bank and the IMF have forced governments to sell off their public sector grain reserves (Rosset, 2006). The result is that the world now faces one of the tightest margins in recent history between food reserves and demand, which generates both rising prices

and greater market volatility. In other words, many countries no longer have either sufficient food reserves or sufficient productive capacity. They now depend on imports, whose prices are fluctuating wildly.

Another long-term cause of the crisis, though of far lesser importance, has been changing patterns of food consumption in some parts of the world, like increased preference for meat and poultry products (Ray, 2008). Such trends have increased demand for land to produce feed grains and elsewhere diverted cropland to livestock production.

Among the short-term causes of the crisis, by far the most important has been the relatively sudden entry of speculative financial capital into food markets. Hedge, index and risk funds have invested heavily in the futures markets for commodities like grains and other food products. With the collapse of the home mortgage market in the USA, their already desperate search for new avenues of investment led them to discover these markets for futures contracts. Attracted by high price volatility in any market, since they take their profits on both price rises and price drops, financiers bet like gamblers in a casino. Gambling, in this case, with the food of ordinary people. These funds have already injected an additional 70 billion dollars of extra investment into commodities, inflating a price bubble that has pushed the cost of basic foodstuffs beyond the reach of the poor in country after country. And when the bubble inevitably bursts, it will wipe out millions of food producers throughout the world.

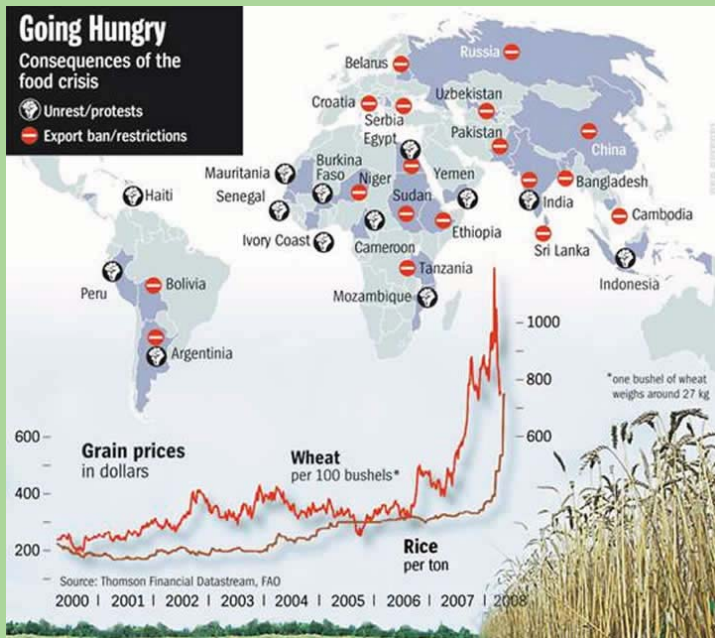
Perhaps most importantly, when agribusiness and foreign corporations control critical food supplies, consumers and entire nations are at their mercy. They can hoard food, create artificial shortages, and take speculative profits on soaring prices, thereby delegitimizing governments not friendly to their interests. Their behavior in times of crisis is the exact



Going Hungry

Consequences of the food crisis

Unrest/protests
Export ban/restrictions



Consequences of the surge in food commodity prices around the globe included protests, riots and unrest. Many governments imposed emergency export bans to protect national stocks.

Source: http://www.marketoracle.co.uk/images/2008/global-food-crisis-aprilo8_image002.jpg

opposite to that of the public sector. While governments release food from publicly owned reserves to ease the effects of a crisis, private traders have, since biblical times, withheld their stocks from the market to drive prices still higher, multiplying the suffering of the population during the crisis. We saw this tendency of transnational corporations and the private sector to hoard scarce food items, in order to speculate on their prices, in the case with the so-called “tortilla crisis” in Mexico in 2007 (Hernández Navarro, 2007).

Another important short-term factor is the agro-fuel boom. Agro-fuel crops compete for planting area with food crops and cattle pasture. In the Philippines, for example, the government has signed agreements that commit an area to be planted with agro-fuels that is equivalent to half of the area planted

with rice, the mainstay of the country’s diet. Feeding automobiles instead of people really ought to be condemned as a crime against humanity.

The major global price increases in the costs of chemical inputs for conventional farming, as a direct result of the high price of petroleum, is also a major short-term causal factor. Other recent factors include droughts and other climate events in a number of regions which have reduced harvests, though not to a significant enough extent to explain the price hikes.

Food Sovereignty: The Only Way Out of the Crisis

Faced with this global panorama, and all of its implications, how can countries maintain fair prices for crop producers, while ensuring secure domestic food security and stable food costs for workers? There is really just one alternative proposal that is up to the challenge. Under the Food Sovereignty paradigm, social movements and a growing number of progressive and semi-progressive governments propose that we re-regulate the food commodity markets that were de-regulated under neoliberalism. And regulate them better than before they were deregulated, with genuine supply management, making it possible to set prices that are fair to both farmers and consumers alike, as outlined in Box 1 (Rosset, 2006).

That necessarily means a return to protection of national food production, both against the dumping of artificially cheap food that undercuts local farmers, and against the artificially expensive food imports that we face today. It means rebuilding national grain reserves and parastatal marketing boards, in new and



Box 1-1: Food sovereignty policies to address the global food price crisis

- *Protect domestic food markets against both dumping (depressing prices artificially) and speculation and volatility (driving prices artificially high) in global markets.*
- *Immediately put a halt to land grabbing by foreign corporations and governments*
- *Return to improved versions of supply management policies at the national level and improved international commodity agreements at a global level*
- *Recover the productive capacity of peasant and family farm sectors, via floor prices, improved marketing boards, public sector budgets, and genuine agrarian reform.*
- *Rebuild improved versions of public sector and or farmer-owned basic food inventories, elimination of TNCs and the private sector as the principal owners of national food stocks.*
- *Control against hoarding and forced export of needed foodstuffs.*
- *Initiate an immediate moratorium on agro-fuels.*
- *Implement a technological transformation of farming systems, based on agro-ecology, to break the link between food and petroleum prices, and to conserve and restore the productive capacity of farm lands.*

improved versions that actively include farmer organizations as owners and administrators of public reserves. These are key steps toward recapturing our food system back from the TNCs that hoard food stocks to drive prices up (Rosset, 2006).

Countries urgently need to stimulate the recovery of their national food producing capacity, specifically that capacity located in the peasant and family farm sectors. That means public sector budgets, floor prices, credit and other forms of support, and genuine agrarian reform. Land reform is urgently needed in many countries to rebuild the peasant and family farm sectors, whose vocation is growing food for people, since the largest farms and agribusinesses seem to only produce for cars and for export (Rosset et al., 2006). Many countries need to implement export controls, as a number of governments have done in the last few years, to stop the exportation of food desperately needed by their own populations.

Finally, we must change the dominant technological practices in farming, toward an agriculture based on agro-ecological principles,

that is sustainable, and that is based on respect for and is in equilibrium with nature, local cultures, and traditional farming knowledge (Altieri, 2008). It has been scientifically demonstrated that ecological farming systems can be more productive, can better resist drought and other manifestations of climate change, and are more economically sustainable because they use less fossil fuel. We can no longer afford the luxury of food whose price is linked to the price of petroleum (see Schill, 2008), much less whose industrial monoculture production model—with excessive water extraction, pesticides and GMOs—damages the future productive capacity of our soils.

All of these recommendations, which address each of the major causes of the crisis, are part of the food sovereignty proposal (Rosset, 2006; La Via Campesina, 2008). The time seems to have truly arrived for La Via Campesina and for Food Sovereignty. There is no other real solution to feeding the world, and it is up to each and every one of us to help give force to the changes in national and international public policy that are so urgently needed.

Peter Rosset is a researcher at the Center for the Study of Rural Change in Mexico (CECCAM), co-coordinates the Land Research Action Network (LRAN), and is part of the technical support team of La Via Campesina.

Further reading

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Endnotes

¹ Javier Blas, "Commodity Prices Forecast to Rise Again," Financial Times, March 2, 2009.

² Those assertions in this section that do not include bibliographic citations come from: Berthelot, 2008; La Via Campesina, 2008; GRAIN, 2008.





Photo by Douglas Mansur

Monocropping of Sugarcane and Counter-Agrarian Reform in Brazil

October 2010

Maria Luisa Mendonça

The Brazilian government is promoting massive expansion of largeholder monocrop plantations with a view to capturing Western markets for agrofuels. Agro-industrial development has been given priority above the urgent imperatives of agrarian reform and food sovereignty. This paper rejects the environmental claims of the ethanol industry proponents citing evidence that sugarcane areas continue to expand in the Amazonian states in the North of the country. The paper also recalls the illegal practices, low pay, and poor health conditions of workers associated with many sugarcane plantations, arguing instead for a strengthening of the smallholder farm sector.

Brazil is the fourth largest emitter of carbon dioxide into the atmosphere. This is principally because of the destruction of the Amazon Rainforest, a destruction which accounts for 80% of the carbon gas emissions in the country¹. The expansion of monocropping for the production of agro-fuels tends to exacerbate this problem.

The Brazilian government is pro-active in the expansion of monocropping for the production of agro-energy. Currently, the priority of Brazilian foreign policy is to guarantee access to markets for agrofuels, principally in the European Union, Japan, and the United States, in addition to encouraging other countries in the southern hemisphere to adopt this production model, by means of technology transfer agreements.

As author and historian, Manuel Correia de Andrade observed, the processes of rural outmigration are based on the image of urban centers as the chief generators of income and economic opportunities². However, the major rural regions in which natural resources are concentrated—such as water, land, minerals, and biodiversity—have come to be the center of political and economic disputes, both nationally and worldwide. Multilateral financial agencies, large national and transnational firms, and governments are in dispute over geopolitical control of regions rich in agricultural and mineral strategic resources.

An agricultural model that prioritizes monocropping for export is based on the idea that implementation of full agrarian reform would not be appropriate for rural development in Brazil. To justify this, it would be necessary to ‘extinguish’ the idea of the central importance of supporting agrarian reform and family farms, in rural development policy³. During the neoliberal Cardoso administration (1995-2003), agrarian reform policy was replaced by a project called

“New Rural World”. This was centered on three principles: (1) resettlement of landless families under a compensatory social policy; (2) decentralization of agrarian reform projects, passing responsibilities of the federal government to states and municipalities; (3) replacement of the constitutional powers of expropriation by a land market policy, which signifies negotiated purchase and sale of land. This was encouraged by the World Bank through the creation of three programs: Land Titling Program, the Land Fund, and the Land-Based Poverty Alleviation Project. In spite of this ideology being based on the propaganda of the minimum State, the World Bank demands a share of public funds in its projects, which compromises the State’s budget. Their land ownership policy is based on privatization of land. In accordance with this policy, small farmers must seek ‘efficiency’ by means of integration with agro-industry (Martins, 2004).

Currently, Brazilian agro-industries are joining the ranks of globalized capitalism, characterized by large agricultural and industrial monopolies, under a strong influence from financial capital (Oliveira, 1998) as well as the rules of international financial institutions, such as the World Trade Organization (WTO). In Brazil, agricultural policies follow the globalization logic, with a view principally to expanding access to markets and consolidating commercial advantages for the agricultural sector based on monocropping for export. In accordance with this ideology, the big ‘villains’ are public subsidies for food production but questions are not raised about the problems caused by agricultural monopolies and by a production model looking toward the external market.

The propaganda of the agro-industries present them as symbols of ‘development’ and ‘efficiency’. However, the land ownership and agricultural model of this sector creates serious social and economic inequalities,



besides being highly dependent on public resources. Political scientist Alberto Passos Guimarães recognized that the “conservative modernization of Brazilian agriculture will be counter-productive, and even harmful, insofar as it is only limited to improving mechanical equipment and tools, as usually happens, while keeping the anachronistic property ownership structure unchanged” (Guimarães, 1978, p22).

A large range of studies have demonstrated that the concentration of land ownership is the root cause of social and economic inequality in Brazil. In his book on agrarian policy, Caio Prado Jr. brings this debate to the fore. On analyzing the mechanisms for exploitation of rural workers and the ‘privileged position’ of large landowners, he affirms that “...without doubt, the most important and decisive [factor] is the concentration of land ownership, which creates a virtual monopoly on the land in favor of a relatively small number of large owners. We have already called attention to this fact, which takes away from the large mass of the rural workforce any alternative other than working for large exploitative enterprises” (Prado Jr., 2007, p58).

The importance of agrarian reform was stressed in the work of José Gomes da Silva. According to da Silva, “the objectives to be sought through a change in the structure of possession and use of land in Brazil” would encompass a wide range of measures such as creating “low cost employment”, “better educational conditions”, assuring “the right to citizenship”, “reducing rural exodus”, “containing ecological devastation,” among others (in Stedile, 1994, p184). This would be the basis for realization of so-called ‘integral agrarian reform’, understood to be central to a new development model.

Food Sovereignty

More recently, the concept of food sovereignty was incorporated in the platform of grassroots movements - the National Forum on Agrarian Reform. “The [Forum] believing in the urgency of the democratization of access to land and water—defends the implementation of a broad agrarian reform and strengthening family farming as a way to guarantee the right to work to the historically excluded rural population, as well as food production for the domestic market, building a road to food sovereignty in our country” (Stedile, 2005, p233).

This definition combines agrarian reform with food sovereignty — a term created to expand the concept of food security. The main difference between these two concepts is that food sovereignty presupposes that each nation is capable of producing food for its entire population without depending on the external market. Food sovereignty effectively calls for policies that favor peasant agriculture.

This principle is also based on international standards on the Right to Food, which is contained in Article 11 of the International Covenant on Economic, Social, and Cultural Rights. Accordingly, hunger must be eliminated and people must have permanent access to adequate food, qualitatively and quantitatively, guaranteeing the physical and mental health of individuals and communities in addition to a meaningful life. The Convention establishes that States have an obligation to “respect, protect, and guarantee” the right to food.

Respecting this right means that States cannot obstruct or make it difficult for the population to access adequate food such as in the case of evictions of rural workers from their lands - especially those that depend on agriculture as a means of subsistence. The Convention further prohibits States from utilizing toxic substances in the production of food. In addition, governments must not approve laws



that make social organization in support of this right difficult. On the contrary, governments must facilitate the organization of society for access to land, work, and protection of the environment.

States must guarantee the universal right to food by means of concrete actions and measures that protect vulnerable social groups and provide the means necessary for them to be able to feed themselves. In Brazil, in spite of all its agricultural potential, millions of people do not have access to the basic right to food. According to the Brazilian Institute of Geography and Statistics (IBGE), 14 million people go hungry and more than 72 million live in a state of food insecurity (defined as those who may have access to food today, but do not know if they will have food tomorrow).

A History of Violations

Monocropping of sugarcane began in Brazil during the period of Portuguese colonization. Historically, this sector has been based on exploitation of large areas of land, natural resources, and slave labor. The activity expanded following the international financial crisis of the 1970s, which caused a sharp rise in the price of oil and pushed forward the ethanol fuel sector, starting with the creation of a governmental program called “Proálcool”. From 1972 to 1995, the Brazilian government provided support for increasing the area of sugarcane plantations and structuring the ethanol sector, with large subsidies and different forms of incentives. The Sugar and Alcohol Institute, for example, was responsible for all marketing and export of the product, subsidizing undertakings, providing incentives for industrial and land centralization based on the argument of ‘modernization’ of the sector, supplying fertile land, transport, energy, and infrastructure.

“The sugarcane [agro-industry] is presented as a totally integrated production due to its historic expansion and constitution, [with the support] of the State. Land ownership had a central role in this process and linked to that were the official policies on access to credit and the benefits of State subsidies. Its business is not sugar or ethanol, but rather the appropriation of resources by means of programs, incentives, and opportunities offered by the government,” explains Attorney Bruno Ribeiro of the Pastoral Land Commission.

Currently, one of the principal pillars of the Lula government’s economic policy continues to be the agricultural model based on monocropping for export. The government continues to promote the sugar-ethanol sector by opening new lines of credit, principally from National Economic and Social Development Bank. Recently, there was an increase in the participation of foreign corporations in this sector, which benefit from public resources.

Some of the main consequences of this policy are the degradation of the environment, concentration of income, and rural unemployment. The most recent Agrarian Census (Brazilian Geography and Statistics Institute, 2006) reveals that properties of less than 10 hectares occupy less than 2.7% of the rural area, while properties larger than 1,000 hectares represent 43% of the total.

According to a study by Professor Ariovaldo Umbelino Oliveira of the University of São Paulo (Oliveira, 2007 p7028)⁴, of the total jobs created in the Brazilian countryside, 87.3% are in the small production units, 10.2% in mid-sized units, and only 2.5% on the large ones. This study demonstrates that the small and medium-size rural properties are responsible for the greater portion of food production for local markets. In spite of being aware of the data, the Brazilian government has prioritized an agricultural policy that favors subsidized



credit and debt forgiveness that favors large corporations and landholdings. The Brazilian agro-industries also exploit other ‘privileges’, such as ‘*grilagem*’ (illegal land grabbing), slave labor, and violation of environmental and labor laws.

The False Concept of Degraded Lands

According to the government, the expansion of sugarcane plantations is taking place on land that is ‘degraded’ and they contend that there are no impacts on the environment or on food production. The data given to justify this theory tries to support the idea that in Brazil there are millions of hectares of land that are simply ‘abandoned’ or ‘marginal’. However, the government has yet to explain what exactly it means by ‘degraded land’. If there really is such a thing, it would not make sense for companies and public banks to heavily invest where there is no possibility to plant on level, good quality land that has access to water and infrastructure.

Even where sugarcane production replaces other agricultural activities such as cattle-raising, there is a much greater degree of devastation because large-scale sugarcane plantations do not thrive with other types of vegetation. If there really was so much land available in Brazil, there would be no need

to expand ethanol production into protected areas.

On July 29, 2007, the Minister of Agriculture, Reinhold Stephanes, declared to *O Globo* newspaper that, “There is no sugarcane in the Amazon. We know of no such projects, old or new, in the region.” This affirmation has been repeated many times by President Lula who wants to avoid criticism, especially from countries which plan to import Brazilian ethanol. In June of 2008, in his speech to the UN’s Food and Agriculture Organization, President Lula affirmed that there was no production of sugarcane in the Amazon.

However, even the National Supply Company (CONAB)—linked to the Ministry of Agriculture—registered an increase in the production of sugarcane in the Amazon from 17.6 million tons to 19.3 million tons between 2007-2008⁵. In Tocantins state, there was a 13% increase (from 4,500 to 5,100 hectares), followed by Mato Grosso with a 10% increase, and the state of Amazonas with 8% (from 4,800 to 5,200 hectares). In Pará, sugarcane plantations occupy around 10,500 hectares. According to research from the University of São Paulo, Pará is seen as one of the principal areas of expansion for the production of ethanol⁶.



Photo by Maria Luisa Mendonça

In 2006, CONAB demonstrated that the Northern region has the highest increase in sugarcane production in the country. The expansion was 68.9% in Tocantins, 55.1% in Amazonas and 34.3% in Pará. The production from the three states was 1.6 million tons, representing an increase of 46.8% in relation to the previous harvest.⁷

This data has generated concern in Brazil and in other countries. According to researcher Écio Rodrigues from the Federal University of Acre, “The carbon from the destruction of the forest will not be recuperated by planting sugarcane. For this reason the world is very worried about the transformation of Brazil into a major exporter of biofuels”⁸.

Official data indicates that there has been a great increase in cattle-raising in the Amazon, pushing for the expansion of the agricultural borders. According to the Brazilian Institute for Geography and Statistics, cattle-raising in the Amazon has practically doubled in the last ten years. The 2006 Farming Census showed that since 1996 the increase in agricultural expansion in the Northern Region was 275.5%. Between 1990 and 2006, there was an annual increase in soybean plantations of 18%, and an 11% increase in cattle-raising in the Amazon⁹. Between 2006 and 2007, the soy harvest in the Northern Region increased by 20%¹⁰.

The strong pressures to push out the agricultural borders have created doubts about the ability to monitor the zoning laws for sugarcane production and the implementation of efficient punishment mechanisms in cases where the laws are broken. Sérgio Leitão, coordinator of Greenpeace in Brazil, explains that only 2% of those convicted of illegal logging in the Amazon receive fines¹¹.

Professor Antônio Thomaz Júnior of the Geography Department, State University of São Paulo states that “No one has technical authority to say that there will not be impacts.

Up until now, not one thorough study has been done concerning the consequences of expanding sugarcane plantations”¹².

Congresswoman Rose de Freitas (PMDB-ES) is proposing a bill (number 2323/07) which plans to end financing and tax incentives for the production of ethanol in the Amazon, including the states of Acre, Amapá, Amazonas, Pará, Rondônia, Roraima and part of Mato Grosso, Tocantins, and Maranhão. According to her, “The cultivation of sugarcane is extremely harmful because of the deforestation it can promote and also through the practice of monocropping which, even in degraded areas, results in serious environmental damage.” For her, the zoning project proposed by the government, “not only will permit but also give incentives for planting sugarcane”¹³.

Violation of Labor Laws

The expansion and increasing mechanization of the sugarcane sector has not created better conditions for the labor force. The industry practices illegal means of recruitment and contracting, and does not provide adequate housing and food to workers. Mechanized cutting became the standard for measuring the amount of sugarcane cut by workers, which increased from 5-6 tons per day for each worker in the 1980s to 9-10 tons per day in the 1990s. Today the mills demand 12-15 tons per day, principally in regions where the mechanized rates are the standard for productivity.

Failure to meet this goal frequently means that the worker will be fired and placed on a list that will circulate among the various mills, which prevents him/her from being hired for the next harvest. The majority of the workers have no way to control the weighing of their daily production. Many claims point up manipulation and fraud of such data by the mills, which pay less than what the workers have a right to. “*We never know how much*



we are going to earn, and payment comes with lots of deductions. The mill robs us in the weighing process or with regard to the quality of the cane cut. For example, for cane that is worth \$5 reais (\$2.5 dollars) per ton, they only pay \$3 reais (\$1.5 dollars). That's how the mill deceives the workers,” denounced D.S., a cane cutter in Engenheiro Coelho, São Paulo¹⁴.

The repetitive movements required in cane cutting cause tendinitis and spinal problems, dislocation of joints and cramps caused by excessive loss of potassium. Injuries and wounds caused by machete cuts are frequent. However, the companies rarely recognize these cases as job-related accidents. Many ill or injured workers, in spite of being prevented from working, do not manage to get disability retirement *“I already broke my arm twice. When someone is ill while working, they don't get any medical attention. The other day a colleague injured his eye and the nurse at the mill didn't want to help him. They want our work, but we have no medical aid when someone is injured,”* says J.S., a worker at the Ester Mill in São Paulo.

Cramps also occur frequently, followed by dizziness, headaches, and vomiting. As a means of preventing the workers from dying of exhaustion, the mills began to distribute stimulants with mineral salts, after dozens of cases of death in the cane fields were divulged.

“One of the workers who cut the most cane at the Ester Mill was Luquinha, known as ‘the golden trimmer’. After a short time, he became ill, with pains throughout his body, and couldn't eat or walk. He died at 34 years of age. The system of payment for production is what causes the death of workers,” explains Carlita da Costa, president of the Cosmópolis Rural Workers Union in São Paulo. *“It is common to hear coughs and screams in the cane fields. We have to inhale pesticides and the ash from cane burning throughout the day.*

Once I fell on a pile of cane and felt the taste of blood in my mouth. I saw that cane cutting was killing me,” says Carlita.

In São Paulo state (the largest producer of sugarcane in Brazil), the majority of the cane cutting workers is made up of migrants from the Northeastern states. Unemployment caused by the agricultural model based on monocropping and large land holdings increases the contingent of workers forced to migrate, so they are more vulnerable to work under degrading conditions. Migrant workers are recruited by *gatos or turmeiros* [brokers] who transport them and act as contracting intermediaries with the mills. In the area of sugarcane fields, so-called ‘dormitory cities’ are increasing, where workers live in overloaded huts, without ventilation or adequate hygienic conditions. *“Here we live piled up, we have to sleep on the floor. The cost of rent and energy is very high, and practically nothing is left of our salaries,”* says O.M., a worker at the Ester Mill in Engenheiro Coelho (São Paulo).

Conclusion

A change in the energy source that may really look to preserve life of the planet would have to mean also a profound transformation in the current standards of consumption, in the concept of ‘development’, and in the very organization of our societies. To discuss new sources of energy, in the first place, is to think about whom these new energy sources will serve.

The agricultural model should be based on ecological systems and on diversification of production. It is urgent to rescue and increase the experiences of small, traditional farmers, beginning from respecting the diversity of the ecosystems. The greatest responsibility for global warming lies precisely with large corporations that destroy the forests and pollute the environment—the same oil,



automotive and agricultural companies, among others, who plan to profit from agro-energy. It is necessary to guarantee subsidy policies for the production of food that comes from small farms, and to strengthen rural social organizations that uphold a new model based on diversified production in order to achieve food sovereignty.

This paper was translated into English by Sheila Rutz, with the support of Global Exchange.

Maria Luisa Mendonça is a journalist and the coordinator of the Social Network for Justice and Human Rights.

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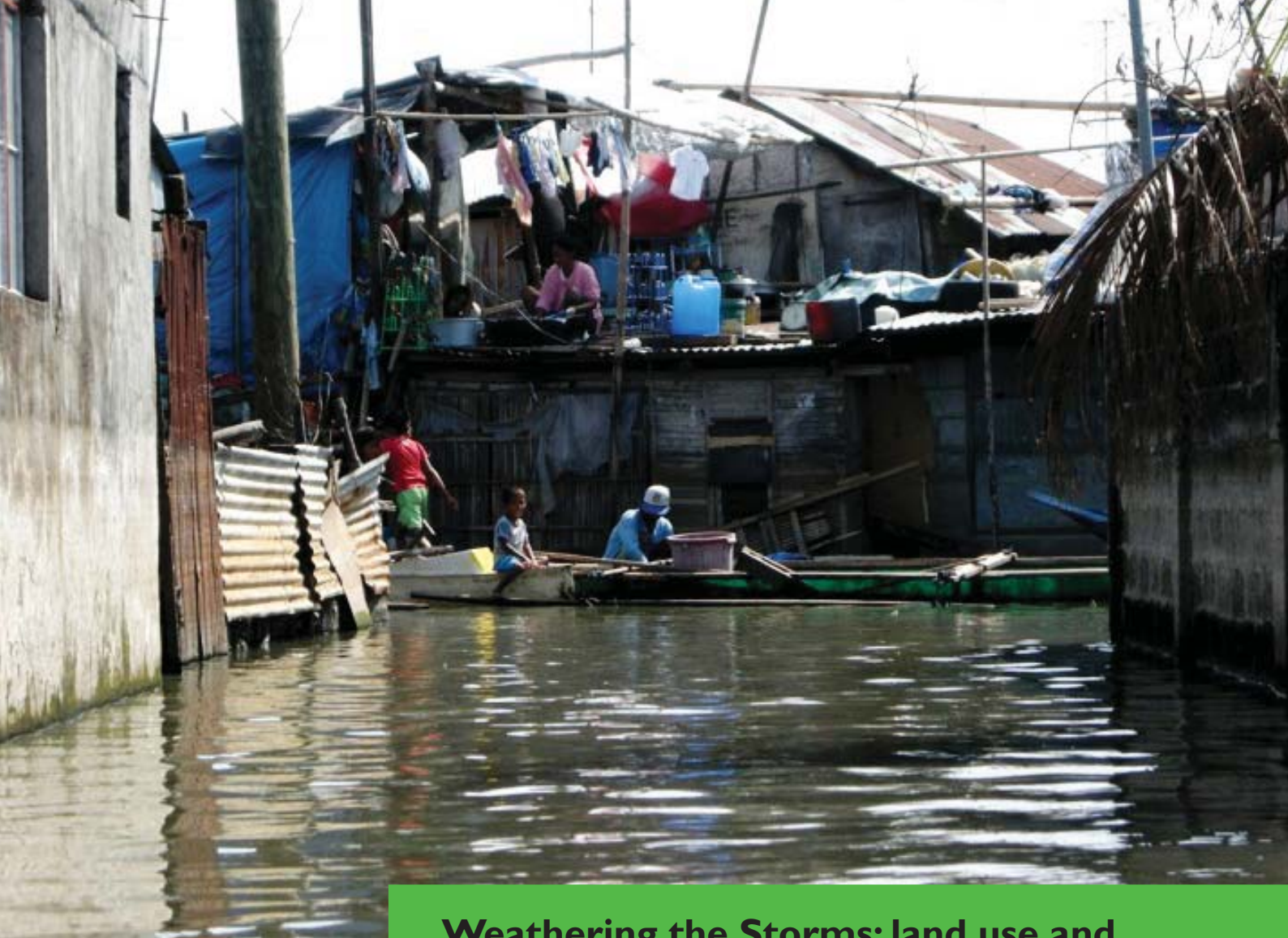
Endnotes

- ¹ *Seedling Magazine*, July, 2007, www.grain.org/seedling
- ² In his book *A Terra e o Homem no Nordeste*, Manuel Correia de Andrade refers to the expression “cidade inchada” (swollen city) coined by Gilberto Freyre to describe this process, and to point out that “considerable increase in population, without a corresponding increase in employment possibilities, is more of a swelling than it is a growth.” He explains: “We believe that one of the causes which most contributes to aggravating this problem is the dominant land ownership structure which has been in place since colonization” (Andrade, 2005, P. 62).
- ³ Manuel Correia de Andrade identified the relationship between the concentration of land ownership in Brazil and State support for the development of large-scale agriculture: “Its authority is manifested through the protection granted by government entities to large-scale farming – sugarcane, coffee, cacao, etc – and the complete disregard of subsistence holdings.” (Andrade, 2005, P. 64).
- ⁴ Conference offered on 29/05/2006 at the State University of Paraná.
- Text available at: e-revista.unioeste.br/index.php/pgeografica/article/download/1284/1038.
- ⁵ Adital – 11/02/08, *Amazônia, ecocídio anunciado*, (Amazonia, Ecocide Announced) article by Frei Betto.
- ⁶ http://www.paranegocios.com.br/anterior_cont.asp?id=1670
- ⁷ 29 *Jornal Valor Econômico*, 01/06/2006.
- ⁸ “Cana-de-açúcar avança na Amazônia com recursos públicos” (Sugar Cane Advances in the Amazon with public funds), 16/06/2008. <http://www.reporterbrasil.org.br/agrocombustiveis/clipping.php?id=25>
- ⁹ Adital – 15/02/08, *Amazônia devastada* (Amazonia Devastated), article by Frei Betto.
- ¹⁰ Radioagencia Notícias do Planalto, 5/5/08.
- ¹¹ Agência Brasil, *Cana e rebanho bovino impulsionam desmatamento na Amazônia* (Cane and cattle push deforestation in Amazonia). http://www.malima.com.br/amazonia/blog_commento.asp?blog_id=55
- ¹² Cane pode prejudicar meio ambiente e produção de alimentos (Cane may harm the environment and food supply), 03/04/2007. <http://www.reporterbrasil.com.br/exibe.php?id=984>
- ¹³ *Tribuna do Juruá*, Projeto proíbe incentivo à cana-de-açúcar na Amazonia (Plan prohibits incentives for sugar cane in Amazonia), 29/7/2008 http://www.tribunadojuruua.com/index.php?option=com_content&task=view&id=561&Itemid=40
- ¹⁴ These interviews were held in September 2009. Some names of workers were replaced by their initials to avoid retaliation by the mills. The author thanks the Cosmópolis Rural Workers Union and the Pastoral Land Commission for their support during field research.



Photo by Mariana Mansur

Photo by Maria Luisa Mendonça



Consistently changing, unpredictable weather challenges local knowledge and community resilience. Photo by Jerik Cruz

Weathering the Storms: land use and climate change

July 2011

Shalmali Guttal*

Climate change and the climate crisis generally refer to alterations to the Earth's climate systems that result from human activities (also called anthropogenic climate change).¹ The burning of fossil fuels, extraction and exploitation of natural resources, production-consumption of energy and industrial goods, and high consumption lifestyles are all high emitters of Greenhouse Gases (GHGs), which are responsible in great part for the relentless warming of the earth. Climate change has already led to disruptions in seasonal weather and precipitation patterns, the melting of glaciers and ice caps, changes in hydrological cycles and an increase in extreme weather events, with serious consequences for ecosystems, agricultural production, food and water security, and the lives and livelihoods of rural and urban poor communities throughout the world. Low-lying coastal areas are already facing submergence from rising sea levels, and nine out of every ten natural

*This article is drawn from an earlier paper titled *Climate Crises: Defending the Land* by Shalmali Guttal and Sofia Monsalve, that appeared in *Development*, 2011, 54(1)

disasters today are estimated to be climate related.²

Land and water are central elements in the climate crisis. The activities that cause anthropogenic climate change are equally responsible for depleting freshwater sources, degrading soil, lands and forests, and destroying diverse ecosystems.

Industrialization and economic growth depend immensely on the exploitation of land, water and other natural resources; their capture to serve energy production, transportation, mining, industry, agriculture, technology, tourism, recreation, urban expansion and modern lifestyles, continues unabated in every region of the world. The world's natural forests, savannahs and wetlands have long helped maintain the global carbon cycle in balance but their conversion to other uses has greatly diminished this crucial ecosystem service. Studies, including by the Intergovernmental Panel on Climate Change (IPCC), show that land use and land use changes are responsible for over 30 % of GHG emissions.

Plants, animal species and marine life are threatened or disappearing at an unprecedented pace due to the combined effects of global warming and industrial exploitation. Life at large is endangered by the decreasing availability of fresh water resources. IPCC assessments indicate that from 2050 onwards, 'water stress' will more than double. Increased precipitation intensity and variability will likely increase the risks of both, flooding and drought in many areas and negatively affect groundwater recharge, thus reducing underground water stocks. Changes in water quantity and quality are expected to result in decreased food availability and increased vulnerability of poor rural communities, especially in the arid and semi-arid tropics, and Asian and African mega-deltas.

The impacts of climate change will go beyond the physical. Consistently changing, unpredictable weather challenges local knowledge and community resilience, which have been the basis of good agricultural and eco-system management, and which have been built over generations through autonomous adaptation by farmers and fishers to changing environmental conditions.³ The deepening climate crisis, however, will demand more drastic adaptation measures. "Planned adaptation" – deliberate measures aimed at creating the capacity to cope with climate change impacts – will entail changes in land use, tillage systems, water supply and irrigation, crop varieties, agricultural technologies, and the management of forests and other eco-systems to adjust to new climatic conditions. Some of these measures are likely to render rural communities more vulnerable and dependent on external inputs and techniques, and result in the loss of precious local knowledge about food, medicinal plants, soil, water and coastal management, agricultural production, forest and biodiversity protection, etc. For example, the Alliance for Green Revolution in Africa (AGRA) aims to build resilience in African agriculture through the systematic transformations of native seeds, cropping systems, agricultural knowledge and practices, natural resource management, credit and marketing, etc.

Land and ecosystems under threat

Today, about 75 percent of the world's poor live in rural areas in developing countries and practice smallhold family agriculture, artisanal fisheries and/or pastoralism. Their daily food, fuel and other household needs are met primarily through localized production and foraging activities-- often by women--in family owned plots, common grazing lands, woods, forests, streams, rivers and lakes. These production/foraging practices and the





The conversion of forests and diverse, smallhold farms to industrial agriculture have far reaching environmental, social and economic effects, including acceleration of climate change. Photo by Rebeca Leonard

eco-systems that sustain them are increasingly under threat from changing weather and precipitation patterns because of climate change, as well from intensifying demand for farmlands, forests and water sources among state and private investors, corporations, traders, brokers and speculators.

In tropical and semi-tropical regions, climate change will likely lead to a serious decline in agricultural yields, accelerate forest, farmland and coastline degradation, increase desertification and displace millions of rural peoples from traditional occupations. As it is, terrestrial, freshwater and marine eco-systems are already under severe pressure from extractive industry, tourism, industrial agriculture and commercial fisheries. These pressures are being compounded by the global resurgence in land grabbing.

The latest ongoing rush to acquire land –global land grabbing--is driven largely by four factors:

food price volatility and unreliable markets; the energy crisis and interest in agroenergy/ biofuels; the global financial crisis; and a new market for carbon trading (Borras, Scoones and Hughes, 2011). The global food, finance and climate crises have transformed agricultural lands and production infrastructure into valuable strategic assets. Wealthy countries unable to meet their food needs through domestic production (for example, Japan, South Korea, China, the United Arab Emirates, Qatar, Libya and Saudi Arabia) are acquiring massive tracts of farmland (and the water sources that lie in them) on long leases in Asia, Africa and Latin America. Agribusiness and finance corporations (for example, Morgan Stanley, AIG, Deutsche Bank, Goldman Sachs, Renaissance Capital and Landkom) have also been acquiring lands (and water sources) in the South to secure returns on future investments. Even when states acquire farmlands, they outsource actual production to agribusiness/ agri-food corporations which tend to invest in crops and trees that fetch maximum profits: soybean, wheat, corn, cassava, sugar cane, jatropha, rubber and other bio-energy crops, grown on large expanses through industrial modes of production that are energy and fossil-fuels intensive.

Such agricultural investments have extremely high carbon footprints. Smallhold diverse farms, forests, open pastures and other commons are converted to large industrial agriculture monocultures that consume vast amounts of agro-chemicals, energy and fuel for production, processing, storage and transportation of inputs and finished goods. According to the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD), the highest GHG emissions from agriculture are associated with industrial agriculture and intensive monocultures, which include medium to large scale, chemical-intensive



production of cash, food and agroenergy crops, plantations and industrial livestock production (IAASTD, 2009). FAO estimates that including commercial feed crop cultivation, transportation of feed-crop and animal products, enteric fermentation, and CH₄ and N₂O emissions from manure, the industrial livestock sector alone is responsible for 18 percent of GHG emissions (FAO, 2006).

Industrial agriculture and monocultures are not only resource and energy intensive, but also have complex and multi-dimensional impacts on forests, ecosystems, watersheds, food security and livelihoods. The intensive use of chemical fertilizers and pesticides destroy biodiversity, pollute soils, rivers, waterways, subterranean water sources and springs, and gravely affect the health of communities and eco-systems. When wild food sources are destroyed, rivers and wells poisoned, and fish and small marine animals disappear, rural communities are left with practically no food and water sources. Local communities experience adverse impacts in multiple ways: they are unable to meet their food and household needs through their own production and foraging; they have to rely on services set up by new landlords; they must either work as wage labour on the new plantations or as contract farmers to the new agro-enterprises, and; they lose all agency over the management of lands and ecosystems.

Agricultural land occupies about 40-50 percent of the world's total land surface, and accounts for 60-80 percent of global nitrous oxide (N₂O) emissions and 50-55 percent of methane (CH₄) emissions.⁴ Studies show that globally: agriculture accounts for about 13.5 percent of GHG emissions (though counting transportation, processing and distribution, the figure is likely to be much higher); land use change and forestry represent about 17.4 percent⁵ and deforestation is responsible for 25-30 percent of GHG emissions.⁶

Agricultural soils are both sources and sinks for carbon. In tropical rain-forest regions, global trade and the intensification of market economies encourage forest destruction to make way for industrial croplands and pastures for the cattle industry. Industrial agriculture and monocultures destroy natural processes needed to store carbon in soil organic matter and replace them by chemical processes from fertilizers and pesticides, the production of which consume large amounts of fossil fuels. They also destroy important landscape features such as live fences, woodlots, catchment areas, hedge-rows, patches of natural forests and other natural habitats that provide crucial ecosystem services such as recharging aquifers and watersheds, retaining soil nutrients and sequestering carbon.

The conversion of forests and diverse, smallhold farms to industrial agriculture have far reaching environmental, social and economic effects, including acceleration of climate change. Conversions exacerbate inequality of access to land and natural resources among communities and between men and women, especially in the case of bio-energy and other high value cash crops. As forests, grasslands and small farmlands are expropriated for industrial farms and plantations, local communities are squeezed onto smaller and less fertile parcels of land and compelled to rely on a smaller resource base for food and income. Fresh water reserves are monopolized by industrial agriculture, creating and exacerbating water scarcity. This has sparked conflicts over water, forest products and common pool resources among local populations, who are pushed to compete for already dwindling resources. Particularly affected are the rights of indigenous peoples to control, use, administer and preserve ancestral territories. Increasing and aggressive land purchases by those with money have driven up land prices and created booming land markets



in which impoverished smallhold producers become easy prey to land speculators and middle-men.

Land/forest conversions also weaken community resilience to withstand weather shocks and natural disasters. Areas without natural forests and landscapes are more susceptible to floods, mudslides, storms, soil erosion, aridity and pests, against which local populations have few defenses. The depletion of natural resources undermines women's knowledge about traditional uses of wild plants as food, fodder and medicine and increases their work-load in meeting the family's food and health needs.

Cashing in on climate

Climate change is proving to be fertile ground for agribusiness, agrochemical and energy corporations, financiers, traders and other investors to concentrate new assets and reap huge profits. With support from some governments and international agencies, business lobby groups have promoted the use of market mechanisms such as carbon/emissions trading and Clean Development Mechanism (CDM) through the Kyoto Protocol

as ways to “mitigate” climate change. These schemes enable Northern governments and their corporations (responsible for the bulk of GHGs) to buy “certified emission rights” from Southern countries at lower levels of industrialization, finance carbon sinks and “sustainable development” in the South, and avoid cutting emissions in the North. Carbon sinks include industrial tree plantations (in the guise of afforestation and reforestation) which release more pollutants into the atmosphere than sequester carbon.

A variety of agricultural activities can be subsidised through carbon trading and CDM, all of which influence how lands and forests are used and managed. Of particular concern are forest management (including commercial logging), afforestation, reforestation and re-vegetation (including large scale tree plantations and virtually any type of crop cover), crop management (including industrial agriculture techniques and GM crops), soil carbon management through technologies such as no-till (which entails the application of large amounts of herbicides and agrochemicals to avoid ploughing the soil, often in GM monocultures) and agroenergy expansion. Current trends indicate that small scale biodiverse and integrated farming, fishing and livestock raising—which have a high potential for slowing down climate change and regenerating biodiversity—are not likely to benefit from CDM or other market based schemes. Financing will go primarily to large scale, industrial mono-cultures, including agroenergy crops and agrofuel production, which will continue deforestation, ecosystem destruction, environmental pollution, and the displacement of indigenous and other local communities.

The World Bank has aggressively assumed the lead in ‘carbon finance’ schemes through, among others, the Prototype Carbon Fund, Community Development Carbon Funds,

Market-based schemes to address climate change will likely benefit large scale, industrial mono-cultures, including agroenergy crops and agrofuel production. Photo by Jerik Cruz



BioCarbon Fund, Umbrella Carbon Facility and Forest Carbon Partnership Facility. Many of these programmes claim to reduce GHG emissions in developing countries from deforestation by selling forest carbon credits in the international emissions market. In November 2010, the World Bank signed an agreement with the Kenya Agricultural Carbon Project to purchase soil carbon credits through its BioCarbon Fund from Kenyan farmers⁷.

Significant among forest carbon initiatives is the Reduced Emissions from Deforestation and Forest Degradation (REDD), which aims ostensibly to reward governments and forest owners in developing countries for protecting forests instead of cutting them down, thus reducing GHG emissions. The World Bank is actively supporting REDD, as are several international environmental conservation agencies and private carbon trading companies. REDD is wracked with uncertainties and loopholes, starting from its very name. The UN definition of forests does not distinguish between natural forests and plantations, leaving the door open for private investors and governments to convert natural forests to tree plantations and still get paid for it. Much of what is labelled as “degraded forest” in official parlance are woodlots and fallows that rural and forest-based communities use to forage for food, fodder, fuel and medicinal plants.

A particularly contentious issue is tenure: who owns the forests, and who should be rewarded for protecting and not cutting forests? REDD includes “conservation of forest carbon stocks,” “sustainable management of forests” and “enhancement of forest carbon stocks.” These allow for conservation projects that can evict local communities from forest areas, allow logging in particular forest sections, and the conversion of natural forest cover (even if sparse) to industrial tree plantations. Governments generally claim ownership and sovereignty over all resources within their

territories and will strike deals wherever they get maximum gains, whether in REDD programmes, or with logging, energy, mining or agribusiness companies. Claims of rural communities and indigenous peoples to use and make decisions about the forests that they have long stewarded are not recognized by governments or the environmental conservation industry.

REDD does not uphold crucial human rights instruments such as the UN Declaration of the Rights of Indigenous Peoples and the concept of Free Prior Informed Consent. Indigenous Peoples and other rural communities fear that REDD and associated initiatives will further advance land grabbing and provide incentives to governments and large landholders to apply a “you-pay-or-I-cut” approach to every hectare of forest land that they succeed in wresting from indigenous peoples and landless farmers. In both CDM and REDD projects, lands, watersheds and forests are valued more in monetary terms rather than in terms of the varieties of life that they sustain.

To date, no market mechanism has reduced GHG emissions or halted deforestation. Instead, land, soils and forests are being economically manipulated to allow investors to profit from the climate crisis. Unfortunately, recognising climate as ‘atmospheric commons’ has enabled their capture by corporate polluters and financial traders. Wealthy societies, corporations and investors gain access to abundant cheap “carbon credits” that help them to avoid the responsibility of cutting their own emissions and adopting ecologically sustainable lifestyles. Trading forest and soil carbon will not reduce global warming; on the contrary, it will create greater incentives and opportunities for the commodification of forests in international carbon markets. Bubbles and instability in these market can render precious natural resources vulnerable to market risks,



with falling prices creating perverse incentives to withdraw forest protection.

Agrofuels: a dangerous panacea

Agrofuels are being widely promoted by governments and agribusinesses as environmentally- friendly and clean alternatives to fossil fuels. Experience to date shows, however, that agrofuel production has resulted in shortages of food stocks, increased food prices and mass evictions of rural peoples worldwide (Biofuelswatch et al., 2007; LRAM et al, 2007; The Gaia Foundation et al, 2008). Agrofuels production expand the industrial agricultural frontier at the expense of forests and native ecosystems, pollute water, degrade soils and dispossess rural peoples from their common pool resources. Most commercial production of agrofuel feedstocks--for example, corn, sugar cane, oil palm, soybean and jatropha—is through industrial monocultures on large tracts of public or state lands (including forests and grasslands) that provide livelihoods to millions of smallhold cultivators, forest users and pastoralists through unofficial, customary, use rights. These arrangements are broken down as governments fence public lands and hand them over as long lease concessions to corporations for agrofuel production.

The agrofuels craze is spurred by financial incentives provided to the private sector by governments that seek to maintain high consumption lifestyles in their countries despite the costs to communities and environments elsewhere. The United States, European Union and other OECD countries have established mandatory targets, policies and financial supports to encourage first and second generation agro-fuel production. They are also investing heavily in research and experimentation, including the development and testing of genetically modified crops and trees.

As wealthy nations meet their “clean” energy targets, precious farmlands are diverted from food to fuel production and millions of smallhold farmers, pastoralists and indigenous peoples are pushed off the lands and forests that they depend on for survival. Governments and corporations may argue that many of the lands converted to agro-fuel plantations are “wastelands” or “marginal lands” that need to be put to productive use. In actuality, however, all lands claimed by corporate acquisition are already in use by local communities in some form or other, and many are likely to have been under communal or traditional customary use for generations. Women farmers, who are the world’s main food producers, are the most prone to work on so called “marginal lands” because of traditional-historical gender discrimination and more easily divested of their rights to land than men.

The conversion of arable land and forests (degraded or not) to monocultures for commercial agrofuel production has serious

Agrofuels production expand the industrial agricultural frontier at the expense of forests and native ecosystems, dispossess rural peoples from their land. Photo by Rebeca Leonard





negative impacts on food security, especially for people who already spend over half their incomes on food. The global food crisis is at least in part due to the heady rush towards agrofuel and animal feed production. Farmers displaced by agrofuel plantations are practically robbed of the abilities to feed themselves and their communities. Ironically, converting native ecosystems into farms for agrofuels will increase global warming rather than mitigate it. The carbon released by converting rainforests, peatlands, savannas or grasslands outweighs the “carbon savings” from agrofuels. For example, conversions for corn or sugarcane (ethanol), or palms or soybeans (biodiesel) release 17 to 420 times more carbon than the annual savings from replacing fossil fuels.⁸ Scientific analyses also show that not all agrofuels are “clean” or “efficient” energy sources. Many ethanol agrofuels are proving to be far less “efficient” than other fuels for every unit of energy produced. The production of agrofuel crops (particularly for ethanol) and the fuel itself are chemical, water and even fossil fuel intensive, and result in land, soil and water contamination, and destruction of agricultural and natural biodiversity.

Defend land, nature and dignity

Official debates about climate change and hunger tend to favour technological and market-based solutions instead of addressing socio-political structural issues such as landlessness, highly concentrated ownership of agricultural lands and water, and industrial modes of production and consumption which are at the core of the crises. The climate and food crises have been transformed into opportunities for corporate profits, and land, water and other natural resources are being monetized, reassessed and exploited as never before.

The returns from industrial agriculture provide high, short-term returns for corporations, rich

investors and wealthy classes, in contrast with agro-ecological peasant agriculture, where the returns largely go to local communities, society at large and future generations. Smallhold producers on family farms produce over two-thirds of the staple foods in Asia, Africa and Latin America. Small farms, especially those based on traditional polycultures, are far more productive than large farms in terms of total outputs, which include grains, fibres, fruits, vegetables, fodder, and animal products, all grown in the same fields or gardens. They tend to use land, water, biodiversity, energy and other agricultural resources far more efficiently than industrial agriculture and monocultures, are far less polluting, and far more climate-friendly. They provide vital ecosystem services and have great potential to sequester carbon in above-ground and soil biomass. In terms of converting the earth's natural wealth into "outputs," society gains much more from smallhold producers than from agribusiness and corporate agrochemical operations.

At the same time, the diversified cropping practices of traditional agro-ecosystems make them less vulnerable to massive losses during natural disasters. The traditional technologies and knowledge of smallhold producers, pastoralists, fishers and indigenous communities are a veritable storehouse of lessons in adaptive capacity and resilience to weather and climate change. These capacities and knowledge will be greatly diminished, if not altogether lost, if land conversions continue at the current pace.

Indigenous cultures have long upheld the importance of living in harmony with nature and many have warned us about the ecological limits of economic growth. They have

developed sophisticated systems of plant and animal breeding, soil and water management, eco-system restoration and building resilience to natural disasters and environmental variability. On the December 8, 2010, Bolivia became the first nation state to enshrine this wisdom into law through landmark legislation that will give nature legal rights, more specifically, the rights to life and regeneration, biodiversity, water, clean air, balance, and restoration. In the same month, Bolivia also brought two resolutions—the Harmony with Nature and World Peoples Conference on Indigenous Peoples—before the General Assembly (GA) of the United Nations. The GA approved by consensus the two resolutions, which made reference to the World People's Conference on Climate Change and the Rights of Mother Earth that took place early this year in Cochabamba, Bolivia.

Corporate control over land, forests and water sources must be urgently dismantled, and states and societies must recognize the fundamental rights of local populations to govern and steward the commons. Land, forests and water must be protected as common societal wealth, and security of resource tenure for smallhold farmers, fishers, pastoralists and indigenous communities should be ensured through comprehensive agrarian reform. Public policies and resources must be redirected towards supporting land-use and agricultural practices that cool the planet, nurture biodiversity and save energy. These will check global warming, achieve food sovereignty, reduce distress out-migration from rural to urban areas and allow us to leave a healthy planet for future generations.

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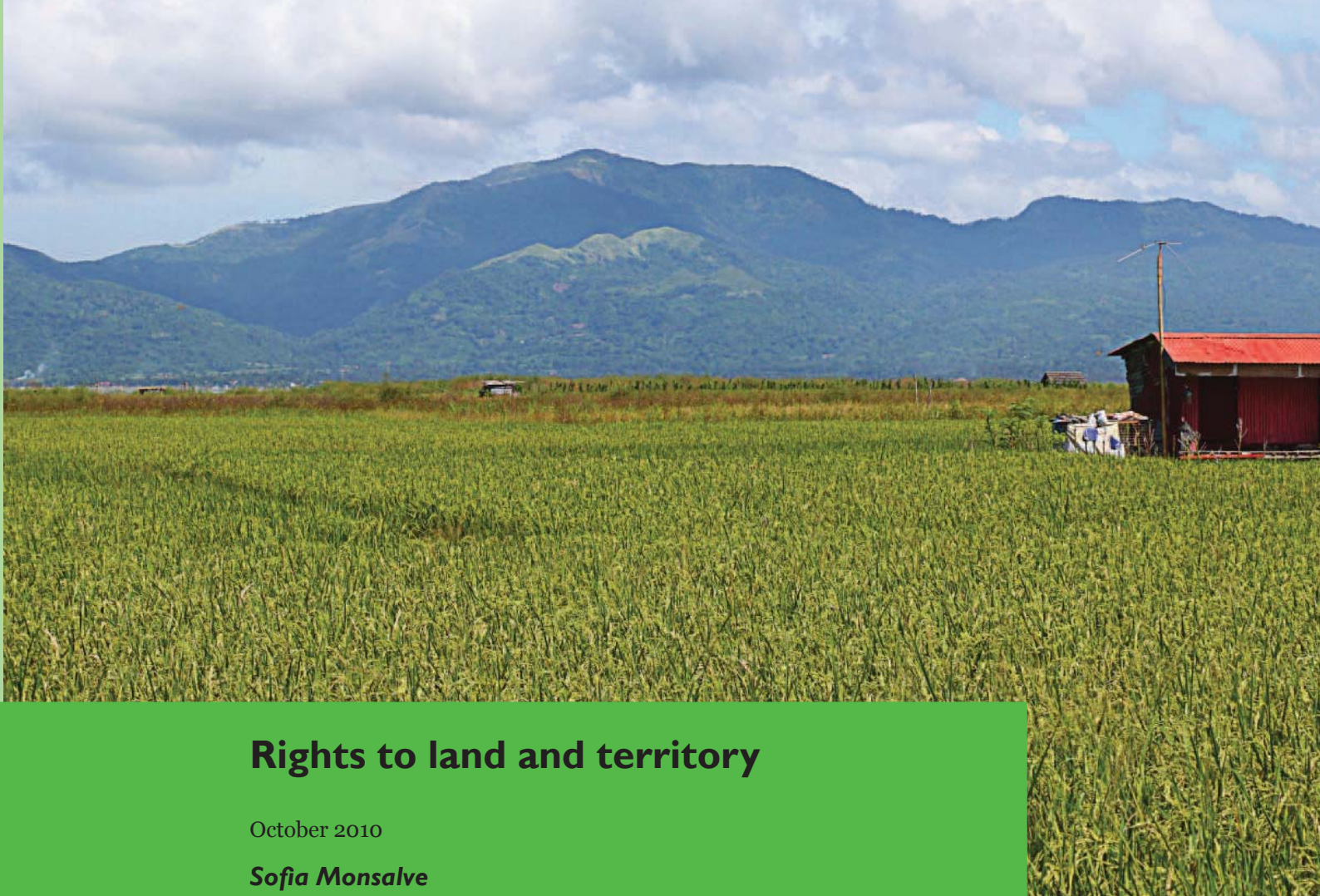
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- ¹ According to the UN Framework Convention on Climate Change "Climate change" means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. (Article 1(2) UNFCCC).
- ² Climate Change, natural disasters and human displacement :a UNHCR perspective. <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&query=Climate+change%2C+natural+disasters+and+human+displacement&x=9&y=19>.
- ³ See, for example, Adaptation to climate change in agriculture, forestry and fisheries: perspective framework and priorities. Food and Agricultural Organization, of the United Nations, Rome, 2007.
- ⁴ <http://www.grida.no/publications/other/ipcc%5Fsr/?src=/climate/ipcc/emission/076.htm> and <http://www.pewclimate.org/technology/overview/agriculture>.

- ⁵ The Fourth Assessment Report, IPCC 2007, Geneva, Switzerland.
- ⁶ <http://www.fao.org/newsroom/en/news/2006/1000385/index.html>.
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- ⁸ http://www1.umn.edu/news/news-releases/2008/UR_RELEASE_MIG_4492.html; <http://www.independent.co.uk/environment/climate-change/biofuels-make-climate-change-worse-scientific-study-concludes-779811.html>.





Rights to land and territory

October 2010

Sofia Monsalve

Photo by Ray Leyesa

A new wave of dispossession

The lack of adequate and secure access to land and natural resources by the rural and urban poor is one of the key causes of hunger and poverty in the world. According to the Hunger Task Force of the Millennium Project, about half the people suffering from hunger in the world live in smallholder farming households, while roughly two-tenths are landless.

A smaller group, perhaps one-tenth, are pastoralists, fisherfolk, and forest users. The remainder, around two-tenths, live in urban areas.

The highly unequal distribution of land ownership in many countries remains an issue of concern, from Latin America to sub-Saharan Africa to South East Asia. In rural areas, the trend towards the re-concentration of land ownership and the reversal of redistributive agrarian reform processes can be observed in

countries which used to have more egalitarian patterns of access to land, such as China, some states in India and in West Africa. According to some UN estimates, an average of 71.6 per cent of rural households in Africa, Latin America and Western and Eastern Asia (excluding China) are landless or near landless.¹ In urban areas in the South, a similarly unequal distribution of land is emerging with almost no pressure for any form of land reform.

Land issues are also at the center of the climate crisis. Land use and land use changes are responsible for greenhouse gas emissions and play a key role in policy responses to climate change. Desertification, defined as land degradation in arid, semi-arid and dry sub-humid areas, results from various factors including climatic variations and human activities, which directly affects an estimated 250 million people worldwide. Sea levels are

also rising, jeopardizing the lives of coastal communities. Climate change is likely to lead to an increase in the frequency and severity of sudden disasters and physical water scarcity, triggering an increase in short-term, internal and regional displacement, particularly in Asia and Africa. It is estimated that one billion people could be forced to migrate because of climate change by 2050, which will most likely lead to more conflicts over land and water².

The precise extent of land grabbing, violent dispossession and displacement as a result of armed conflicts, extractive and agribusiness industries, tourism, industrial and infrastructure projects, accelerated urbanisation and last, but not least, the promotion of agrofuels remains unknown. More recently countries which depend on food imports are seeking to outsource their domestic food production by gaining control of farm land in other countries as a long-term measure to ensure their food security. At the same time, private investors have discovered foreign farmland as a new source of profit.

Towards an increased protection of the right to land and territory

International human rights law does not yet explicitly recognize land and territory as a human right (although see Box 1 for a list of instruments that recognize rights to land and territory). Only Convention 169 of the International Labor Organization (ILO) and the UN Declaration on the Rights of Indigenous Peoples explicitly recognize the right to land and territory of indigenous populations and ethnic communities.

Land is not only a productive resource but also a means of subsistence for the majority of the world. In the light of a new wave of land grabbing worldwide, it is of utmost importance to reaffirm the right to land and territory of the rural populations and their right to self-determination in the use of their lands and

natural resources. There is enough evidence and support for the normative formulation of an international human right to land. This has also been emphasized in reports of UN Special Rapporteurs on adequate housing and the right to food. International case law, especially in the Inter-American human rights system, has also explicitly recognized the human right to land.

The ILO Convention 169 recognizes the right to territory of the concerned people which obliges governments to, “respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship” (Art. 13). The protection afforded by Convention 169 also includes the right to ownership and possession over the lands they traditionally occupy and the utilization of lands that are not exclusively occupied by these people, but which they have traditionally had access to in accordance with their customs. “The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources” (Art. 15). The people should not be removed from the lands that they occupy. When the relocation of these people is considered necessary as an exceptional measure, such relocation should only be carried out with their free and informed consent (Art. 16).

The UN Declaration on the Rights of Indigenous Peoples provides absolute protection against the dispossession of lands, territories and resources (Art. 8b), and the right not to be forcibly evicted from their territories without free, prior, and informed consent (Art. 10); while, recognizing the right of the communities to lands, territories and resources that they have traditionally owned, occupied, or utilized, as well as traditional property, and the



Box 4-1 Instruments recognizing and protecting the right to land and territory

Legal instruments

- *Convention 169 of the International Labor Organization*
- *UN Declaration on the Rights of Indigenous Peoples*

International agreements

- *Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles), 2005*
- *FAO Voluntary Guidelines on the Right to Adequate Food, 2004*
- *Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2001*
- *Habitat Agenda, 1996*
- *Declaration on Social Progress and Development, UN General Assembly resolution 2542 (XXIV) of 11 December 1969*
- *World Summit on Sustainable Development Plan of Implementation, 2002*
- *“Permanent sovereignty over natural resources”, UN General Assembly resolution 1803 (XVII) of 14 December 1962*
- *Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995*

State obligations to recognize and protect this right and various systems of land tenure (Art. 26).

Women

Women’s movements consistently demand full equality of opportunities and rights to land, natural resources, property, housing and inheritance that recognize their diversity; distinct rights in land tenure systems; equal representation in decision-making regarding land and natural resources at all levels, local, national, and international. They also highlight the need for land redistribution policies and programs for women and that the provision of land must be supplemented with livelihood-related resources, employment opportunities and skills. The claims include that women should be recognised as the major decision-makers and managers of many grazing lands, forestlands, water, and other common property resources and that women’s rights to these resources should be legally guaranteed and ensured. Collective rights and tenure over land and natural resources for women pastoralists and farmers also need to be legally recognized.

Marital property regimes need to be reformed, as the majority of women do not have protected rights of access to land or housing on the basis of matrimonial common property.

Indigenous peoples

A key demand of indigenous peoples is the recognition and effective respect and protection of their rights to self-determination and to own, control, and manage their ancestral lands and territories, waters and other resources collectively. National land systems must respect traditional authorities and customary systems of land allocation and transfer. The recognition of their distinct spiritual and material relationship with their lands and territories is crucial as well as the collective nature of their rights to land and territory.

Indigenous and ethnic groups demand the right to determine and establish priorities and strategies for their self-development and for the use of their lands, territories, and other resources. They also demand protection from the State over their rights to land and resources, including protection against interference from third parties. Furthermore,



indigenous peoples must be assigned special rights that can be enforced against the State, as their original rights over lands and resources predate the nation State. As a corollary, they demand that free, prior, and informed consent must be the principle of approving or rejecting any project or activity affecting their lands, territories, and other resources. Indigenous peoples claim either the physical restitution of lands from which they have been unlawfully dispossessed in the past or payment of compensation.

Peasants and rural landless

Landless peasants and other land-scarce groups demand redistribution of land ownership in context of highly unequal distribution of land in any states. They highlight the importance of effective state-led land and agrarian reform policies in the light of the failure of market-based land distribution schemes. Agrarian reform is a key building block of the Food Sovereignty model which is at the very core

of peasants demands. In this sense, land redistribution is not enough, but has to be supported by a series of measures which promote security of land and resource tenure and the sustainable use of land for productive purposes. Group victims of caste discrimination also demand secure access to and control over land and natural resources.

In a similar approach to the indigenous peoples, peasants have also started to frame their land and natural resources claims as territorial claims and demanding self-determination and free, prior and informed consent regarding their lands (see, for example, Box 2).

Fisherfolk

Fisherfolk demand legal recognition, protection, and enforcement of the collective rights of traditional/artisanal fishing communities to access and use fishing grounds and maritime resources. They also demand

Photo by Ray Leyesa



Box 4-2 Excerpt from La Via Campesina's
Declaration on the Rights of Peasants

Emphasizing that according to the United Nations Declaration on the Rights of Indigenous Peoples, all Indigenous peoples, including peasants, have the right to self-determination and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development, having the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions;

Article IV. Rights to land and territory

- *Peasants (women and men) have the right to own land, collectively or individually, for their housing and farming.*
- *Peasants (women and men) and their families have the right to toil on their own land, and to produce agricultural products, to rear livestock, to hunt and gather, and to fish in their territories.*
- *Peasants (women and men) have the right to work and own non-productive state land on which they depend for their livelihood.*
- *Peasants (women and men) have the right to safe water and adequate sanitation.*
- *Peasants (women and men) have the right to water for irrigation and agricultural production in sustainable production systems controlled by local communities.*
- *Peasants (women and men) have the right to manage water resources in their region.*
- *Peasants (women and men) have the right to support, by way of facilities, technology and funds, from the state to manage water resources.*
- *Peasants (women and men) have the right to manage, conserve, and benefit from forests.*
- *Peasants (women and men) have the right to reject all kinds of land acquisition and conversion for economic purpose.*
- *Peasants (women and men) have the right to security of tenure and not to be forcibly evicted from their lands and territories.*
- *Peasants (women and men) have the right to agricultural land that can be irrigated to ensure food sovereignty for the growing population.*
- *Peasants (women and men) have the right to benefit from land reform. Latifundia must not be allowed. Land has to fulfill its social function. Ceilings on land ownership should be introduced whenever necessary in order to ensure an equitable access to land.*
- *Peasants (women and men) have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.*



new fishing policies that effectively recognize their rights and that stop the depletion of life in the sea and undermine the very resources their lives depend upon. Considering the vulnerability of coastal populations, particularly fisherfolk, to natural disasters such as cyclones, earthquakes, and tsunamis, they demand effective participatory mechanisms that should be developed at the regional, national, and local levels to prevent, or if that is difficult, to mitigate the effect of natural disasters and to help them rebuild their fisheries-based livelihoods in a timely manner.

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File photo

Is Asia for Sale?

Trends, Issues, and Strategies against Land Grabbing

October 2010

Mary Ann Manahan

Foreign acquisitions of agricultural lands in Asia and elsewhere have been a focus of concern for many actors and interest groups. This has put land rights issues and investments in agriculture back onto the global development agenda.

This article reviews the recent wave of global land grabbing in Asia, involving commercial transactions and deals around large-scale agricultural land acquisitions for the production, sale, and export of food and agrofuels. Much of the information is based on the discussions at a recent meeting in Kuala Lumpur of social movements to discuss the phenomenon landgrabbing in Asia.



Photo by Noel Celis

Land grabbing is not a new phenomenon. Historically, it has been the starting point for many of Asia's struggles, revolutions, and revolts in the past centuries. During the last century, national land and water governance policies have led to the enclosure and privatization of land and water sources through various mechanisms. These include the promotion of individual land titles, alienable land and water rights, and incentives for financial and corporate investors in exchange for tourism and infrastructure projects, urban expansion, industrial agriculture and plantations. These have fuelled conflicts among state actors, domestic private companies, transnational corporations and local populations, and increased the vulnerability of peasants, pastoralists, fishers and indigenous communities to investors and speculators- both public and private alike.

On the other hand, the current trend of *global land grabbing* has gathered much attention as it is triggered by the complex and interrelated crises of food, finance, energy, and climate that we find ourselves in after several decades of corporate driven globalization, neoliberal

policy regimes, and resource exploitation. Each crisis has its own set of dynamics and causes— for example, mainstream economists have interpreted the global financial crisis as a consequence of bad governance or greed of Wall Street; the global food crisis as a consequence of climate change, decreasing productivity, rising middle class affluence, rising production costs, population growth, agrofuels boom, speculation and trade; and the ecological crisis and climate change blamed on the voracity of the Northern countries that promote a culture of excessive consumption without thinking of the next generation. But at the heart of these crises is the crisis of the current model of economic growth - unfettered globalization which has relied on investment and trade liberalization, privatization, and deregulation.

The current model of growth only benefits the top 10 of the world's population (UNDP Human Development Report, 2005), while the poor majority remain the most vulnerable to the adverse economic and ecological impacts. These multiple crises have exposed the development thrust and objectives that promote profits over people and markets over society. Simon Johnson, MIT economics professor and former chief economist at the International Monetary Fund, captures the essence of the problem, "you are seeing an undoing of a lot of the drivers of growth that we relied on for the last 20 years. I do think we'll have a lost decade, an unwinding of labor mobility, of capital, of political will. It's about deglobalization" (Faiola, March 5, 2009).

The convergence of these complex and intermeshing crises has contributed to the revaluation and rush to control land, especially in the global South, as a necessity to secure a country's own food and energy demands in the future (Borras and Franco, 2010). Many of these global land grabbing deals are therefore done in the name of development, food and water security, agricultural investment, and



Box 5-1 Characteristics of the Web of Crises

- **I in 6 people worldwide go hungry everyday.** As explained in the International NGO/CSO Planning Committee for Food Sovereignty Asia's working document on Policies and actions to eradicate hunger and malnutrition, "a billion people go hungry because they do not have the means to produce for themselves or to purchase [food]. The majority of these hungry people are rural, small-scale food providers and workers, who are unable to earn enough income from their production and labour to meet their food and health needs. At the same time, locally produced foods sold in local markets feed the large majority of people all over the world... Women represent a disproportionately high percentage of disadvantaged, poor, undernourished and hungry members of society. Of the 1.02 billion hungry people worldwide, about 60 % are women." In Asia, the figure is just as high—with 6 in every 10 people, or 615 million people going hungry.
- **The global food price and financial crises have exacerbated poverty.** The president of the Asian Development Bank, Haruhiko Kuroda stated that as a result of the global recession, 60 million people in developing Asia will remain below the USD 1.25 a day absolute poverty line in 2009 instead of breaking out from poverty. Last year in the Philippines, soaring international rice prices triggered a national crisis leading poor Filipinos to line up for subsidized rice dispensed by the government. Local rice prices increased by up to 32 percent in April from the wholesale and retail levels in 2007.
- **The unprecedented rise in global oil prices** has sent millions of people reeling from the staggering cost of daily living, loss of jobs and dwindling incomes, and rising poverty and hunger.
- **The ecological crisis, specifically the climate crisis,** is perhaps the most insidious crisis that the world faces today. Changes in weather patterns, global warming, the melting of ice caps, and rising sea levels expose the limits to growth on a finite planet (Serrano, 2008); of the limits of unfettered globalization and its consequent impacts to the environment. According to the United Nations Development Program Human Development Report (HDR) 2007/2008, three ASEAN countries are among the top 30 greenhouse gas emitters of the world (Indonesia, 14th, Thailand, 22nd, and Malaysia, 26th), mainly due to emissions from land use changes and deforestation. Two of them have the fastest rates of increase in emissions in 14 years between 1990 and 2004: Thailand with 180 percent and Malaysia with 221 percent. Per capita emissions of these two countries are among the highest in the developing world, higher than China. Malaysia's in particular (at 7.5 tons) is about the same level as some of the EU countries. The facts show, however, that the richer countries are still significant contributors to the current climate change problems (Bullard, 2009). The HDR report also highlights that the poorest of the poor, who have the least access to fossil fuel and consume only a small amount of energy per person, will be the most disproportionately affected by the impacts of climate change. With the urgency of the situation, global public opinion has been mobilized to address the issue, particularly to reduce greenhouse gas emissions.
- **The multiple crises arise from crises in governance.** The civil society working document (2009) on eradicating hunger and malnutrition points out that "the responses of governments and international institutions such as United Nations (UN) agencies, International Financial Institutions (IFIs), transnational corporations (TNCs) and national corporations, are likely to exacerbate the impacts of these crises and entrench conditions for their future recurrence". A recent review of ASEAN's responses to the global food crisis (Arnst, 2009), for example, showed the member governments have reverted to "business as usual" solutions— increasing food aid, accelerating the spirit of Doha, and repackaging of Green Revolution technologies. To a large extent, the various responses within the ASEAN region have only dealt with increasing productivity— accessing more inputs - but does not deal with the real causes, for instance addressing access to and control of natural, productive, and genetic resources by the small and landless farmers, fisherfolks, rural women, indigenous peoples, and other rural poor.



energy security. In the region, there are several trends or patterns, which characterize the current land grabbing phenomenon that have ejected many rural poor including smallholders, indigenous peoples, landless, agricultural workers, rural women, and pastoralists from their lands, the ‘commons’, and shared territories.

Making Business out of the Global Food and Financial Crises

Since the food and financial crises erupted two years ago, developing economic powers such as China, India, South Korea, and oil-wealthy Middle Eastern countries have joined the international ‘treasure hunt’ for rich and fertile agricultural lands in a bid to secure their food supply. What drives this outsourcing of food are the lack of good agricultural land and water in home countries for food production, the increasing distrust of global markets, as well as a race to compete with others to control land in the context of alternative land uses arising such as the agro-fuels boom. The “solutions” to address the current global financial and food crises have provided opportunities for governments, business and capital alike, to make profits. The International Food Policy Research Institute estimates that land grabbing deals from 2008 to 2009 are between US\$20 and 30 billion. Whereas before companies may have engaged in deals to purchase agricultural products from other countries, there has been a wave of interest in owning or leasing for a long term the means of production in foreign countries.

As land is essential to food production, Asian transnational corporations, in particular, are rushing to speculate or prospect lands in their neighbouring countries and other regions. South Korea’s Daewoo Group, attempted to acquire more than half of the arable land of Madagascar or 1.3 million hectares, including biodiversity-rich rainforests and lands already

in use by smallholder farmers (Ashton, January 21, 2009)². This move is part of South Korea’s plan to restructure its agriculture sector, i.e. withdraw investment on its domestic agriculture sector and grow rice abroad because it is much more cost-effective than providing subsidies to its own farmers. The scale of transformation has been massive, while South Korea has only 1 million hectares of agricultural land within its own territory, Korean corporations have secured at least 200,000 hectares of lands in other countries.

Similarly, China, with their “Going Out” strategy, has been leasing lands in the Philippines and other countries in Asia and Africa through free trade and investment agreements. The stalled Philippine-China Investment Agreement comprised 19 different investment contracts worth almost US\$5 billion which would have allowed the Chinese government and its corporations to lease at least 1.2 million hectares of land, mostly for rice, corn, sorghum, and agrofuel production in public lands or lands redistributed under the agrarian reform program.

Under the guise of food security and acting as a ‘big brother’, Thailand is leasing lands in the Mekong Region through the Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS). This was a grand project initiated by former Thai Prime Minister Thaksin Shinawatra in 2003, for sub-regional economic cooperation, in which country members can exploit their comparative advantages to complement one another. According to Shalmali Guttal, Senior Associate of Focus on the Global South, the scheme allows Thai corporations to control and exploit the top soil, groundwater and other water resources of its ‘little brothers’ such as Laos and Cambodia. The main beneficiary of this deal is, arguably, the Thai conglomerate Charoen Pokphand Group, already the region’s leading agribusiness thanks to its domination





Photo by Jimmy Domingo

of the production and supply chains of corn, chicken, and shrimp, as well as other foods. The company has become a giant transnational corporation and is expanding exports to western markets, under a policy aimed at making Thailand the “Kitchen of the World”.

Most of these contracts and deals are done in secrecy and behind closed doors. In the Philippines, people are kept in the dark about agricultural investments as the government refuses to provide timely, adequate, legitimate, accessible, and useful information. The government-owned corporation, Philippine Agricultural Development and Commercial Corporation, also admits that there is a clear lack of systematic monitoring of land leases and concessions. A certain ‘Bin Laden Company’ from Saudi Arabia has reportedly offered agricultural investments in Papua New Guinea

but it has not been possible to ascertain who owns the company or who the shareholders are (GRAIN, 2008). The recent report of the International Food Policy Research Institute, “Land Grabbing’ by Foreign Investors in Developing Countries,” states that the “details about the status of the deals, the size of land purchased or leased, and the amount invested are often still murky”³. Many deals have been advertised but very few have been put into operation. Equally, Harold Liversage, the Land Tenure Adviser of the International Fund for Agricultural Development (IFAD) also recognizes that there is insufficient information on the extent of global land grabbing.

Finance companies, investment funds, and other investors are also in a rush to invest in agriculture, in particular, in the commodities market. With the idea that “everybody has to eat and the safest investment, therefore, is in agriculture”, companies like the global investment banking group Goldman Sachs have nestled some of their ‘eggs’ in the ‘commodities speculation basket’. As of July 2008, US\$ 317 billion was invested in commodities index funds; the major traders of these funds, especially Goldman Sachs and the American Insurance Group, are headquartered in the U.S. but their investment products are traded globally (IATP, 2008). However, according to critics, Goldman Sachs’ trading on the commodities market contributed to the 80% rise in food prices that occurred between 2005 and 2008. The Institute for Agriculture and Trade Policy’s report also concluded that the deregulation of controls against speculation induced artificial volatility in agricultural markets. It is not yet clear how much of these speculations drive the rush for global land grabbing.

International financial institutions (IFIs) such as the World Bank, are also drivers of the “resources restructuring” in the region. For example, the International Financial



Corporation (IFC) and the Foreign Investment Advisory Services (FIAS), both part of the World Bank Group provide advisory services and technical assistance on investments in land. FIAS helps shape the generation of investment on land through one of its products,

the “Investment and Policy Promotion”. In the Philippines, for instance, from 2008-2009, FIAS with the Philippine Bureau of Investment (BOI) identified a pipeline of potential investments on land which amounted to US\$1 billion and with 200 new expansion

Table 5-1 Selected Reported Cases of Government Investments in Land Abroad

Recipient Countries	Foreign Investors
Burma	On September 2008, Kuwaiti government representatives were in Burma to finalise the terms and conditions of a contract growing arrangement of rice and palm oil. Kuwait would provide fertilisers and financial support while Burmese companies will provide land, labour, and other inputs. Kuwait would buy the produce at international market prices and the Burmese companies, on the other hand, would pay back the fertiliser costs at 4-5% interest per month.
Cambodia	A technical assistance for oil exploration and proposal to exchange for an undisclosed large plot of land to grow food for export, mainly rice, to Kuwait. The advisor of Kuwait's Prime Minister announced that the country would provide Cambodia with more than US\$546 million soft loans for a variety of infrastructure projects largely in the agriculture sector, and US\$486 of which will be used to build irrigation systems and a hydropower project Steung Ser River in Kompong Thom. The remaining US\$60 million for road building in west Battambang, which is Cambodia's north western rice-growing province. On March 2008, Qatar's Prime Minister reportedly sealed a US\$ 200 million-deal on access to Khmer farmlands for production and export of rice for Doha in exchange for agricultural technology.
Indonesia	Qatar Investment Authority, the state investment fund, had signed a memorandum of understanding with Indonesia to attract more Qatari investments in agriculture. On August 2008, the two countries set up a US\$ 1 billion joint investment venture for the agriculture sector, with Qatar providing US\$ 850 million, and Indonesia, US\$ 150 billion.
Pakistan	On June 2008, the United Arab Emirates government was in bilateral talks with Pakistan to purchase US\$400-500 million worth of farmland to produce food for export. This would involve 100,000-200,000 acres or 40,470-80,940 ha in large holdings in Pakistan's Punjab and Sindh province.
Philippines	On July 2008, a memorandum of understanding between the United Arab Emirates and the Philippine government was signed. The deal involved a US\$50 million project to develop 3,000 hectares of banana plantation in Mindanao, fish and cereal farms in Luzon and a pineapple cannery in Camarines Norte. Land acquisition details are not yet disclosed. The Saudi Arabia government has an investment agreement with the Philippine government involving food for export production of bananas, pineapples, mango, and papaya to Riyadh.

Source: GRAIN, 2008. www.grain.org.



opportunities for investors. In 2002, FIAS conducted a review of Philippine investment incentives legislation with the objective of removing constraints for foreign direct investments. In 2006, with inputs from the Multilateral Investment and Guarantee Agency (MIGA)⁴, FIAS provided assistance with the BOI for the development of a program of foreign investment retention, expansion, and diversification. There are also similar initiatives in Cambodia, Indonesia, Laos, Pakistan, Papua New Guinea, and Vietnam.⁵

Most recently, the Bank has been leading the efforts in promoting principles of “responsible” agro-enterprise investments for supposedly “win-win” solutions for all actors involved, including small holders. The principles are written on the World Bank’s premise that transfer of land rights is desirable for stimulating agro-enterprise development, and that it can be done in a “responsible” way, i.e. if local people are consulted properly, projects are economically viable, and where investments respect the rule of law, reflect industry best practice, among others. The Food and Agriculture Organization, which is also involved in this effort emphasizes that “investments could be good news if the objectives of land purchasers are reconciled with the investment needs of developing countries” (FAO, 2009).

However, in states where the various arms of government are not accountable to its people, where judicial review is ineffective or non-existent, where land governance policies and institutions are weak, where deals are not transparent, there is little likelihood that the principles will secure anything more than a public relations badge for private enterprise. The underlying premise that expropriation of smallholders land to largeholders is desirable is a premise that is deeply flawed and has been strongly refuted by civil society groups (see annex 2).

At the core of the issue are the fundamental questions of social equity, equality, justice, and the implications of foreign acquisitions of land upon social systems, particularly on the smallholders and producers, who remain the main investors in land and agriculture in Asia and the rest of the developing world.

Governments as Investors

While Asian TNCs have opened up opportunities to acquire land in the region, governments such as Kuwait reportedly offered Cambodia loans amounting to USD 546 million for dams and roads in return for lands to grow crops⁶. Oil-wealthy Gulf States are making deals in the name of “Islamic Brotherhood” and using Islamic cultural ties to acquire and lease lands. According to Shafi Muhammad Mandhrio of the Pakistan Fisherfolks Forum, in Pakistan, a country where there is already food shortage and a high degree of landlessness, the Kingdom of Saudi Arabia leased 500,000 acres of lands for export production and the kingdom’s food security.

The role and concept of the state is changing because of the new trends of land grabbing. Irene Fernandez of Tenaganita, an NGO working on land issues in the Malaysia, stated that in her country, the government has become one of the biggest shareholders in state companies that are engaged in land deals abroad. Malaysian pensions and public funds are reportedly being used for land grabbing. The state’s role as an independent governing body has been transformed to a capitalist body; and in the process, national laws have been changed to protect capital. The consequence is that the interests of the government and private companies are merged and their collusion becomes closer. Similar observations can be made concerning China’s and Singapore’s state-owned companies. More and more, the trend is that the state becomes an active negotiator or broker of land grabbing.



Turning up the heat: Climate and Energy Crises

The proposed solutions to address the climate and energy crises put forward by the international bodies such as the UN and World Bank also risk accelerating land grabbing. For one, Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD), a highly controversial measure that has been opposed by many indigenous peoples and other rural communities because such initiatives can further advance land grabbing. It is criticized for providing incentives to large landholders to apply a "You-pay-or-I-cut" approach to every hectare of forest land that they succeed in wresting from indigenous peoples and landless farmers" (IPC, 2008). Already, in Indonesia there are reports that indigenous and forest peoples are being driven off their lands because of REDD programs⁷.

In another example, agrofuels are being promoted as a clean, alternative source of energy, and, as such, many countries have made rapid moves to change legislation, mandatory targets, policies, and provide financial support. In South East Asia, for example, the Philippines, Malaysia, Indonesia and Thailand have leapt onto the bandwagon. However, both public and private investors alike are targeting lands that are labelled "marginal lands" and "wastelands", although they have been under communal or traditional customary use for generations, and are crucial for the livelihoods of smallholders, rural women, pastoralists, and indigenous peoples.

Some lands targeted had previously been earmarked for agrarian reform. The new commercial interests asserted over these lands have undermined the redistribution process in the case of the Philippines⁸.

Large-scale agrofuels plantations, being largely monoculture, are also water-intensive and can further exacerbate the problems in water-scarce and -stressed areas. Production of food crops may be threatened if water is diverted for the irrigation of "improved varieties" for more efficient agrofuel production. Large amounts of water are also needed at the agrofuel processing stage. This can put pressure on the abilities of governments to supply drinking water to a growing population. Already, Asia shows the highest number of people unserved by either water supply or sanitation: 715 million people or 65 percent have no access to safe drinking and potable water, while 1.9 billion or 80 percent of the population in Asia have no access to sanitation (Second UN World Water Development Report, 2006). Increased conflicts over water use and allocation of water rights will likely be part of this scenario.

Threatened Resistance

Despite what governments and IFIs say about the resilience and recovery of Asian economies, the situation in the rural areas is more distressing than before. Impoverishment has become deeper and wider since the food crisis, according to civil society participants from ten countries in Southeast, East, and South Asia who gathered at a meeting on 27 March in Kuala Lumpur, Malaysia to discuss the recent global land grabbing phenomenon. Participants included small farmers, fisherfolks, indigenous peoples, agricultural workers, lawyers, pastoralists, women, activists, community organizers, and NGO workers and a summary report from the meeting can be found in Annex 1.

File photo



Many struggles for resource rights and the collective rights of people to land, water, forests, and shared territories, remain under threat as various local, national and international, modern-traditional, socio-economic, political and cultural pressures continue to enclose these natural commons. The gathering of movements emphasized that the expropriation of land and other natural wealth such as water, forests, shared territories and the commons, under the capitalist system is now accelerating.

With such situations, many of the resource rights movements in Asia are engaged in numerous community defense struggles—confronting the real conundrum of stopping land and other resource grabbing at the local levels, strengthening their movements in the process, and equally important, imagining new ways of actively joining in each others' struggles. Land occupation / positioning / cultivation has often been used as a legal and legitimate strategy for community defense. This has also been a strategy to reclaim and redistribute land, notably in cases where the state fails to implement an agrarian reform program. Land occupations by economically and socially marginalized communities, while often prosecuted as illegal, are measures of the determination of the landless people's movements, the urgent need for land, and the keenly felt legitimacy of land and resource redistribution.

Peoples' Campaigns to Stop Land Grabbing

Peoples' organizations, social movements, and activists committed to the advancement of their fundamental rights to the natural commons and livelihood resources must have a space and common platform where they can come together, dialogue, share their experiences and strategies and where possible, mount a

sustained challenge and resistance to land grabbing and other measures which undermine the very foundations of rural livelihoods. This is especially crucial for a region such as Asia which boasts diverse and numerous movements and organizations committed to social and economic justice.

A key issue for many movements is ensuring the right to information as in the majority of land deals, local communities are kept in the dark. The deal between the Philippine government and Chinese state-owned and private corporations was blocked as a result of public unrest anchored on demands for transparency, disclosure and access to information, and shining a light on the local consequences of such deals. Many local struggles in India are also using their Right to Information law in their effort to recover the commons.

At the heart of the Asian movements' struggles to stop land grabbing is the urgency and need to defend the commons, territories, and their collective rights to food and water. Community-led initiatives remain the most important means for affected peoples to gain access and control over resources, and in the process, they themselves set the terms of resource governance. Such terms include the recognition and respect of the rights to self-determination of local communities on how to govern, manage and care for their ecosystems, in a democratic, equitable and sustainable way. This means that any measure to redistribute land and water, including agrarian reform programs, must pave a way for a new governance of the natural commons, which puts local communities in control of their own territories and livelihoods. Land grabbing and other attempts to undermine peoples' rights to a life with dignity, will be met with rightful resistance.⁹

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Endnotes

¹ Commons are those resources that are commonly managed and owned by the "community". It can be natural- water, land, forests, marine, biodiversity, including the climate and the future of the earth; physical such as public goods and services, intellectual and knowledge; and spatial/ political such as democracy, public spaces and policies, and spaces for decision making .

² This plan was not successful in the end. Following peasant riots in protest at this and other large scale deals as well as other politically inspired revolts, the government was swiftly overturned and the new regime cancelled the deal.

³ Also see Scott Thill, "Why Corporations, Emerging Powers and Petro-States Are Snapping Up Huge Chunks of Farmland in the Developing World", August 11, 2009, accessed at <http://www.alternet.org/story/141734/?page=1> on April 30, 2010.

⁴ MIGA is member of the World Bank Group with a mission to promote foreign direct investment (FDI) into developing countries to help support economic growth, reduce poverty, and improve people's lives by providing political risk guarantee to the private sector.

⁵ See Annex 1 of (Mis) Investments in Agriculture: The Role of International Finance Corporation in Global Land Grabs by Shepard Daniel with Anuradha Mittal, Foreword by Howard G. Buffett, The Oakland Institute, 2010.

⁶ Elliot Stephenson, "Is Philippines selling land or selling out", in The National, August 03, 2009, accessed at <http://www.thenational.ae/apps/pbcs.dll/article?AID=/20090730/BUSINESS/707309940/1137> on April 30, 2010.

⁷ Interview with Indra Lubis, International Operative Secretariat of La Via Campesina, Kuala Lumpur, Malaysia, March 27, 2010.

⁸ Insiders in the Department of Agrarian Reform (DAR) and the Department of Agriculture admit that the lands they have identified for lease agreements are either agrarian reform communities or areas which are up for redistribution under the 20-year old Comprehensive Agrarian Reform Program. These lease agreements involve agrofuels production arrangements. There are also reports from the ground that some lease agreements are already negotiated prior to the issuance of certificate of land ownership awards or land titles awarded by the DAR under the government's agrarian reform program or are even sometimes used as a condition for the issuance of titles. This was also echoed by Ernesto Lim's presentation, "Global Land Grabbing in the Philippines: Mapping of actual and potential areas affected and documentation/ assessment of its impact at the national and community levels for the formulation of corrective policy proposals and a draft bill," at the civil society roundtable discussion on land grabbing, Quezon City, March 2010.

⁹ Rightful resistance refers to "partly institutionalized form of popular action that employs laws, policies, and other established values to defy power holders who have failed to live up to some ideal or who have not implemented a popular measure". See O'Brien, Kevin J., *Rightful Resistance in World Politics* - Volume 49, Number 1, October 1996, pp. 31-55, The John Hopkins University Press.



In Defense of the Commons

July 2011

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Shared access, reliance, use and governance of natural resources is a common form of tenure in the world, North and South, rural and urban. The specific rules and institutions that govern common property are very diverse, developed by communities groups on their own direct experience and reflecting their priorities. Where well managed, such systems have proven capable of preserving the long term health of the resources and sustained benefits to the community relying on them. Common spaces are under increasing threat - their resources are grabbed for private interests, mined and degraded for short term gains. A critical factor in this is the weakening of common property management systems, undermined as the paradigms of privatisation and market commodification have dominated policy development. Networks and movements of the poor around the world are reacting to the destruction of their natural resources, and standing up in defense of the commons and the common property systems which sustain them. This article identifies some of the threats to the commons and highlights the resistance of local people.



“Enclosures have appropriately been called a revolution of the rich against the poor.”

- Karl Polanyi, The Great Transformation. 1944. (p. 35)

The commons refer to forms of wealth that belong to all of us and that must be actively protected and managed for the good of all. Commons can be natural, such as air, water, land, forests and biodiversity; social and institutional, such as public goods, spaces and services; political, such as collectively held notions of democracy, justice and governance; and intellectual and cultural, such as general knowledge, everyday technology, shared music and scientific truths. While such categories may differ across countries and regions, commons generally consist of resources that communities and societies recognise as being accessible to everyone, and that are conserved and managed collectively for use by present and future generations. In this paper, we shall limit our discussion to the natural commons, particularly land, forests and water bodies.

Put simply, the natural commons include all lands, water bodies and associated resources that are not under private ownership or governed by private property regimes. These can include, for example, farm/crop lands, wetlands, forests, wood-lots, open pasture, grazing lands, hill and mountain slopes, streams and rivers, ponds, lakes and other fresh water bodies, seas and oceans, coastlines, etc. In many rural communities, farm/crop lands are communally owned, although the tenure rights of families that farm specific parcels of land are recognised and respected. In every part of the world, agricultural, forest, fishing, marine, pastoral, nomadic and indigenous communities have developed and practiced sophisticated systems of using, sharing, governing and regenerating their natural commons. These systems are essential elements

of their respective cultural-political identities and are crucial to their very survival.

The notion of the commons does not negate individual agency and responsibility; on the contrary, protecting and managing collective resources requires a collectivity of individual actors working together towards shared goals. The commons provide a framework for resource tenure and management in which individual benefit is assessed in terms of the wealth of shared resources, and future, long-term security is not discounted in favour of short-term gain. The interests of a few cannot undermine the needs of the majority. For example, forests and streams used by multiple communities for food and income can become rapidly depleted in the absence of regulations to prevent over-harvesting of forest and marine products and to ensure the health of the ecosystems. In the Lao PDR, rural communities in many parts of the country report that as a result of government mandated relocation and rapidly growing trade in non-timber forest products (NTFPs), many more people are foraging, harvesting and fishing in the same forests and streams, which in turn are depleting local food and medicinal resources that have sustained local communities for decades.

The commons continually face the threat of enclosures, i.e, bringing them into private property regimes, demarcating and delineating zones for exclusive use by particular actors/groups, and breaking up and parcelling out collectively managed spaces for fishing, foraging/gathering, grazing, etc. to individualised ownership. Threats come from





Traditional fishing nets, Kampong Cham province, Cambodia

both, outside and inside communities and societies through actors for whom, systems of shared access, responsibility and benefits are barriers to the accumulation of profits and power. These include landed classes, free market traders, speculators, private companies/corporations, the global consuming elite and the State. Open access lands, water bodies, forests and their associated natural resources offer the promise of revenue and profits, and are routinely expropriated for extractive industry, logging, hydro-power and other energy production, agricultural investment, tourism and development infrastructure. Wealthy governments are acquiring large tracts of productive lands in poorer countries to secure food supplies and employment for their own populations, while financial investors and traders are snapping up land for speculative purposes.

Commercialisation, Commodification, Privatisation

The expansion of global capitalism and neoliberalism has greatly accelerated enclosures. Market-driven frameworks and policies such as free trade and investment agreements, financialisation, private property regimes, and privatisation of public goods and services destroy notions of collective governance and responsibility, and pave the way for commons to be fenced. In a cynical manipulation of the climate crisis, new global commons—the atmospheric commons—have been defined to enable their capture through market mechanisms. Emissions trading, clean development mechanisms (CDM) and REDD (Reducing Emissions from Deforestation and Forest Degradation in Developing Countries) allow polluters and financial traders to monopolise resources vital for the planet and society but provide no assurances that anthropogenic climate change will be effectively checked.

Free trade and investment agreements generally result in the capture and conversion of forests, pastures, wetlands, watersheds and other commons for industrial and resource extraction purposes. Industrial agriculture spurs the concentration of productive resources, land and labour in the hands of



corporations and local elites. Rivers and underground water sources are diverted to feed tourism, energy and manufacturing industries. Many trade-investment deals provide private corporations and research institutions access to agricultural and natural biodiversity and knowledge with the possibility to extend intellectual property rights (IPR) or patent protection to products derived from them. Profits generated from such patents accrue largely to the prospecting corporations and institutions, and not to the communities and societies that have nurtured these commons for generations. Such bio-piracy is also enabled through bilateral academic and technical collaboration programmes, often under the rubric of development aid. The appropriation of elements of the collective wealth and knowledge of communities and societies into proprietary goods to generate monetary profits by commercial actors is a matter of great concern in many developing countries and among indigenous peoples everywhere. Women, who are the savers of seed in most peasant farming communities, are generally the first to be displaced from agriculture through new production packages based on ‘improved’ seeds.

The commons are also endangered by policy conditions attached to development financing from international financial institutions (IFIs), and bilateral and multilateral donors, who tend to favour the commercialisation and privatisation of natural resources, trade liberalization and investor-friendly regulation. Majority of the governments from the South are deeply dependent development aid, credits and international capital to meet domestic expenditures, and are more than willing to grant unrestricted access to natural resources within their boundaries in exchange for foreign aid and loans. All IFIs favour the privatisation of public goods and services such as water

supply, sanitation, health, education, electricity, and food storage and distribution.

The World Bank is firmly committed to private property regimes, individualised ‘marketable’ land rights and “easing barriers to land transactions.” In World Bank parlance, “good land governance” may include strengthening women’s access to land and capital, but it also includes facilitating land-related investment, transferring land to “better uses” and using it as collateral for loans. The Asian Development Bank (ADB) promotes rapid economic growth through private sector operations, which have repeatedly resulted in widespread air and water pollution, land degradation and depletion of natural resources. Borrowing governments are required to provide private companies unfettered access to land, water and other natural resources, and enact ‘market-friendly’ (rather than community or societyfriendly) policies and regulations. There is little recognition of the complex relationship and inter-dependence between human well-being and the goods and services that healthy ecosystems provide—especially in rural areas. Industrial, chemical-intensive and monoculture oriented agriculture and agro-forestry

Native upland corn and rice varieties, Oudomxai province, Lao PDR.



(including plantations), large-scale commercial aquaculture and extractive industry—all of which bring the commons into private property regimes—are high on the agenda of IFIs and even the Food and Agriculture Organisation (FAO). Not only are forests, woodlots, pastures, wetlands, hill slopes and streams given over to private companies for long periods of time (25-99 year-long leases) but also, they are polluted, contaminated, degraded and depleted through over-use, extensive application of chemicals and dumping of waste matter.

Although many governments, IFIs and other regional/global institutions acknowledge the importance of natural resources to the survival of rural peoples, they do not recognise the importance and viability of collective ecosystem management with localised centres of governance and decision making. Their preferred models of governance prioritise individualised ownership and access/tenure rights that can be freely traded in markets. In January 2010, the World Bank, Food and Agriculture Organisation (FAO), International Fund for Agriculture Development (IFAD) and United Nations Conference on Trade and Development (UNCTAD) proposed the “Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources” (RAI) to ostensibly minimise the most egregious impacts of large scale, private, agricultural investments on land. The RAI are geared towards smoothening the access of agricultural investors (usually large, well endowed corporations) towards the agricultural lands and natural resources they want, rather than empowering rural communities to uphold their rights to resources that are crucial to their own livelihoods and to the livelihoods of future generations. The RAI discount future collective/societal potential in favour of present individualised opportunities for profit making.

Problems with Governance

States have, by and large, tended to adopt land, water and natural resource governance models that favour the interests of markets and corporations over the interests of their citizens—especially those who rely most on them for food, health, livelihoods and survival. In most countries, lands, forests, coastal lands, wetlands, slopes and water bodies not under legal private ownership are designated as ‘public property,’ and governments claim the authority to allocate/use them for national economic and security purposes. Thus, forests, pastures and farmlands are converted to mono-crop plantations and large industrial farms, lakes and wetlands are filled for real estate projects, rivers are dammed, and lands and water bodies are sequestered for mining, drilling and other extractive industry. Exclusive forest preserves and biodiversity conservation areas are established that restrict or deny access to local communities but allow private companies/corporations to log and harvest resources through special economic concessions. In each of these cases, natural resources are commodified and privatised, long-standing local practices of community resource use and governance are dismantled, and local communities are denied access to the very resources that they nurture and that sustain them.

The privatization and commodification of the commons have profound and long-term impacts on rural and urban societies. Time tested practices of sharing, using and managing natural resources within and among communities and different user-groups are dismantled, increasing the potential for conflicts, weakening social cohesion, and diminishing the quality of eco-systems. Local people are cut off from crucial, life-sustaining spaces and resources, and the natural environment is degraded because of deforestation, land use changes, chemical



contamination, diversion of water flows and over-exploitation, which in turn negatively affect the availability and safety of wild, foraged and gathered foods. Privatisation and commodification specially disempower women since they are responsible for most foraging activities and rely (more than men) on their immediate environment to ensure the sustenance of their families.

Enclosures shift ownership and control of natural resources from smallholders, communities and society to private companies and corporations, which in turn result in prioritising short-term private/corporate profits and endangering the future availability and quality of natural resources. Communities across the world report that their traditional, informal systems of managing natural resources and territories were far more effective in conserving and regenerating lands, soils, forests, water and biodiversity than the modern, formal systems introduced by states. However, actions by communities to defend their commons from expropriation, privatisation and commodification have generally been criminalised and often violently repressed by governments.

Local governance, however, is not without problems. Nor is traditional leadership uniformly good and just across communities and societies. Traditional power structures are as susceptible to corruption, abuse and capture by vested interests as modern power structures. Communities in much of rural India tend to adhere to deeply entrenched discriminatory practices based on the caste system, that forbid particular communities to use the same commons as others, and sequester some resources for exclusive use by historically powerful groups. Sedentary farming communities often clash with nomadic pastoralist and forest peoples' communities over rights to control the use of open pasture, forests and woodlands. Even in less stratified

villages for example in India, Laos and Cambodia, village chiefs feel well within their bounds to sell off community lands for personal gain. Some of the worst problems arise where modern, formal administrative hierarchies co-opt traditional leaders, driving wedges between community and government priorities. In much of the world, patrilineal and patriarchal social-political structures deny women voice in making decisions about how community lands and resources should be used and managed. Farmers' organisations across the world recognise that women have deep ties with the land and that food producing commons are more likely to be reallocated to commercial use if the power to make decisions about land use lie solely with men.

Today, the threats to the commons are greatly multiplied by the food, finance and climate crises, all of which are being used as opportunities by state, corporate and international institutional actors to find more ways to deepen their control over precious, life sustaining resources. Particularly threatened are land, forests and water sources--that are of tremendous value to producing food, regenerating biodiversity and ensuring soil fertility--as states, investors and financiers realise that control over these are tantamount to control over life itself.

Restoring and Defending the Commons

Under threat, the commons have always been arenas of intense social-political organisation, mobilisation and action. As threats to the natural commons multiply, so do struggles of local communities intensify to defend their collective rights to land, water, forests and shared territories. These include advocacy for innovative approaches to governing, stewarding and managing natural resources and territories. At the heart of their struggles to defend and reclaim the commons are principles of human rights, social and ecological justice,



sustainability, democracy, self-determination and inter-generational equity.

Key demands and proposals by farming, fishing, pastoralist, forest and indigenous peoples' organisations as put forward at public fora, include:

- *Land, territory and natural resources are not simply economic assets; they are the foundations of culture, identity, society, food sovereignty, self-determination and well-being. They must be protected as commons to achieve social and economic justice, and the well-being of communities, society and ecosystems in the present and for the future.*
- *There is an urgent need in all societies to arrive at an understanding of what resources constitute the natural commons and how they should be protected from profit and rent-seeking actors and processes at all levels, local to global.*
- *Communities must be guaranteed security of access and tenure over their commons by law, with community-generated rules for sharing these resources with external actors.*
- *All communities that share any commons must urgently formulate enforceable rules to prevent over-use, degradation, pollution and depletion.*
- *The governance and management of natural resources, land and territories should be rooted in collective rights and common property frameworks. Communities should have the power to make rules and regulations about individual and collective access, tenure and ownership, including appropriate rewards and penalties for abuse and wrong-doing.*
- *Women must be full and equal participants in all decision making about the commons.*
- *Laws pertaining to the use, access, tenure and governance of land, forests, water and other natural resources should be based on the realities, wisdom and practices in different geographic areas/zones; people in different regions have evolved practices of using natural resources that are compatible*



Land and natural resources are not simply economic assets, especially for rural women. Photo by Jimmy Domingo

with their micro-environments; law-makers and governments should respect and learn from these.

- *The rights of communities to self-determination must be respected and upheld; this includes protecting their traditional and customary use, access and tenurial rights to eco-systems and territories.*
- *Indigenous peoples' rights as laid out in the UN Declaration on the Rights of Indigenous Peoples, must be respected and upheld.*
- *States as duty bearers must work for the protection and fulfillment of peoples' collective rights to land, territory and natural wealth, including the promotion of local control over land, territories, and natural wealth by different social-cultural communities, recognising their multidimensional relationship to these commons. This calls for democratic, gender just, equitable, sustainable and inclusive community stewardship and governance.*
- *States must accept and respect the knowledge, practices and abilities of communities to conserve, manage and protect their natural resources; new technologies to develop and manage land and natural resources should be accessible, affordable, sustainable, self-manageable, gender-just, and build on existing good practices.*
- *All state and market initiatives to enclose the commons must be rejected and firmly resisted; those commons that have already been privatised and commodified must be reclaimed and handed back to communities for restoration, sustainable use*



- and protection. Market mechanisms should not be permitted in systems to govern natural wealth and territories.*
- *Remedial justice must be provided in timely and appropriate ways for the destruction of land, territory and natural wealth by the state, international financial institutions (IFIs), big business and other private entities. This includes environmental clean-up and restoration, the costs of which should be borne by the polluters.*
 - *Communities have the civil and political rights to resist state expropriation and corporate grabs of their commons. Community and broader societal struggles to defend the commons must not be criminalised and repressed by states.*
- *All guidelines for the governance of land, territory and natural wealth must respect, recognize and uphold community control in the governance of these commons; the principle of Free, Prior and Informed Consent (FPIC) must be respected and upheld; communities must be able to exercise their rights to decide how the resources in their territories and ecosystems should be used.*
 - *Laws pertaining to access, tenure and use of land and natural resources should be formulated through a governance system that is democratic, ecologically sustainable, socially acceptable, inclusive and gender-just.*

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Endnotes

1 <http://www.responsibleagroinvestment.org/rai/node/254>.

2 Many of these demands and proposals have been formulated through consultative processes to develop guidelines for sustainable land and resource tenure initiated by the Committee for World Food Security in the Food and Agriculture Organisation (FAO).





Photo by Peter Harris

The Grand Theft of Dey Krahorn

October 2010

David Pred

In 2003, the Cambodian government announced that 100 inner-city poor communities would be provided with secure land tenure and full basic services. Dey Krahorn, in Phnom Penh, was to be among the first. However, the land was subsequently stolen from the local residents by a private company, in collusion with a handful of leaders. Six years later, the community has now been forcefully evicted from their homes, with the aid of police and other armed government forces. The still undeveloped land is now being offered for sale by the company at an enormous profit. This paper tells the story of Dey Krahorn's vital struggle to keep their community intact and the immense campaign to prevent the grand theft of their land.

On January 24, 2009, the Dey Krahom community lost their three-year battle against forced eviction from their homes in central Phnom Penh. In the name of urban beautification and development, the 7NG company grabbed the community's prime land, valued at US\$ 44 million, with the aid of police and other armed government forces.

Dey Krahom, meaning Red Land village, is located in the heart of the fastest developing area of Cambodia's capital city. Families began settling in Dey Krahom in the early 1990s after they were repatriated to Phnom Penh from refugee camps on the Thai border. In search of a place to rebuild their lives after the war, families cleared the swampland and filled it with red soil, creating a foundation on which to build their homes. Some of the country's most famous artists, actors and musicians were granted plots in the village by the Cambodian Ministry of Culture and Fine Arts. Others moved to the area later and purchased homes from previous residents. By 2003, the population of the village had grown to an estimated 805 families, most of which had documented rights to their land under Cambodia's Land Law¹.

In that year, Prime Minister Hun Sen announced that his government would provide secure land tenure and assist in the onsite upgrading of 100 inner-city poor communities each year until all of Cambodia's urban poor settlements had secure land tenure and full basic services. According to a Council of Ministers' decree, Dey Krahom was to be among the first communities to benefit from this policy. Under the terms of the ensuing social land concession², onsite upgrading was planned on 3.7 hectares of the total 4.7 hectares of land and secure legal tenure was guaranteed for the community. The remaining hectare was allocated for private development.



Jokin Arputham, President of Slum Dwellers International, and Prime Minister Hun Sen on the day they announced the urgent upgrading of 100 poor urban settlements.



In 2005, a private company, 7NG Construction Co, negotiated a contract with a small group of village chiefs and savings group leaders, effectively swapping the prime land of Dey Krahorm for a housing development on inexpensive land more than 20km outside of Phnom Penh. The Dey Krahorm residents never agreed to an off-site relocation and were never consulted about the contract. In fact, the contract was immediately rejected by most Dey Krahorm families, who dismissed their former 'representatives' and filed a civil complaint against them for breach of trust, along with a separate complaint to cancel the contract. Under Cambodian land and contract laws, it is illegal to sell other people's rights to land, so the contract with 7NG was legally invalid. However, Cambodia is a country ruled by powerful people rather than laws. The court ignored the community's complaints.

Since the beginning of the land dispute, the community was subjected to continuous harassment by authorities and company officials. Community leaders and activists who defended the rights of the community faced false criminal charges for destruction of company property or incitement against the government. Most families succumbed to this intimidation and moved to the relocation site or accepted inadequate compensation offers for their homes and land.

However, around 150 families refused to give in and stood their ground in Dey Krahorm, where they successfully resisted eviction through a remarkable campaign of creative, active non-violence. The families elected more than a dozen community representatives, in order to rotate leadership and avoid having their leaders easily targeted. They fought the eviction in the courts and appealed to the National Assembly and the Prime Minister. They held press conferences and invited the media to ceremonies and other events, which



People search through the rubble of their homes after the Dey Krahorm settlement was demolished by police and private 'breakers'.

they organized to assert their rights and defend their land. They even wrote songs of resistance and recorded an album called "Struggle for Our Homes." When the company sent its workers to harass the community and use violence against them, the residents responded by linking arms to form a human shield and sang their songs of resistance. A network of friends and supporters stood in solidarity with the community throughout their struggle. During periods of heightened threat, the solidarity network slept inside the homes of residents to help give the families strength and bear witness in case the frequent rumors of impending eviction came true.

Dey Krahorm was often described in the media and by government as a 'slum'³, but anyone who spent any time in the village knows that it was much more than a collection of poor dwellings. Dey Krahorm was a community of artists, comedians, aging traditional musicians and teenaged break-dancers. It was a vibrant community of shell sellers and market vendors, civil servants, and school children. It was an organized and empowered community whose members understood their rights and defended them against enormous odds.



In a matter of three hours it was reduced to a pile of rubble.

The homes of Dey Krahorm's families were demolished by hundreds of military police and private contractors armed with bulldozers, sledgehammers, hatchets, iron bars, electric batons, AK-47s, and tear gas. Shortly after the break of dawn, security forces and privately contracted 'breakers' who began assembling around the community since 2 am moved in. Families locked themselves in their houses but the doors were soon knocked down and the residents removed. Riot police led the way by ushering out residents and pushing back observers. Some people who attempted to resist the destruction of their homes were taken away in handcuffs. Others were violently thrown to the ground, beaten, and kicked by the breakers. Fire extinguishers and tear gas grenades were fired at residents and observers at close range.

Some of the breakers were as young as 13 years old. These child breakers were equipped with hammers or metal sticks and actively participated in the demolition of houses. The company employees directing the child breakers put them in great danger, as they were instructed to disassemble the upper stories of falling homes.

Many residents who refused to leave their land were not able to salvage their possessions. All their personal belongings were destroyed, including motorbikes, furniture, clothing, televisions, cooking utensils, photographs, family heirlooms, schoolbooks, and important medication, and documents. Every item

these families owned was buried under their demolished homes.

Excavators tore down the larger houses and bulldozers crushed their remains. In one instance, a bulldozer nearly crushed a resident. The woman was extremely agitated and attempted to hit the driver, who became angry and retaliated by driving directly towards her and pushing mounds of debris in her direction, seriously threatening the woman's safety. The woman fainted from the trauma and collapsed amidst the rubble when the bulldozer came barreling at her, only stopping within inches of crushing her to death. She was carried away by her wailing daughter and was later found to have sustained fractures to her hip and ankle. Others tried to immolate themselves in a final act of defiance but were prevented from doing so by police, who carted them away before they could burn themselves alive in protest.⁴

Flat-bed trucks took away the debris and re-usable building materials. Officers were witnessed carrying away electrical goods. Some families who agreed to move to the relocation site were allowed to load their remaining possessions onto trucks and were driven away. They were hauled off and dumped in front of the relocation site 20 kilometers outside the city. No food, water, shelter or latrines were prepared for them there. Families who were on the company's list of those 'eligible' for compensation were given small flats resembling one-car garages at the distant relocation site. Hundreds of other 'ineligible' families, including both renters and owners that the company failed to recognize, assembled

In April 2009, the Dey Krahorm community leader Chan Vichet traveled to Geneva to testify about forced evictions in Cambodia before the United Nations Committee on Economic, Social and Cultural Rights. The Committee delivered a strong rebuke to the Government and referred to the forced eviction of Dey Krahorm in its Concluding Observations and Recommendations for Cambodia. For Chan Vichet, this was a vindication of the community's struggle by the international community.

makeshift tents on the road in front of the housing development while they waited for the authorities to decide their fate. Thirty-eight families refused to get onto the trucks and instead went to the offices of a local human rights organization.

Meanwhile, the Deputy Governor of Phnom Penh, Mann Chouen, delivered a press conference where the Dey Krahorm market once stood. Afterward, he met with police and military officers and publicly congratulated them on the operation. Then he posed for photographs with various 7NG staff, including the owner's son, and the spokesperson for the Council of Ministers. They smiled for the cameras in front of the smouldering remains of the community that they just destroyed. The attending press failed to ask the company how it managed get away with stealing a US\$ 44 million piece of real estate in the heart of Phnom Penh.

In line with the Cambodian government's official line that there are no forced evictions in the Kingdom, the Deputy Governor asserted that the wholesale destruction of the Dey Krahorm community was not an eviction but rather an "administrative action". A more accurate description would be grand theft.

The following Monday morning, more than 100 Dey Krahorm families went to City Hall to demand restitution of their property that had been taken and destroyed. They were told that cash compensation was no longer on offer and all that each of them could receive was one of those sad flats that the company built at the relocation site. The families rejected

this option because the site is far away from their jobs and small businesses in the city, where their children attend school and where they can access basic services. They knew that moving there would constitute a complete disruption of every aspect of their lives and would almost certainly result in their deeper impoverishment. They were forced to choose between homelessness and moving somewhere against their will.

The families continued to protest for a month following the eviction and they enlisted the support of prominent international donors and embassies but without their land beneath their feet, the community was weakened and increasingly lost hope. One by one, the families accepted flats at the relocation site, for which they had to sign a contract promising never to demand restitution from 7NG.

The more than 330 families evicted from Dey Krahorm who were 'ineligible' for flats at the relocation site languished under tarpaulins on the road for eleven months before being evicted for a second time in early January 2010⁵. This time they were trucked to a site 80 kilometers outside the city, where they were given four by six meter plots of scorched land - too hard to grow anything and prone to flood in the rainy season. There was no water or sanitation, and no jobs in sight.

The Dey Krahorm eviction was truly devastating for those who had worked intimately with the community throughout their struggle. Despite all of the solidarity and support that had been mobilized from around the world, the campaign had failed.



Some community members, shocked and traumatized, directed their displaced aggression at the NGOs that had done so much to support their struggle. In the immediate aftermath of the eviction, it was difficult to remain positive about the cause of defending housing rights and the ability to make a difference in the face of such a callous regime.

However, after the passage of time and with the distance to reflect, it became clear that while the battle for Dey Krahom was lost, the community's struggle to save their homes was, in many ways, a milestone in the long-term struggle to force Cambodia's ruling elite to recognize the land, housing, and property rights of the poor. It put the issue of forced evictions in Cambodia on the international radar, alerting potential foreign investors of the social harms they would cause, and backlash they may face, if they invest in projects in Cambodia that lead to displacement.

Civil society advocacy after the eviction led the European Union to issue a formal *démarche* to the Cambodian government - an unprecedented diplomatic act for a forced eviction and one that had only once been issued before - in response to the coup d'état in 1997. The advocacy that followed the eviction also led the World Bank and several bilateral donors to advocate publicly for the Cambodian government to declare a moratorium on evictions until a national resettlement policy framework is put in place. Prior to this, Cambodia's donors had never taken an interest in the issue of forced evictions, much less spoken out publicly about it. The political damage that the government and the Municipality of Phnom Penh suffered as a result of the international outcry over the eviction was severe, and this is likely to affect the manner in which it approaches future evictions, at least in the capital city.

Those Dey Krahom residents who resisted the illegal taking of their land managed to delay

the eviction for three years after they received their first eviction notice. The company and the authorities were fully prepared to carry out the eviction a year earlier but because of the non-violent resistance of the community, they were unable to do so. In November 2007, for example, the company tried to erect a fence around the community, but the company's workers were blocked by the residents who stood in their way and refused to move. Shortly thereafter, on December 10th, International Human Rights Day, the community and local housing rights organizations mobilized more than 1,000 people from other threatened communities in Phnom Penh to form a human chain around Dey Krahom, with everybody wearing t-shirts that said 'Stop Evictions'. The solidarity action was joined by Yash Ghai, the United Nations Special Representative for Human Rights in Cambodia⁶. It was a show of strength that likely forced the company to delay its plans to carry out the forced eviction.

During the ensuing year, some attempts were made by the company and City Hall to broker a negotiated cash settlement. Compensation offers rose from US\$ 3,000 in 2006 to up to US\$ 20,000 in the days before the eviction and a number of families accepted these higher levels of compensation. While far below the market value of the land and less than what is needed to purchase a comparable property in the city, this was some measure of success.

The forced eviction of Dey Krahom attracted a great deal of media attention, however, this story is commonplace in Cambodia today. There are hundreds of communities just like Dey Krahom across the country, where land is being taken from the poor with impunity by the powerful under the banner of 'development'. Their stories are most often unheard but they are suffering from the same distorted development model that allows a tiny elite to amass enormous wealth, while the country's natural resources are plundered and



the most vulnerable are driven into deeper impoverishment. More than 3.5 million people, or 25 percent of the population, are now landless.⁷ Millions more live without tenure security, never knowing if their land might be targeted next. Without an independent judiciary, these poor communities have no effective legal remedies available to them. This epidemic of land theft in the absence of the rule of law flies in the face of poverty reduction policies touted by the Cambodian government and its benefactors.

Yet, the resistance campaign mounted by Dey Krahorm was distinctive in the post-war era of Cambodia, a country whose traumatized people are still largely gripped with fear and passivity in the face of injustice. This community's struggle paved the way for other threatened Cambodian communities to stand their ground and it helped breath life into the growing grassroots movement for land rights and development justice. Collective actions have begun to be taken at the national level by grassroots activists in the last year. Another community in Siem Reap called Chi Kreng, is currently resisting eviction adopting the lessons from Dey Krahorm.

In January this year, one year after the eviction, community members gathered at their former local pagoda and walked silently back to the site of their former homes to hold a memorial ceremony. Their land was fenced off and undeveloped. 7NG was selling undeveloped plots for US\$ 2,000 per square meter. This equates to roughly 700% profit on the highest amount of cash compensation the company offered to the residents or 2,000% profit on what most people received. Meanwhile, most former Dey Krahorm residents are still struggling to survive. Aware that they were evicted so that a private company could speculate on the Phnom Penh real estate market, people's anger was palpable at the anniversary memorial. Yet when the former residents came back together that day, their community spirit was intact. They were proud of the fact that they fought for their rights until the end and that they had pushed out the boundaries of possibility in their society.

Their homes may have been demolished but the spirit of Dey Krahorm's resistance continues to inspire us all to stand up for justice and human rights.

David Pred is the Executive Director of Bridges Across Borders Cambodia (BABC), an international grassroots organization working to bring people together to overcome poverty, inequity, and injustice in Cambodia.

Further sources of information

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- Blog on developments in Dey Krahorm: <http://jinja.apsara.org/dey-krahorm-info/>
- Video of the eviction "Development of Dey Krahorm" available at: <http://hub.witness.org/en/node/12664>

Endnotes

¹ The Land Law (2001) introduced the concept of *legal possession* because so many Cambodians had been displaced and all the official records of who owned which plots of land were destroyed during the Khmer Rouge regime and the civil war that followed. The law states that people who settled on land at any time before August 30, 2001 (when the Land Law 2001 was passed), and meet several other conditions, have a legal right to stay and live on the land they are occupying. These people are *legal possessors* and they have *possession rights*, which are very similar to the rights of owners. Legal possessors have the right to apply for title, which secures full ownership rights.



² A social land concession is when the government grants land to families who do not have any land on which to live and/or farm. In the case of Dey Krahorm, the government declared that the community's land was a social land concession as a means of securing their tenure rights and providing them with onsite upgrading. However, many of the Dey Krahorm residents already had legal possession rights to their land, so it was not appropriate to grant them a social land concession; instead, they should have been granted individual land titles.

³ See for example, BBC News, "Cambodia Slum Dwellers Evicted" 24 January 2009. [Http://news.bbc.co.uk/2/hi/asia-pacific/7848634.stm](http://news.bbc.co.uk/2/hi/asia-pacific/7848634.stm)

⁴ This description of events is based on video footage and first-hand accounts of Bridges Across Borders Cambodia and Licadho monitors, including the author, who observed the eviction and its aftermath.

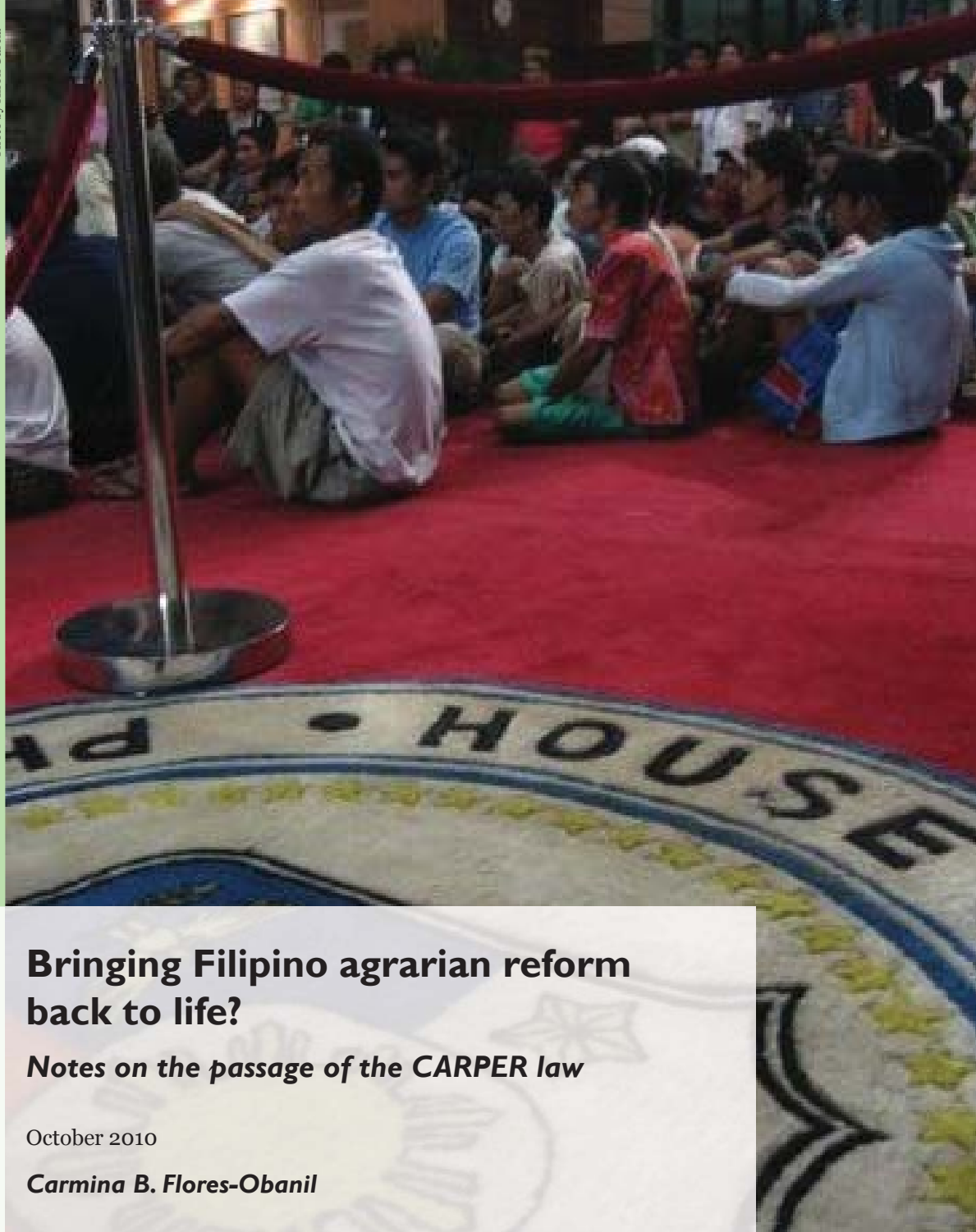
⁵ These "ineligible" families were mainly the renters and market stall owners from Dey

Krahorm who weren't given houses despite being victims of the forced eviction that occurred on 24 January 2009. There were also 22 homeowners who were not recognized by 7NG and denied replacement housing.

⁶ See "Cambodia protest over land grabs," BBC News, 10 December 2007, <http://news.bbc.co.uk/2/hi/asia-pacific/7135827.stm>

⁷ Cambodian Human Rights and Development Association (ADHOC), *Human Rights Situation 2007*, quoting unpublished research by Oxfam GB.





Bringing Filipino agrarian reform back to life?

Notes on the passage of the CARPER law

October 2010

Carmina B. Flores-Obanil

Photo by Aison Garcia

CARPER or the Comprehensive Agrarian Reform Programme Extension with Reforms Law is the newest piece of legislation mandating the implementation of agrarian reform in the Philippines. Signed on 7 August 2009, the CARPER law (Republic Act. No 9700) provides for new funding to support land distribution for five years, for continued provision of support services, and introduces other reform clauses such as improved support for women beneficiaries. This briefing paper concentrates on the campaign that helped to bring the new law into force. It presents the challenges of forging a coalition and the different methods by which pressure was brought on the legislature by the Reform CARP movement.

The fight for the passage of the CARPER law was not a short or an easy one. It can be said it was a struggle not only between the landed elite and the landless poor. The campaign also pitted agrarian reform advocates against each other, making the entire process more tedious and difficult. Some civil society groups who, from the start, rejected as the government's original agrarian reform program or the Comprehensive Agrarian Reform Program (CARP)¹ campaigned together with landowner groups, vigorously and continuously, against the proposed CARPER bill. Since different agrarian reform and rural development civil society organizations waged different campaigns, what is shared below is the experience of the campaign by those who were involved in drafting and pushing for the law that was eventually passed. These campaigners who belong to the group "Reform CARP Movement or RCM"² worked for four years to have the proposed law drafted, adopted for consideration and finally passed by Parliament. The story below is their story.

The Trigger

In 2006, the Department of Agrarian Reform (DAR), the primary implementing agency of the government's agrarian reform programme, working with the German Technical Cooperation (GTZ) launched a study that rocked the agrarian reform community and propelled debates on whether or not the CARP programme should be extended for the second time - beyond June 2008³.

The DAR-GTZ study looked into the implementation of the CARP for the last twenty years, examining in detail the programme's implementation, and came up with what it deemed "scenarios" that the government could adopt with regards to the CARP. It presented four scenarios interestingly referred to as (1) business as usual; (2) sprint to the line; (3) Hercules; and (4) the clean break. The first scenario, "**business as usual**", implied

that the DAR would continue working and operating the way it had over the last twenty years. The "**sprint to the line**" scenario implied an acceleration of the land acquisition and distribution process to achieve near 100 percent completion within 4-5 years. The "**Hercules**" scenario saw DAR continuing the work that they had been doing but without the complementary support (e.g. budget) needed, making their task almost impossible⁴. The "**clean break**" scenario saw the Department junking its land acquisition and distribution function altogether and focusing instead on rural development through supporting service delivery. These scenarios were based on the premise that the DAR had already accomplished 85% of its land acquisition and distribution targets - a figure which is greatly contested by agrarian reform advocates.

The study stirred controversy. It was presented in a round of consultations at the national level (involving a limited number of Manila-based organizations working on agrarian reform, government agencies involved in CARP implementation, funding donors, individual advocates, etc.) and at the regional level. The findings of the study were presented along with the "scenarios" as proposals for adoption by government. Though these were couched as proposals, the DAR seemed involved heavily in peddling the "scenarios", which worried agrarian reform advocates who attended the consultations. Presentations seemed to lean towards the "clean break" scenario whereby the DAR would abdicate its role to distribute lands and would only concentrate on supporting service provision in the future. Further, some DAR personnel who attended the consultations seemed keen to support the idea of leaving their land distribution duties. This fuelled speculation that the "scenario" being put forward was already an accepted fact inside the DAR.





Photo by Aison Garcia

While there had indeed been initial discussions among agrarian reform and rural development civil society organizations about the impending 2008 “deadline” for CARP, the DAR-GTZ study provided a strong impetus for these CSOs to work together. The initial coalition⁵ expanded to include more organizations later and evolved into “the CARPER coalition”, and finally emerging later as the “Reform CARP Movement”. The change in the name became necessary to distinguish those who were campaigning for a “mere extension” of the programme with those who were pushing for extension of the programme along with additional reforms of the law and the DAR itself.

The Fight for CARPER

Many strategies and tactics relating to policy and public advocacy were employed by the campaigners during the four year CARPER campaign. At certain times, several smaller campaigns were being waged simultaneously at

the national and the local level to complement the national campaign and to emphasize the support of local organizations to the campaign.

The first hurdle was to mobilise the various CSOs into a coherent campaign movement. In the Philippines however, given the colourful history and dynamics of CSOs, it is no easy feat even to get these groups together in one room to discuss their common concern. More often than not, these CSOs tend to coalesce only with the other organizations with which they are comfortable or which at least share the same positions that they have on certain issues. Many NGOs and POs, even if they are broadly aligned, do not view CARP or approach its implementation in exactly the same way. Thus the sustained attendance of many of these POs and NGOs at the first and subsequent meetings / consultations⁶ which produced the initial draft of the CARPER bill was in itself a major accomplishment. However, given the different tactics and strategies that these organizations wanted to employ in pushing for CARP’s extension, it ultimately became impossible to form what could have been the broadest agrarian reform and rural development coalition since 1987-1988⁷. The inability to form a broader coalition resulted in scattered and sometimes duplicated efforts to push for the CARPER law. In the end, however, effort to push for the law were centralized with the intercession of the Church which heavily supported the campaign (to the extent that Bishops joined a hunger strike for the passage of the CARPER law).

Policy Advocacy and Lobbying the Legislature

Since a law was necessary to provide the additional funding to extend CARP’s implementation, RCM worked on lobbying the legislative and the executive. Legislative lobbying included finding sponsors for the draft bill within both the Senate and the





House of Representatives, finding other sponsors and supporters, working closely with the appropriate legislative committees, and monitoring closely whether the bill was moving fast enough. A pool of advocates within the ranks of the RCM led the legislative campaign, establishing working relations with both the Committee and the staff of the Committee Chairman at both Houses (House of Representatives and Senate), making it easier both to monitor the movement of the bill and to respond to issues being raised by other legislators about the bill.

Working with the Executive meant involving the Department of Agrarian Reform (DAR) in the campaigns and securing former President Gloria Macapagal-Arroyo's support for the bill. Unfortunately, different officers within DAR were split on whether or not to support the CARPER bill. And most of time during the campaign while it was apparent that DAR wanted an extension, the DAR personnel were not sure whether they wanted the CARPER bill, especially since it would establish an enhanced implementation and monitoring mechanism through the Oversight Committee and it called for the rationalization/streamlining of the DAR. It is only in the last stages of the campaign that DAR truly mobilised and worked for the passage of the CARPER law. Even the background data needed by the champions of the legislation was provided by RCM advocates. Where data was provided by the Department, it became RCM's job to distill the data to make it easier for the sponsors to use in defending the provisions of the CARPER bill.

Harnessing the Media and the Public

One of the best ways to popularize and gain support for an issue in the Philippines is to harness the mass media. The RCM held a lot of press briefings, press conferences, and mobilizations that were covered by the media for the CARPER campaign. One real challenge

for the coalition was coming up with new angles on which to anchor the calls for the urgent passage of the CARPER bill. It was good to establish regular communications and to pique the interest of media people so that they could follow the issue. Many mobilizations such as a trek from Mindanao to Manila (around 1,700 km) on foot led by farmers pushing for the passage of CARPER (and carrying their own agrarian reform case as well), and other provincial level marches, helped hold the media's attention and brought the issue of CARPER to the public's attention.

The sacrifice made by the farmers, walking long distances under the blistering sun and leaving their families and livelihoods behind, inspired students, civic organizations, religious orders and officials of the Catholic Church to take on the issue of pushing for CARPER. The Church proved to be one of RCM's most powerful allies in pushing for the passage of CARPER.

In the CARPER campaign, aside from the mobilizations often associated with progressive forces like CSOs, many strategic brainstorming sessions were held to assess other tactics that could highlight the issue better. Ironically, the most effective of these were the spontaneous actions taken in response to the emerging developments in the halls of Congress. A good example of this was when farmers jumped inside the gallery of Congress and initiated a sit-down strike in front of House Speaker Prospero Nograles' office after Congress failed to pass the proposed bill in June 2008. The action prompted Speaker Nograles to pass a

Joint Resolution giving Congress and Senate a further six months to pass the CARPER bill.

Since farmer leaders were involved in drafting the bill from the start with, they became the best speakers and advocates for the CARPER campaign. Capability building efforts were carried out to arm the farmer advocates with information, and they were actively involved in lobbying the legislators.

Materials were prepared to also familiarize the members of farmer's organizations involved in the campaign and strong efforts were also made to encourage local actions that attracted popular attention at the national level.

The campaign also maximized non-traditional methods. With the world using technology to impart information, CARPER campaigners made effective use of social networking sites such as Facebook, Multiply, etc., which provided regular updates about the campaign. Text messages were also used to send immediate updates, especially when threats emerged against the proposed bill.

Accomplished but not completed

The campaigners for CARPER experienced many highs and lows in the course of pushing for the passage of the CARPER. The lowest point was probably when Congress failed to meet its second deadline to pass the extension law in December 2008. At this time, insult was added to injury when a Joint Resolution was passed suspending the government's powers of compulsory acquisition, which effectively



stopped the implementation of agrarian reform from January to June 2009.

Still, the campaigners persisted, and in the end the bill was passed - not with all the reforms that they had envisioned, but with enough substance to push for meaningful agrarian reform for another five years. The new law includes reform provisions to help resolve the host of problems that agrarian reform beneficiaries encountered over the last twenty years of implementation of CARP, and should equalize access to opportunities among men and women agrarian reform beneficiaries.

However, the next five years will perhaps see the hardest fight for agrarian reform to date, as the DAR attempts to distribute the biggest landholdings that have remained in the hands of the major landowners. This will be doubly difficult for the DAR since it was ready to give up its land redistribution function under the “clean break” scenario that was promoted in 2006. Now the DAR is obliged to operate more efficiently under a “sprint-to-the line” scenario for it to fulfil the mandate of CARPER and complete the land redistribution by June 2014.

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Endnotes

¹ The Comprehensive Agrarian Reform Program (CARP) is the main program on agrarian reform being implemented in the Philippines. It's a mandated program under Republic Act No. 6657 or the Comprehensive Agrarian Reform Law (CARL) passed on June 10, 1988. It was to be implemented for 10 years from 1988 to 1998. However, by 1998 only 65% of the land distribution target had been accomplished by the DAR and an even lower accomplishment for DENR. Another law, Republic Act No. 8532 was passed therefore in 1998 providing funding for CARP for another 10 years during which only an additional 20% of the target was reached according to official figures. In fact it is difficult to assess the actual accomplishment of DAR and DENR in land redistribution (i.e. there are problems of titles generated but not issued to beneficiaries, uninstalled agrarian reform beneficiaries or beneficiaries not in actual occupation of the lands awarded them, etc.). DAR started a survey process to ascertain how many lands still need to be redistributed or exempted under the CARPER law, and this scope was extended from 8.06 in 1996 to 9.1 million hectares in 2008.

² The Reform CARP Movement is composed of peoples' organizations, farmers organizations, non-government organizations and individual advocates: AMKB, KABAPA, MAKABAYAN-PILIPINAS, PAKISAMA, PARAGOS-PILIPINAS, PKSK, Samahang Magsasaka ng 53 Ektarya ng Macabud; NGOs – AJFI, CARET, CSI, FOCUS, KAISAHAN, MODE, PASCRES, PDI, PEACE FOUNDATION, PLCPD, PRRM, RWC-CSI, SALIGAN; Coalitions – AR-NOW!, KILOS AR, PARRDS, PESANtech, PKKK; Partylist-AKBAYAN and AMIN; Individual: Prof. Palafox.

³ The Republic Act No. 8532, passed in 1998, provided additional funding to the CARP for only another 10 years or until June 2008. However, there were two conflicting interpretations about the June 2008 deadline set under RA 8532. One interpretation was that the whole programme would

expire in June 2008. The second interpretation was that only the funding for CARP would expire by June 2008 since RA 8532 was explicitly passed to provide additional funding for CARP. As funding is a crucial element in any government programme, the failure to allocate funding for CARP after June 2008 would have spelt certain doom for the programme.

⁴ Likening the difficulty of the challenge to DAR as similar to the immense challenges given to the ancient Greek superhero, Hercules.

⁵ The initial coalition in fact started informally during one of the final consultations for the DAR-GTZ study in October 2006. The following month, on November 10, 2006, agrarian reform advocates met to discuss the issue of the proposed extension of the Comprehensive Agrarian Reform Program. The participants aimed to reach a consensus and reconcile Scenarios 1 and 2 of the future of the Department of Agrarian Reform, as well as provide key recommendations on which reforms should be put in place under a CARP extension period.

⁶ The meetings and consultations for the drafting of the bill were to some extent battlegrounds where the different views and positions about issues surrounding the bill were surfaced and debated.

⁷ In 1987, after the Mendiola Massacre, peasant groups and NGOs, in a bid to push the Aquino administration to implement and enact an agrarian reform law, formed a coalition that would go down in Philippine history as the biggest and broadest civil society coalition of advocates for agrarian reform and rural development. It was composed of civil society organizations which came from different backgrounds and ideologies. Though this would later break up, the mobilizations and actions carried out by this group (Congress for People's Agrarian Reform or CPAR) remain unparalleled in Philippine history. CPAR brought together NGOs and POs of differing ideologies in a common call for the implementation of genuine agrarian reform. Its mobilizations for agrarian reform were also unparalleled in numbers so far.





Formalizing Inequality

Land Titling in Cambodia

October 2010

Natalie Bugalski and David Pred

The Land Law of 2001 was a landmark statute intended to strengthen and protect the rights of ordinary Cambodian landholders. A land titling programme (LMAP) was initiated soon afterwards, with extensive World Bank and donor support. The land occupied by the community of Boeung Kak, in the heart of the capital was excluded from this process, despite evidence of prior residence going back decades. Instead it was classified as having “unknown status” by the LMAP, as “state land” by default, and as a “development zone” by authorities. This paper highlights the failure of the LMAP programme to protect the rights of vulnerable people living on sought-after land. Instead residents’ insecurity has increased: while many have been forced to leave, more than 2,000 families still remain and are standing their ground under threat of forced eviction. The paper also describes the community’s action to bring a case to the World Bank Inspection Panel, demanding that the World Bank undo the damage caused to their community.

PHOTO: Houses collapse into Boeung Kak lake after sand is pumped to reclaim land for commercial development.

In February 2007, the Municipality of Phnom Penh granted a 99-year lease to a private company, Shukaku Inc., over 133 hectares of prime real estate, including Boeung Kak Lake and the surrounding land where some 20,000 people reside. The lease was granted for a mere US\$79 million dollars, a fraction of the estimated value of the prime city-centre property. The agreement blatantly violates the Cambodian Land Law, which stipulates that State public property – including lakes, which have inherent public value – cannot be sold or subjected to long-term leases. Furthermore, a lessee must not damage the property or affect or change its public function¹. In direct contravention of the law, the company began filling the lake in August 2008, with the stated intention of building a new ‘satellite city’ with private villas, shops and office buildings on the site. The lease agreement usurps the land rights of residents, many of whom have been living around the lake since the fall of the Khmer Rouge regime in 1979 and thus have strong legal claims to the land.

Illegal land grabbing by powerful actors is unexceptional in Cambodia, where forced evictions and confiscation of land rank among the country’s most pervasive human rights problems. Since 1990 approximately eleven percent of the population of Phnom Penh has been forcibly evicted and relocated to peri-urban resettlement sites that often lack housing, basic infrastructure, and access to public services and employment². In rural areas, more than a quarter of Cambodia’s arable lands have been carved up and granted as “economic land concessions” to Cambodian and foreign investors without regard for the rights of affected rural and indigenous communities. As a result, these communities have suffered widespread displacement, dispossession of their farming and grazing lands, and reduced access to the forests that sustain their livelihoods³.

What makes the Boeung Kak case stand out is that the concession was granted shortly after the local commune⁴ underwent a flawed systematic land registration process under the Land Management and Administration Project (LMAP) funded by a variety of donors. Had the process of land adjudication and registration been conducted according to the law, many households around the lake would have had an opportunity to stake their claim to legal possession rights, and thus to formal title pursuant to the Land Law. Instead, the area covered by the lease was excised from the wider adjudication area. Authorities told residents that they could not issue titles in the area because it was a “development zone.” The households were thus arbitrarily cut-off from the land titling process and blocked from claiming their legitimate entitlements precisely when they were most in need of the security afforded by title. More than one thousand affected families have since been coerced into accepting compensation for a fraction of market value for their homes and land, and the remaining roughly three thousand families are currently facing the threat of forced eviction.

The Land Law of 2001 (see box 1) protects legal possessors from interference with their rights until full ownership is conferred⁵. The effect of this provision should be that until a peaceful occupant’s land rights are determined through the adjudication process, no eviction is legal. Once land is registered as private property, both the Constitution and the Land Law stipulate that expropriation may only be carried out by the State, in the public interest, after fair and just compensation has been paid.

The Land Management and Administration Project

The multi-donor supported Land Management and Administration Project (LMAP) began in 2002 as the first phase of the government’s land reform program, established to give



Box 9-1 A brief background on land tenure in Cambodia

While not dissimilar to patterns experienced by other rapidly developing countries, current land tenure conditions in Cambodia are a manifestation of unique historical factors coupled with the recent introduction of policies and programs typical of the dominant development paradigm. The significance of historical factors is particularly pronounced in a country in which the population was uprooted and the existing land tenure system was erased by one of the twentieth century's most sweeping revolutions. During the Democratic Kampuchea (Khmer Rouge) regime from 1975 to 1979, private property was abolished and land records were destroyed. The nation's population was forced to toil on large collectivized farms and irrigation projects, where more than one million people were worked and starved to death. After the regime was toppled by Vietnamese armed forces, people began returning to their homelands or settling in new areas to rebuild their lives. In Phnom Penh, which was evacuated and left largely vacant during the Khmer Rouge reign, people began to return from the countryside and refugee camps, occupying housing and settling on land largely on an ad hoc basis.

The withdrawal of the Vietnamese administration in 1989 paved the way for the Paris Peace Agreement in 1991 and the establishment of the United Nations Transitional Authority in Cambodia (UNTAC). Under the tutelage of UNTAC, the International Monetary Fund, the World Bank and other financial and development institutions, a market economy was initiated, with policies aimed towards private sector development and foreign investment, including the formalization of land ownership.

Private property rights were first reinstated in 1989 and an active land market soon emerged. While no effective formal land registration mechanism was established in the 1990s, land ownership, use and transfers were "informally" recognized by local authorities through the issuance of various forms of documentation.

In 2001 a new Land Law was approved by the National Assembly, which was widely hailed as progressive and transformative, providing a strong legislative basis for the equitable protection of land rights. Importantly, the law confirms that people who occupied property before 31 August 2001, and meet a number of other conditions, have exclusive rights to the property, which can be transferred to full ownership (under article 38 of the Land Law). Such rights are known as "possession rights" and form the legal basis of the adjudication process in the land titling and registration program that commenced the following year. It is illegal to possess State public property, as defined by the law, or someone else's private property. Any occupation of land that commenced after the passage of the law is also illegal.



effect to key provisions of the 2001 Land Law. The project was originally envisioned as the first phase of a program of land reform to be implemented over a 15-year period, with the objectives of strengthening land tenure security and land markets, preventing or resolving land disputes, managing land and natural resources in an equitable, sustainable and efficient manner, and promoting equitable land distribution. LMAP intended to focus on the development of the legal and regulatory framework; institutional development; land titling and registration; strengthening land dispute resolution mechanisms; and land management⁶.

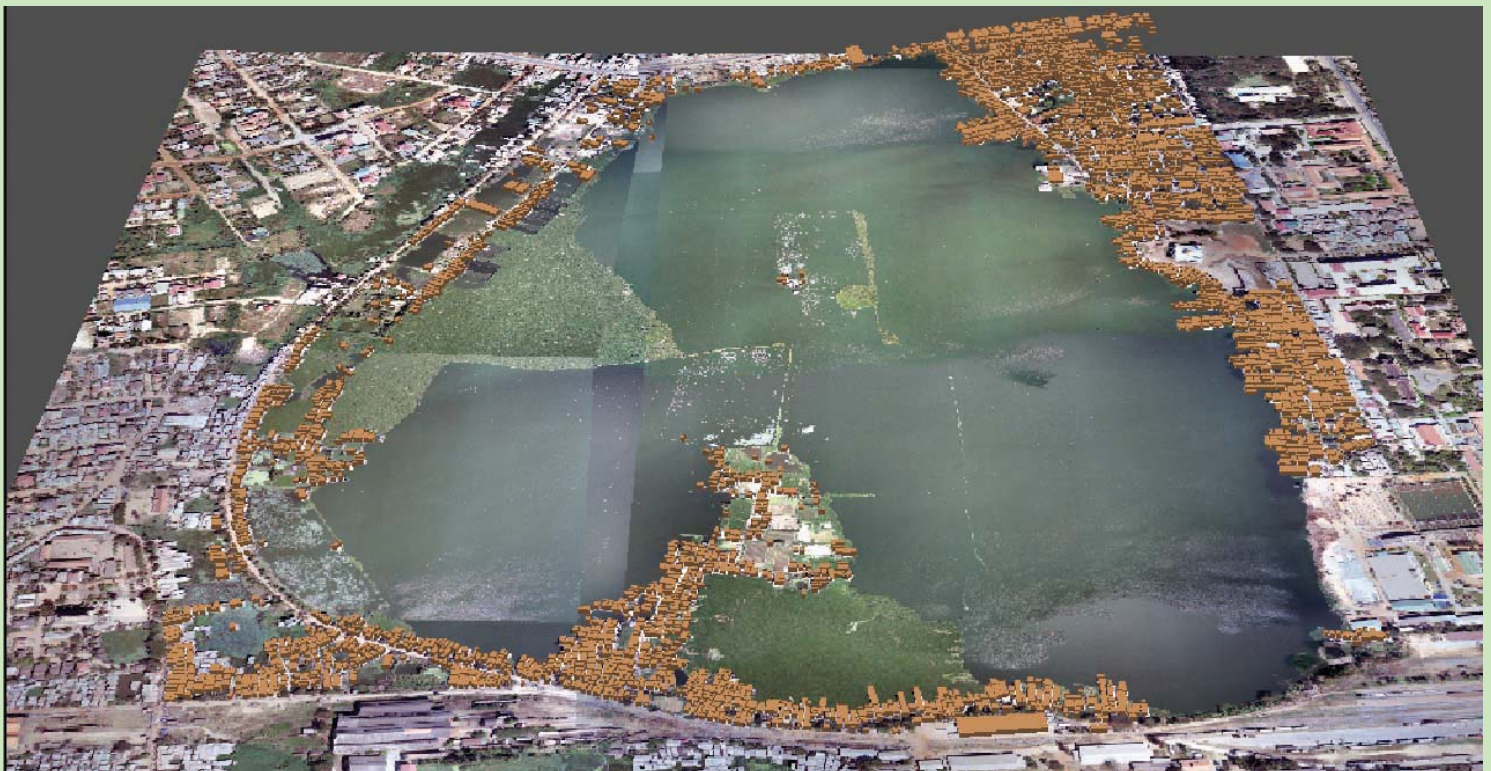
The primary donors to the project were the World Bank (pledging \$28.83 million), GTZ⁷ (\$3.5 million in technical assistance), and the Government of Finland (\$3.5 million in technical assistance)⁸. The Canadian International Development Agency (CIDA) joined the project in 2004 committing more than CN\$10 million in both funding and technical assistance through to 2012⁹.

Over the project's duration (2002 – 2009) a number of goals were achieved: key parts of the legal framework were developed, technical capacity of Land Ministry staff was strengthened, and an estimated 1.3 million titles were issued.

Yet despite these achievements, the failure of the project to tackle fundamental inequities in the control and management of land meant that it did not improve tenure security for the segments of Cambodian society that are vulnerable to displacement. Vulnerable households that have legal possession rights are routinely and arbitrarily denied access to land titling and dispute resolution mechanisms, which undermined the project's central aims of reducing poverty and promoting social stability¹⁰.

Two main factors in the design and implementation of LMAP impaired the capacity of the systematic titling mechanism to achieve its aim of improving land tenure security: the exclusion of difficult areas and the lack

Map of Boeung Kak settlement based on aerial photo in 2007 before the development commenced.



of transparency in State land classification. These factors in practice allowed municipal and provincial authorities unchecked discretion in the selection of adjudication areas, which has benefited powerful actors at the expense of vulnerable households.

Exclusion of difficult areas

The first key factor in the design of LMAP that blocked vulnerable households and communities from accessing title is that areas “likely to be disputed” and areas of “unclear status” were excluded from the system¹¹. These terms were not defined in the project design documents, allowing for the arbitrary exclusion of areas from the titling process. We refer to them here as difficult areas.

In practice, the exclusion of these ‘difficult areas’ allowed provincial or municipal authorities, who are in charge of selecting adjudication zones, to excise areas that are sought after by powerful domestic actors and foreign investors. This exclusion occurred both in the process of selection of adjudication areas and in the excision of zones within adjudication areas on an arbitrary basis. Little information about the process was made available to the public, nor were there consultations with affected persons about decisions to excise specific areas. It is important to note that the same authorities conferred with the power to select adjudication areas have also played a significant role in land-grabbing and forced evictions in many cases. As a result, many thousands of households that lie within excised portions of land are being evicted without their tenure status ever being assessed - in direct contravention of article 248 of the Land Law.

The decision to avoid difficult or complex areas in favor of targeting areas in which adjudication would be relatively straightforward may be reasonable during an initial period in order to build capacity of titling teams. However,

without the terms being clearly defined, this design feature presents a significant loophole that allows land grabbing to continue unhindered by the land registration process.

Attempting to register only non-contentious plots of land throughout the country is counter-intuitive given the aim of LMAP to reduce the instances of land conflict and land grabbing. Given that the *raison d’être* of the land registration program is to clarify the status of land according to legally prescribed definitions, the exclusion of areas of “unclear status” is a peculiar design feature. At what point and by what process does an area’s status become clear and therefore a target of land registration?

Although titling under LMAP was to avoid disputed areas, LMAP did aim to build the capacity of the Cadastral Commission¹². The 2001 Land Law established the Cadastral Commission, which has primary jurisdiction for the resolution of disputes over unregistered land. However, according to a World Bank study, people involved in disputes often avoid filing complaints as “[f]ormal institutions of justice such as the Cadastral Commission or the courts [are] perceived as costly, time consuming and biased toward the rich”¹³. Poor and vulnerable communities involved in disputes with powerful and well-connected individuals who do file complaints to the Cadastral Commission find them unresolved, rejected or simply ignored¹⁴.

This impotence of the Cadastral Commission and the courts to resolve disputes between weak and powerful parties in accordance with the law raises larger questions about the design and sequencing of the project. Should a formal titling process ever have been initiated in the Cambodian political context without first strengthening these institutions and the rule of law?



Lack of transparency in State land classification

The lack of transparency in State land classification and registration is another crucial factor in the exclusion of vulnerable households from the land titling system. Under LMAP, titling private land was to occur in conjunction with State land classification. A key component of the project was to clarify procedures for defining different types of land and to create land classification maps for all project provinces. Despite the passage of the 2001 Land Law and a number of regulations issued in relation to State land management, there is still no coordinated and transparent land management system in place. To date, there has been minimal or no public involvement in the development of such a system, and if any State land database exists, it is not available for public viewing. Consecutive LMAP supervision reports assessed this component as performing poorly¹⁵.

In the absence of a transparent State land classification process, and a publicly available database of State land, attempts to register private land through a fair and legal process are easily thwarted. Denial of title is routinely justified by the assertion that people are illegally settled on State land; yet these claims by the State are being made outside the legal framework.

The failure of this component of LMAP is unsurprising bearing in mind the opportunistic way in which authorities have arbitrarily classified land to serve the interests of powerful actors and the private sector. The result has been the improper classification of land as State property for the purpose of facilitating commercial development projects, including the granting of large-scale land concessions. In turn, these actions have led to forced displacement, land alienation, and the loss of residential land, farmlands and public spaces.

The Boeung Kak case exemplifies how, by excising certain areas from the registration process, authorities arbitrarily classify land as State property, without regard to its characteristics or the legitimate rights of those residing there. Many households in the Boeung Kak area had been recognized by local authorities since the 1990s through “informal” tenure systems, including the issuance of house numbers, family books, small infrastructure improvements and the official witnessing of land sale contracts. In 2006 the commune of Sras Chok, including the area surrounding Boeung Kak lake, was announced as an adjudication zone for the purposes of systematic land registration. Possession rights of each household should have been assessed and if found valid, full land titles conferred. Any competing claims to the land should have been resolved in the process, and if this was not possible, they should have been referred to the Cadastral Commission for resolution according to the law.

However, residents say that when they requested that their land claims be investigated, their requests were denied on the grounds that they were living inside a “development zone.” The cadastral map (identifying land rights boundaries) was posted for public display in early January 2007 with ownership of all plots within the development zone listed as “unknown”.

Although no formal registration of the land to the State appears to have occurred, the adjudication process resulted in a de facto determination of the status of the land as State-owned. This was confirmed the following month when the Municipality signed an agreement, on behalf of the State, to lease the lake and the surrounding land to Shukaku Inc. Meanwhile, the residents were pressured into leaving their homes without having their right



to apply for title being realized by LMAP, and with no meaningful access to dispute resolution mechanisms. The Boeung Kak case serves as a pertinent example of the manipulation of the land classification and registration system to serve powerful interests and deny people their legal rights.

A 'dual system' of rights protection

The exclusion of vulnerable households from the donor-funded titling program amounts to systematic unequal treatment within Cambodia's land rights protection regime.

Most households that perceive themselves as owners have traditionally relied on various documentation issued by local authorities (sometimes called "soft title") to prove their claims to the property. The recognition of possession rights in the 2001 Land Law, including the right to convert legal possession into full ownership through title, was intended as a mechanism to incorporate this pre-existing tenure system into the formal centralized system. As noted above, the Land Law protects all peaceful occupants of immovable property from interference with their possession until rights over the land have been determined through the adjudication and registration process.

However, once land becomes sought after, it is commonplace for the land rights of possessors to be denied, even if they have strong documentation to support a claim

for lawful possession. Without 'hard' formal title, possessors are accused of being 'illegal squatters,' and this in turn has become a common justification for eviction. This accusation disregards the fact that many of these households have not had their land claims fairly assessed through the formal land registration process. The evictions that often follow disregard the legislated moratorium upon any interference with peaceful possession prior to land registration.

LMAP did not create this 'dual system'. Formal titles were being issued sporadically to the privileged few prior to the commencement of LMAP. These titles existed alongside the 'soft' recognition from local authorities. However, rather than effectively and uniformly incorporating the old tenure system into the new formal one, LMAP appears to have fortified the dual system's unequal protection of rights. By expanding the reach of the formal titling system, LMAP has increased the actual and perceived superiority of hard titles issued under the project vis-a-vis the documentation and recognition of occupancy that characterized the pre-existing tenure system. LMAP has thus unwittingly weakened the tenure status of those households who have been excluded from the formal system and thus must continue to rely on their local documentation and recognition as the basis of their rights to the land.

The Boeung Kak case provides an illustration of this dual system in practice. Many Boeung Kak

Model of Boeung Kak development plan, released by Municipality of Phnom Penh in May 2010.



residents hold documents that demonstrate their lawful possession and recognition by local authorities under the pre-existing tenure system. When Boeung Kak residents were blocked from the titling process, their previous tenure status was disregarded and they were homogeneously accused of illegally occupying State land. In effect the project not only failed to adjudicate and formalize their tenure but it also degraded their pre-existing tenure status, leaving them more vulnerable to forced eviction. Households with legal possession rights that should have been converted to ownership under LMAP were also denied their constitutional right to fair and just compensation in advance of property expropriation.

Complaint to the World Bank Inspection Panel

When the Boeung Kak area was de facto classified as State land during the flawed adjudication process, the estimated 4,000 families residing there were effectively categorized en masse as illegal squatters.

According to the LMAP credit agreement between the World Bank and the Cambodian Government, a Resettlement Policy Framework, was to be applied “in the event of eviction from state land” resulting from the adjudication process¹⁶. The policy required that evictions should be avoided whenever possible and, in

cases in which they are unavoidable, proper compensation and resettlement options must be offered to affected persons in order to ensure that, at a minimum, their living standards are maintained. The policy – an important human rights protection component of the titling program - was not applied to the eviction of households in the Boeung Kak area. A regular World Bank supervision mission that visited the adjudication area in 2008 failed to query the exclusion of the Boeung Kak residents from the titling process or raise concerns about the impending evictions and the application of the Resettlement Policy Framework.

In August 2009, prompted by lobbying from community and NGO advocates, as well as the report of a World Bank Safeguards Review Mission, the World Bank’s Regional Vice President called for the application of the Resettlement Policy Framework in the case of Boeung Kak in a meeting with senior government officials. Shortly after, in early September, the Government announced its decision to cancel the remaining World Bank financing for LMAP, citing as its reason the complexity of the conditions attached to the funds¹⁷.

On the same day as the Government announced that it was terminating LMAP, a complaint was submitted to the World Bank Inspection Panel upon the request of Boeung Kak residents¹⁸,



Recent photo indicating the extent of landfill of Boeung Kak Lake

who were denied both proper adjudication of their land rights and the application of the LMAP Resettlement Policy Framework. The complaint alleges that the Bank breached its operational policies by failing to adequately supervise LMAP, which denied Boeung Kak and other vulnerable households access to due process in contesting competing claims to the land. It further claims that the Bank failed to ensure government compliance with the Resettlement Policy Framework in the case of evictions from State land in areas that have undergone the systematic titling process, including evictions from the Boeung Kak area.

In April 2010, the World Bank Board of Executive Directors approved the Inspection Panel's recommendation to conduct a full investigation into LMAP. The community representatives and land rights advocates who lodged the complaint are demanding that the World Bank, which bears responsibility under its own safeguard policies, provide reparations directly to the affected families if the Cambodian Government refuses to remedy the harm done.

The inspection panel is expected to complete its investigation by October 2010. If the complaint is accepted, the Board and Management committee of the World Bank will have six weeks to respond with a plan to put right the harms that it has caused to the resident communities.

This article is based upon the findings in the report: Bridges Across Border Southeast Asia, Centre on Housing Rights and Evictions, and Jesuit Refugee Services (2009), Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector, 2009, which was edited by the authors.

Conclusions

Eight years after the commencement of LMAP, forced evictions, land-grabbing and land disputes continue to escalate in Cambodia. The flaws in the design and implementation of LMAP, set within the complex environment in which the project operated, impeded its ability to improve tenure security on an equitable basis. Households with possession rights that have been unable to register their land have been subjected to accusations of being 'illegal squatters' because they have no formal title, despite having documents demonstrating legal recognition of occupation by local authorities under the pre-existing tenure system. Meanwhile those instigating the evictions have no problem formally registering the expropriated land in their names, despite the absence of any legitimate basis for their claims under the Land Law.

By excluding households vulnerable to displacement and failing to implement a transparent, rule-based process for titling decisions, LMAP effectively formalized, and arguably deepened, structural inequality in land tenure and administration in Cambodia. By sponsoring LMAP and failing to challenge this unequal treatment before the law, the multilateral and bilateral donors have legitimized what amounts to a systematic violation of human rights.

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Endnotes

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² Land and Housing Working Group, 2009. *Land and Housing Rights in Cambodia Parallel Report to the United Nations Committee on Economic, Social and Cultural Rights*, 11-12.

³ United Nations Special Representative of the Secretary-General for human rights in Cambodia, 2007. *Economic Land Concessions in Cambodia, A Human Rights Perspective*, 1.

⁴ The commune is the administrative unit above the village and below the district in Cambodia.

⁵ The hindrance of peaceful occupation in an area not yet covered by a Cadastral Index Map [the document produced when the systematic titling process is completed] is prohibited (Land Law 2001, Article 248).

⁶ World Bank, 2002. Project Appraisal Document for a Land Management and Administration Project.

⁷ The GTZ (Gesellschaft für Technische Zusammenarbeit) is a German international cooperation enterprise for sustainable development

⁸ World Bank Website, LMAP summary, http://siteresources.worldbank.org/INTCAMBODIA/Resources/Cambodia_Project_Updates.pdf (accessed September 2009).

⁹ CIDA Website, Cambodia: CIDA funded projects, <http://www.acdi-cida.gc.ca/CIDAWEB/cpo.nsf/fWebCSAZEn?ReadForm&dx=01&CC=KH>, (accessed March 2010)

¹⁰ See, Bridges Across Borders South East Asia, Centre on Housing Rights and Evictions and Jesuit Refugee Services, 2009. Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector.

¹¹ World Bank, 2002, Op cit., 24.

¹² The term “cadastre” refers to an official register of land rights, usually a register of rights officially recognized under the law.

¹³ World Bank and GTZ, 2006. Towards Institutional Justice? A Review of the Work of Cambodia’s Cadastral Commission in Relation to Land Dispute Resolution.

¹⁴ Ibid.

¹⁵ World Bank, 2009. Cambodia Land Management and Administration Project – Enhanced Review Report.

¹⁶ International Development Association, 2002. Development Credit Agreement (Land Management and Administration Project) between the Kingdom of Cambodia and International Development Association, 21.

¹⁷ International Development Association, 2009. Management Response to the Request for an Inspection Panel Review of the Cambodia Land Management and Administration Project, 33.

¹⁸ The complaint was drafted and submitted by the authors of this article



A photograph showing the silhouettes of several people, likely farmers, in a rural setting at sunset. One person stands prominently on a raised mound of earth or a haystack, while others are scattered around, some appearing to be working or talking. The background is a bright, glowing orange and yellow sky from the setting sun.

STOP LAND GRABBING NOW!

Say NO to the principles of “responsible” agro-enterprise investment promoted by the World Bank

State and private investors, from Citadel Capital to Goldman Sachs, are leasing or buying up tens of millions of hectares of farmlands in Asia, Africa and Latin America for food and fuel production. This land grabbing is a serious threat to the food sovereignty of our peoples and the right to food of our rural communities. In response to this new wave of land grabbing, the World Bank (WB) is promoting a set of seven principles to guide such investments and make them successful. The Food and Agriculture Organisation (FAO), International Fund for Agricultural Development (IFAD) and United Nations Conference on Trade and Development (UNCTAD) have agreed to join the WB in collectively pushing these principles. ¹ Their starting point is the fact that the current rush of private sector interest to buy up farmland is risky. After all, the WB has just finalised a study showing the magnitude of this trend and its central focus on transferring rights over agricultural land in developing countries to foreign investors. The WB seems convinced that all private capital flows to expand global agribusiness operations where they have not yet taken hold are good

and must be allowed to proceed so that the corporate sector can extract more wealth from the countryside. Since these investment deals are hinged on massive privatisation and transfer of land rights, the WB wants them to meet a few criteria to reduce the risks of social backlash: respect the rights of existing users of land, water and other resources (by paying them off) protect and improve livelihoods at the household and community level (provide jobs and social services); and do no harm to the environment. These are the core ideas behind the WB’s seven principles for socially acceptable land grabbing.

These principles will not accomplish their ostensible objectives. They are rather a move to try to legitimize land grabbing. Facilitating the long-term corporate (foreign and domestic) takeover of rural people’s farmlands is completely unacceptable no matter which guidelines are followed. The WB’s principles, which would be entirely voluntary, aim to distract from the fact that today’s global food crisis, marked by more than 1 billion people going hungry each day, will not be solved

by large scale industrial agriculture, which virtually all of these land acquisitions aim to promote.

Land grabbing has already started to intensify in many countries over the past 10-15 years with the adoption of deregulation policies, trade and investment agreements, and market oriented governance reforms. The recent food and financial crises have provided the impetus for a surge in land grabbing by governments and financial investors trying to secure agricultural production capacity and future food supplies as well as assets that are sure to fetch high returns. Wealthy governments have sought to lease agricultural lands for long periods of time to feed their populations and industries back home. At the same time, corporations are seeking long term economic concessions for plantation agriculture to produce agro-fuels, rubber, oils, etc. These trends are also visible in coastal areas, where land, marine resources and water bodies are being sold, leased, or developed for tourism to corporate investors and local elites, at the expense of artisanal fishers and coastal communities. One way or the other, agricultural lands and forests are being diverted away from smallhold producers, fishers and pastoralists to commercial purposes, and leading to displacement, hunger and poverty.

With the current farmland grab, corporate driven globalisation has reached a new phase that will undermine peoples' self-determination, food sovereignty and survival as never before. The WB and many governments see land and rights to land, as a crucial asset base for corporations seeking high returns on capital since land is not only the basis for producing food and raw materials for the new energy economy, but also a way to capture water. Land is being revalued on purely economic terms by the WB, governments and corporations and in the process, the multi-functionality, and ecological, social and cultural values of land are being negated. It is thus more important than ever that these resources are defended from corporate and state predation

and instead be made available to those who need them to feed themselves and others sustainably, and to survive as communities and societies.

Land grabbing – even where there are no related forced evictions - denies land for local communities, destroys livelihoods, reduces the political space for peasant oriented agricultural policies and distorts markets towards increasingly concentrated agribusiness interests and global trade rather than towards sustainable peasant/smallhold production for local and national markets. Land grabbing will accelerate eco-system destruction and the climate crisis because of the type of monoculture oriented, industrial agricultural production that many of these “acquired” lands will be used for. Promoting or permitting land grabbing violates the International Covenant on Economic, Social and Cultural Rights and undermines the UN Declaration on the Rights of Indigenous Peoples. Land grabbing ignores the principles adopted by the International Conference on Agrarian Reform and Rural Development (ICARRD) in 2006 and the recommendations made by the International Assessment of Agricultural Science and Technology for Development (IAASTD).

Land grabbing must be immediately stopped. The WB's principles attempt to create the illusion that land grabbing can proceed without disastrous consequences to peoples, communities, eco-systems and the climate. This illusion is false and misleading. Farmer's and indigenous peoples organisations, social movements and civil society groups largely agree that what we need instead is to:

1. Keep land in the hands of local communities and implement genuine agrarian reform in order to ensure equitable access to land and natural resources.
2. Heavily support agro-ecological peasant, smallhold farming, fishing and pastoralism, including participatory research and training programmes so that small-scale food providers

can produce ample, healthy and safe food for everybody.

3. Overhaul farm and trade policies to embrace food sovereignty and support local and regional markets that people can participate in and benefit from.

4. Promote community-oriented food and farming systems hinged on local people's control over land, water and biodiversity. Enforce strict mandatory regulations that curb the access of corporations and other powerful actors (state and private) to agricultural, coastal and grazing lands, forests, and wetlands.

No principles in the world can justify land grabbing!

La Via Campesina

FIAN

Land Research Action Network (LRAN)

GRAIN

22 April 2010

Endorsed by:

AFRICA

African Biodiversity Network (ABN)

Anywaa Survival Organisation, Ethiopia

Association Centre Ecologique Albert Schweitzer (CEAS BURKINA), Burkina Faso

Coordination Nationale des Usagers des Ressources Naturelles du Bassin du Niger au Mali, Mali

CNCR (Conseil National de Concertation et de Coopération des Ruraux), Sénégal

Collectif pour la Défense des Terres Malgaches TANY

Confédération Paysanne du Congo, Congo RDC

COPAGEN (Coalition pour la protection du patrimoine génétique africaine)

East African Farmers Federation (EAFF)

Eastern and Southern Africa Small Scale Farmers' Forum (ESAFF)

Economic Justice Network of FOCC ISA, Southern Africa

Food Security, Policy and Advocacy Network (FoodSPAN), Ghana

FORA/DESC, Niger

Ghana Civil Society Coalition on Land (CICOL), Ghana

Haki Ardhi, Tanzania

Inades-Formation

IPACC (Indigenous People of Africa

Co-ordinating Committee)

London International Oromo Workshop Group, Ethiopia

ROPPA (Réseau des Organisations Paysannes et des Producteurs de l'Afrique de l'Ouest)

Synergie Paysanne, Bénin

ASIA

Aliansi Gerakan Reforma Agraria (AGRA), Indonesia

All Nepal Peasants' Association (ANPA), Nepal

Alternative Agriculture Network, Thailand

Alternate Forum for Research in Mindanao (AFRIM), Philippines

Andhra Pradesh Vyvasaya Vruthidarula Union (APVVU), India

Anti Debt Coalition (KAU), Indonesia

Aquila Ismail, Pakistan

Asian Human Rights Commission (AHRC)

Bantad Mountain Range Conservation Network, Thailand

Biothai (Thailand)

Bridges Across Borders Southeast Asia, Cambodia

Centre for Agrarian

Reform, Empowerment and Transformation, Inc., Philippines

Centro Saka, Inc., Philippines

CIDSE, Lao PDR

Daulat Institute, Indonesia

Delhi Forum, India

Focus on the Global South, India, Thailand, Philippines

Foundation for Ecological

Recovery/TERRA, Thailand

Four Regions Slum Network, Thailand

Friends of the Earth Indonesia (WALHI), Indonesia

HASATIL, Timor Leste

IMSE, India

Indian Social Action Forum

(INSAF), India

Indonesian Fisher folk Union (SNI),

Indonesia



Indonesian Human Rights Committee for Social Justice (IHCS), Indonesia

Indonesian Peasant' Union (SPI), Indonesia

International Collective in Support of Fishworkers (ICSF), India

Kelompok Studi dan Pengembangan Prakarsa Masyarakat/Study Group for the People Initiative Development (KSPPM), Indonesia

KIARA-Fisheries Justice Coalition of Indonesia, Indonesia

Klongyong and PichaiPuben Land Cooperatives, Thailand

LandReform Network of Thailand, Thailand

Lokoj Institute, Bangladesh

MARAG, India

Melanesian Indigenous Land Defense Alliance (MILDA)

My Village, Cambodia

National Fisheries Solidarity Movement (NAFSO), Sri Lanka

National Fishworkers Forum, India

National Forum of Forest Peoples and Forest Workers, India

Northeastern Land Reform Network, Thailand

Northern Peasant Federation, Thailand

NZNI, Mongolia

PARAGOS-Pilipinas, Philippines

Pastoral Peoples Movement, India

PCC, Mongolia

People's Coalition for the Rights to Water (KruHA), Indonesia

PERMATIL (Permaculture), Timor-Leste

Perween Rehman, Pakistan

Project for Ecological Awareness Building (EAB), Thailand

Roots for Equity, Pakistan

Sintesa Foundation, Indonesia

Social Action for Change, Cambodia

Solidarity Workshop, Bangladesh

Southern Farmer Federation, Thailand

Sustainable Agriculture Foundation, Thailand

The NGO Forum on Cambodia, Cambodia

Village Focus Cambodia, Cambodia

Village Focus International, Lao PDR

World Forum of Fisher Peoples (WFFP), Sri Lanka

LATIN AMERICA

Asamblea de Afectados Ambientales, México

BIOS, Argentina

COECO-Ceiba (Amigos de la Tierra), Costa Rica

FIAN Comayagua, Honduras

Grupo Semillas, Colombia

Red de Biodiversidad de Costa Rica, Costa Rica

Red en Defensa del Maiz, México

REL-UITA

Sistema de la Investigación de la Problemática Agraria del Ecuador (SIPAE), Ecuador

EUROPE

Both Ends, Netherlands

CADTM, Belgium

Centre Tricontinental – CETRI, Belgium

CNCD-11.11.11, Belgium

Comité belgo-brasileiro, Belgium

Entraide et Fraternité, Belgium

FIAN Austria

FIAN Belgium

FIAN France

FIAN Netherlands

FIAN Norway

FIAN Sweden

FUGEA, Belgium

Guatemala Solidarität, Austria

SOS Faim – Agir avec le Sud, Belgium

The Slow Food Foundation for Biodiversity, Italy

The Transnational Institute (TNI), Netherlands

Uniterre, Switzerland

NORTH AMERICA

Agricultural Missions, Inc. (AMI), USA

Columban Center for Advocacy and Outreach, USA

Cumberland Countians for Peace & Justice, USA

Grassroots International, USA

National Family Farm Coalition, USA

Network for Environmental & Economic Responsibility, United Church of Christ, USA

Pete Von Christerson, USA

PLANT (Partners for the Land & Agricultural Needs of Traditional Peoples), USA

Raj Patel, Visiting Scholar, Center for African Studies, University of California at Berkeley, USA

The Institute for Food and Development Policy (Food First), USA

Why Hunger, USA

INTERNATIONAL

FIAN International

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GRAIN

La Via Campesina

Land Research Action Network (LRAN)

World Alliance of Mobile Indigenous People (WAMIP)

World Rainforest Movement (WRM)



It's TIME to outlaw ~~land grabbing~~, NOT to make it "responsible"!

On 18-20 April 2011, a gathering of some 200 farmland investors, government officials and international civil servants will meet at the World Bank headquarters in Washington DC to discuss how to operationalise "responsible" large-scale land acquisitions. Over in Rome, the Committee on World Food Security (CFS), housed at the United Nations Food and Agriculture Organisation, is about to start a process of consultation on principles to regulate such deals. Social movements and civil society organisations (CSOs), on the other hand, are mobilising to stop land grabs, and undo the ones already coming into play, as a matter of utmost urgency. Why do the World Bank, UN agencies and a number of highly concerned governments insist on trying to promote these land grab deals as "responsible agricultural investments"?

Today's farmland grabs are moving fast. Contracts are getting signed, bulldozers are hitting the ground, land is being aggressively fenced off and local people are getting kicked off their territories with devastating consequences. While precise details are hard to come by, it is clear that at least 50 million hectares of good agricultural land – enough to feed 50 million families in India – have been transferred from farmers to corporations in

the last few years alone, and each day more investors join the rush.¹ Some of these deals are presented as a novel way to meet food security needs of countries dependent on external markets to feed themselves, such as Qatar, Saudi Arabia, South Korea or China. Others are bluntly exposed for what they really are: business deals and hot new profit opportunities. Despite the involvement of states, most of these transactions are between host governments and private corporations. Firms involved estimate that US\$25 billion have already been committed globally, and boast that this figure will triple in a very near future.²

What is RAI?

Nervous about the potential political backlash from the current phase of land grabbing, a number of concerned governments and agencies, from Japan to the G-8, have stepped forward to suggest criteria that could make these deals acceptable. The most prominent among these is the World Bank-led *Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources* (RAI). The RAI were jointly formulated by the World Bank, the International Fund for Agricultural Development (IFAD), the UN Conference on Trade and Development (UNCTAD) and the UN Food and Agriculture

Organisation (FAO).³ They consist of seven principles that investors may wish to voluntarily subscribe to when conducting large-scale farmland acquisitions (*see box*). It is noteworthy that the RAI principles were never submitted for approval to the governing bodies of these four institutions.

RAI (or seven principles for “win-win” landgrabbing):

1. Land and resource rights: Existing rights to land and natural resources are recognised and respected.
2. Food security: Investments do not jeopardise food security, but rather strengthen it.
3. Transparency, good governance and enabling environment: Processes for accessing land and making associated investments are transparent, monitored, and ensure accountability.
4. Consultation and participation: Those materially affected are consulted and agreements from consultations are recorded and enforced.
5. Economic viability and responsible agro-enterprise investing: Projects are viable in every sense, respect the rule of law, reflect industry best practice, and result in durable shared value.
6. Social sustainability: Investments generate desirable social and distributional impacts and do not increase vulnerability.
7. Environmental sustainability: Environmental impacts are quantified and measures taken to encourage sustainable resource use, while minimising and mitigating the negative impact.

The main RAI pushers (since 2009):

EU, FAO, G8, G20, IFAD Japan, Switzerland, UNCTAD, US, World Bank

In April 2010, some 130 organisations and networks from across the world, including some of the most representative alliances of farmers, pastoralists and fisherfolk, denounced the RAI initiative. Their statement debunked RAI as a move to try to legitimise land grabbing and asserted that facilitating the long-term corporate (foreign and domestic) takeover of rural people's farmlands is completely unacceptable no matter which guidelines are followed.⁴

This statement was endorsed by many more groups and social movements from around the world following its release. Shortly after, the UN's Special Rapporteur on the Right to Food publicly criticised RAI for being "woefully inadequate" and said, "It is regrettable that, instead of rising to the challenge of developing agriculture in a way that is more socially and environmentally sustainable, we act as if accelerating the destruction of the global peasantry could be accomplished responsibly."⁵

In September 2010, the World Bank released its much anticipated report about large-scale land acquisitions. After two years of research, the Bank could not find any convincing examples of "wins" for poor communities or countries, only a long list of losses. In fact, companies and governments involved in the land deals refused to share information about their transactions with the Bank, so it relied instead on a website (farmlandgrab.org) managed by the CSO GRAIN for its data. Even though the report noted the lack of consultation behind the RAI initiative, the Bank still advocated RAI as the solution.

Despite the RAI framework's serious credibility problem, the CFS debated a motion on whether or not to endorse it in October 2010. Some



governments, such as the US and Japan were in favour. Others, including South Africa, Egypt on behalf of the Near East group and China, expressed strong opposition due to lack of an appropriate consultative process. A coalition of movements and organisations released a detailed critique of the RAI framework and principles prior to the CFS meeting.⁶ This catalysed rural social movements, particularly those affiliated with the International Planning Committee for Food Sovereignty (IPC), and other civil society groups to call on the CFS to reject RAI. In the end, the CFS did not endorse RAI, agreeing only to pursue an inclusive process to consider it.

By the end of 2010, it looked as though the high-level push for socially acceptable or "win-win" land grabbing was floundering. Social movements and other CSOs, meanwhile, continued to build popular opposition to RAI. At the World Social Forum in Dakar in February 2011, farmers' movements, and human rights, social justice and environmental organisations gathered to share experiences and consolidate their struggles against land grabbing without the distraction of this code of conduct nonsense, and launched a public appeal to reject RAI and resist land grabbing that continues to gather support.⁷

The RAI proponents, however, refuse to give up.

The CFS Bureau is currently discussing a proposal for a process of consultation on RAI.⁸ An initial draft circulated for comment drew sharp criticism from social movements and CSOs. The IPC stated that it will oppose a process whose main focus is to try to alleviate the negative impacts of large-scale land acquisitions and endorse RAI. Instead, it argued, the CFS should first analyse if RAI is the adequate response to the problems on the ground and re-focus the discussion on the question of what kind of agricultural

investment is needed to overcome hunger and support small-scale farmers, particularly women. The IPC further recommended that the CFS stop using the term RAI because it is heavily associated with land grabbing, not investment. But the four agencies behind RAI seem keen to push on.

The World Bank has just released the programme for this year's annual conference on land and poverty at its Washington DC headquarters.⁹ RAI is at the very heart of the discussions. The Bank's main goal now is to start "operationalising" RAI by building on experiences of other "corporate social responsibility" (CSR) schemes such as the Roundtables on Responsible Soy, Sustainable Palm Oil and Sustainable Biofuels, as well as the Extractive Industry Transparency Initiative.¹⁰

In the meantime, countries are scrambling to contain growing opposition to the global land rush. With all the talk of "win-win" outcomes ringing hollow against the reality of impacts of these deals on local communities, smallholder agricultural producers and workers, some governments, such as Argentina, Brazil and New Zealand, are responding with promises of legislation to cap or discipline foreigners' abilities to acquire domestic farmland. Others, such as Cambodia, Ethiopia and Ghana, are using legal and brute force to suppress local contestation. In the run-up to the 2012 elections in Mali, the opposition Party for National Renewal has challenged President Touré to disclose all details of land leases amounting to several hundred thousands of irrigated hectares granted in the Office du Niger. In Sudan, the most "land grabbed" country in Africa, villagers are now rising up against the government in Khartoum for having seized their lands.



What is wrong with RAI

The push for RAI is not about facilitating investment in agriculture. It is about creating an illusion that by following a set of standards, large-scale land acquisitions can proceed without disastrous consequences to peoples, communities, ecosystems and the climate. This is false and misleading. RAI is an attempt to cover up power imbalances so that the land grabbers and state authorities who make the deals can get what they want. Farmers, pastoralists and fisherfolk, after all, are not asking for their lands to be sold off or leased away!

Land grabbing forecloses vast stretches of lands and ecosystems for current and future use by peasants, indigenous peoples, fisherfolk and nomads, thus seriously jeopardising their rights to food and livelihood security. It captures whatever water resources exist on, below and around these lands, resulting in the de facto privatisation of water. The violation of international human rights law is an intrinsic part of land grabbing through forced evictions, the silencing (and worse) of critics, the introduction of non-sustainable models of land use and agriculture that destroy natural environments and deplete natural resources, the blatant denial of information, and the prevention of meaningful local participation in political decisions that affect people's lives. No set of voluntary principles will remedy these facts and realities. Nor can they be misconstrued and presented as public policy or state regulation.

Land grabs, which target 20% profit rates for investors, are all about financial speculation. This is why land grabbing is completely incompatible with ensuring food security: food production can only bring profits of 3-5%. Land grabbing simply enhances the commodification of agriculture whose sole purpose is the over-remuneration of speculative capital.

There are some who believe that promoting transparency in land acquisition deals can somehow lead to "win-win" outcomes. However, even if done "transparently," the transfer of large tracts of land, forests, coastal areas and water sources to investors is still going to deprive smallholder farmers, pastoralists, fisherfolk and other local communities from crucial, life sustaining resources for generations to come. In many countries, there is an urgent need to strengthen systems that protect land tenure of peasants and small-scale food producers, and many social movements have been fighting for recognition of their rights to land for many years. The RAI principles will make any progress on agrarian reform or land rights meaningless.

As for the big private players themselves, RAI can only amount to another feather in their "CSR" cap, a public relations act that they can point to when convenient. In the real world, they will continue to rely on bilateral trade and investment agreements, legal loopholes, compliant states, political risk insurance schemes and support from international institutions that promote RAI, to protect their interests and save them from any financial pain or responsibility.

The problem is obvious. These agribusiness projects – from the 100,000 hectare Malibya deal in the Office du Niger, Mali, to the 320,000 hectare Beidahuang Group deal in Rio Negro, Argentina – do great harm and are profoundly illegitimate. Trying to compensate for this absence of legitimacy by getting investors to adhere to a few principles is deceitful.

Invest in food sovereignty!

RAI is out of step with the times. The whole approach to so-called agricultural development that it embodies – a greenhouse gas pumping,

fossil fuel guzzling, biodiversity depleting, water privatising, soil eroding, community impoverishing, genetically modified seed-dependent production system – belongs in the 20th century rubbish heap of destructive, unsustainable development. Just as our Arab sisters and brothers have been breaking the shackles of old regimes to recover their dignity and space for self-determination, we need to break the shackles of the corporate agriculture and food system.

Rather than be codified and sanctioned, land grabbing must be immediately stopped and banned. This means that parliaments and national governments should urgently suspend all large-scale land transactions,¹¹ rescind the deals already signed, return the misappropriated lands to communities and outlaw land grabbing. Governments must also stop oppressing and criminalising peoples for defending their lands and release detained activists.

We reiterate the demands made repeatedly by social movements, CSOs and numerous academics to urgently implement actions agreed at the 2006 International Conference on Agrarian Reform and Rural Development – the most authoritative and consensual multilateral framework for land and natural resources – as well as the conclusions of the 2008 International Assessment of Agricultural Knowledge, Science and Technology for Development. We equally call on the CFS to adopt the FAO Guidelines on the Governance of Land and Natural Resources which are strongly rooted in human rights law so that they can be effectively used to protect and fulfill the rights to land and natural resources of all rural and urban constituencies at national and international levels.

It is obvious to us that a broad consensus has grown over the past several years around the

real solutions to hunger, the food crisis and climate chaos, namely that:

- peasant agriculture, family farming, artisanal fishing and indigenous food procurement systems that are based on ecological methods and short marketing circuits are the ways forward toward sustainable, healthy and livelihood-enhancing food systems;
- production, distribution and consumption systems must radically change to fit the carrying capacity of the earth;
- new agricultural policies that respond to the needs, proposals and direct control of small-scale food producers have to replace the current top-down, corporate-led, neoliberal regimes; and
- genuine agrarian and aquatic reform programmes have to be carried through to return land and ecosystems to local communities.¹²

This is the path to food sovereignty and justice, quite the opposite of "responsible" land grabbing. And we will continue to push and fight for it with many allies the world over.

17 April 2011

Centro de Estudios para el Cambio en el Campo Mexicano (Study Centre for Change in the Mexican Countryside)

FIAN International

Focus on the Global South

Friends of the Earth International

Global Campaign on Agrarian Reform

GRAIN

La Via Campesina

Land Research Action Network

Rede Social de Justiça e Direitos Humanos (Social Network for Justice and Human Rights)

World Forum of Fisher Peoples

¹ In 2010, the World Bank reported that 47 million hectares were leased or sold off worldwide in 2009 alone while the Global Land Project calculated that 63 million hectares changed hands in just 27 countries of Africa. See "New World Bank report sees growing global demand for farmland", World Bank, Washington DC, 7 September 2010, <http://farmlandgrab.org/post/view/15309>, and Cecilie Friis & Anette Reenberg, "Land grab in Africa: Emerging land system drivers in a teleconnected world", GLP Report No. 1, The Global Land Project, Denmark, August 2010, <http://farmlandgrab.org/post/view/14816>, respectively.

² See High Quest Partners, "Private financial sector investment in farmland and agricultural infrastructure", OECD, Paris, August 2010, <http://farmlandgrab.org/post/view/16060>.

³ The four agencies have also created an internet-based knowledge platform to exchange information about RAI. See <http://www.responsibleagroinvestment.org/>

⁴ "Stop land grabbing now! Say NO to the principles on responsible agro-enterprise investment promoted by the World Bank", available online at <http://www.landaction.org/spip/spip.php?article553>

⁵ "Responsibly destroying the world's peasantry" by Olivier de Schutter, Brussels, 4 June 2010, <http://www.project-syndicate.org/commentary/deschutter1/English>

⁶ "Why we oppose the principles for responsible agricultural investment", available at <http://www.landaction.org/spip/spip.php?article570>

⁷ See "Dakar appeal against the land grab", which is open for endorsement by organisations until 1 June 2011: <http://www.petitiononline.com/dakar/petition.html>.

⁸ See <http://cs04cfs.files.wordpress.com/2010/11/proposal-for-consultation-process-on-rai-principles.pdf>

⁹ See <http://go.worldbank.org/YJM5ENXK10>.

¹⁰ For background see John Lamb, "Sustainable Commercial Agriculture, Land and Environmental (SCALE) management initiative: Achieving a global consensus on good policy and practices", World Bank, July 2009, <http://farmlandgrab.org/post/view/7649>.

¹¹ By this we mean, taking possession of and/or controlling a scale of land for commercial and/or industrial agricultural production which is disproportionate in size in comparison to the average land holding in the region.

¹² This consensus is reflected in the work of the UN Special Rapporteur on the Right to Food, Olivier de Schutter. His March 2011 report on agroecology and the right to food captures a large body of today's public opinion on how to move forward. See <http://www.srfood.org/index.php/en/component/content/article/1-latest-news/1174-report-agroecology-and-the-right-to-food>.





Civil Society Consultation on FAO's Voluntary Guidelines on Responsible Land and Natural Resources Tenure

*Kuala Lumpur, Malaysia
March 24-26, 2010*

A. Background

The Asian Regional Civil Society Consultation provided an opportunity for different constituencies to contribute in the FAO's process of coming up with Voluntary Guidelines that provides a framework for governments and other interest groups on responsible land and resource governance. The consultation was aimed to identify and make an inventory of key problems around land and natural resource tenure in Asia; to propose solutions to these problems; and to provide recommendations for the Voluntary Guidelines.

Synthesis of Testimonies

Land and resource tenure conflicts are largely felt in developing countries, particularly in Asia, where marginalised sectors are greatly impacted. The regional consultation brought together various perspectives from different constituencies – from indigenous peoples, agricultural workers, peasants, pastoralists, fisherfolk, Dalits, rural women to urban dwellers. Representatives from these sectors shared the struggles, strategies and the challenges that they continue to face.

While the struggles of communities are diverse, the experiences, resistance, and demands have common threads of lack of control, access

and tenurial insecurities on land and natural resources. A key and common issue among the sectors is the non-recognition by governments of their rights to own, access, and control land, territories, and resources. This is manifested in the policy and legal framework covering tenure of land and other natural resources where there is inadequate and even absence of laws that protect the rights of communities. In some cases, there is a pluralistic legal system that creates conflict on existing laws between traditional legal systems and special courts, at the expense of marginalised groups. Governments or states also often lack the political will and commitment to address the issues through lack of participatory mechanisms and even the non-implementation and violation of existing laws.

For indigenous peoples, governments have failed to recognise their rights to own, control and manage ancestral territories and are encouraging resource grab in the name of development and growth. There is also lack of respect and protection of customary practices, laws, and customs. For agricultural workers, there is non-recognition for their tenancy and workers' rights. Peasants are still victims of landlessness, non-implementation and flawed provisions in agrarian reform,

land use conversion, and land grabbing. The rights of pastoralists are also not recognised, exacerbated by the lack of political, economic, and socio-cultural mechanisms and processes to protect those rights. Fisherfolk communities are continuously deprived of control and access to sea and marine resources due to natural disasters, degradation of resources (soil and sea erosions, abandoned ponds, depleting mangrove ecosystems, pollution, etc), and 'development' projects (shrimp aquaculture, tourism projects, port infrastructures). Dalits and rural women are faced with multiple burdens of class, caste and gender discrimination, even worse sexual abuse and violence. Urban dwellers are also denied of their rights to basic and support services and are faced with migration issues as they are often threatened with evictions and displacements.

For many of the participants, the non-recognition of their rights to control, manage, and use land, territories, and resources is intensified by neoliberal policies and projects imposed by the World Trade Organisation (WTO), the International Financial Institutions (IFIs), and donor agencies. Most governments enter into agreements that promote market-led, enclosure, privatisation, and commodification of land, territories, and resources, which endanger the rights of people, their livelihoods, and the environment. National policies are also being amended to tailor fit into these agreements. Governments reduce public expenditures for basic and support services and transfer the control of these services to corporations and the private sector.

These translate to increased control and ownership of land and productive resources

by the state, transnational corporations, and local elites. There is also massive conversion of agricultural, aquaculture and protected lands and ancestral domains into large-scale industries for tourism, infrastructure projects, special economic zones, and mono-crop plantations. Large-scale extractive industries, like mining, logging and shrimp farming, contribute to massive destruction of the diverse natural resources.

Marginalised communities become victims of development aggression through land grabbing, resource destruction, dislocation and forced migration due to corporate interests. Communities are displaced, either through forced evictions or legal means, when state governments expropriate lands in the name of 'development'. Land tenure conflicts also arise when land reform measures are not adequately implemented.

Unequal power structures are abused by the governments, corporations and local elites through the use of violence. Marginalised communities who resist encroachment into their territories and continuously assert their rights to land and productive resources are often persecuted, harassed and criminalised by the military, police, and private armies.

Gender inequity is another key issue in land and resource tenure, where women have fewer or unrecognised rights, and are excluded from participating in decision-making processes, which further add to women's vulnerability and marginalisation.

While communities continue to face challenges on land and resource conflicts, the different sectors sustain efforts to assert their rights

This is a slightly shortened text of the report from the civil society consultation on the FAO Voluntary Guidelines on Responsible Land and Natural Resource Tenure. The full report can be found at <http://www.foodsovereignty.org/wordpress/wp-content/uploads/2010/06/Report-Civil-Society-Consultation-Kuala-Lumpur.pdf>



through collective actions. Communities empower themselves through various strategies such as direct actions (protests, land re-occupation), legal intervention and lobbying (petitions, dialogues, case filing), education (information and experience sharing), and organising. Communities also work together with other sectors to strengthen their movements and resistance for land and resource security.

B. Preamble

More than 30 representatives from small farmers, landless, dalits, rural women, indigenous peoples, fisherfolks, pastoralists groups, activists, urban social movements, and NGOs, from more than ten countries in Southeast, East and South Asia, who gathered in Kuala Lumpur, Malaysia to discuss and share their views, experiences and struggles on land and natural resource tenure, emphasised that despite their existing relationships with nature to produce food and sustain their lives, communities, identities, and societies, Asian governments continue to fail and violate their collective rights to land, territories and natural wealth. The situation is getting worse—as the so-called “development” policies and projects have not only broken peoples’ relationship with the land, territories and natural wealth but more importantly, have displaced and evicted them. More people are getting hungry by the day—with 6 in every 10 people in Asia, or 615 million people, because they do not have the means to produce for themselves or to purchase it. The roiling multiple crises of food, finance, climate, and energy present immense dangers and threats, and already these have exacerbated poverty and hunger in Asia—with 60 million people living below USD 1.25 a day in 2009, instead of breaking out from poverty¹. But the current crises are results of decades of corporate-driven globalisation, neoliberal

policy regimes and unbridled financial liberalisation.

While the participants recognised that there are international legal instruments that recognise their rights, their rights continue to be violated. However, in light of FAO’s efforts to come up with “Voluntary Guidelines for Responsible Governance of Land and Natural Resources Tenure”, the participants proposed their vision and strategies to defend, claim, and reclaim these rights to land, territory and natural wealth (see box 1 below).

C. Key Issues, Actions, and Propo

Participants at the CSO consultation proposed to change the title from FAO Voluntary Guidelines on Responsible Governance of Land and Other Natural Resources to *FAO’s Guidelines on Responsible Governance of Land, Territory, and Natural Wealth*. Specific issues, actions, and proposals include the following:

1. Implementing responsible governance of land, territory and natural wealth will require the strengthening of local self-governance and self-determination of different social groups such as small farmers, fisherfolks, rural women, agricultural workers, landless, pastoralists, urban dwellers, and indigenous peoples over such resources.

- *Collective rights to access and manage natural resources must be ensured at all levels. This includes promoting and encouraging community-based control over land, territories, and natural wealth of different social groups and recognizing their multidimensional relationship to these resources.*
- *The sharing of “territories as ecosystems” must be promoted at all levels. Rural communities have traditionally based their food production on a relationship of respect and harmony with nature. This goes beyond political and geographical boundaries*



and recognizes the rights of rural peoples to govern, manage and care for their ecosystems.

- The sharing of territories must be based on subsidiarity principles, i.e. decisions should be taken at all levels where they are most appropriate. This entails that the primary responsibility of deciding how resources can be shared and governed rests on the communities, while governments, inter-governmental bodies, and External Development Partners (EDPs) (eg. bilateral, multilateral, international NGOs, etc) take a supportive and facilitating role.
- Free prior and informed consent (FPIC) between and among communities will be the basis for collective decision-making.
- The terms and purpose of investment in land, territory, and natural resources by whomsoever—be it public or private, must be within the purview and decision making of the community.
- In cases of bio-cultural regions, where national boundaries do not define community territories, the sharing of land, territory, and natural wealth must be upheld and recognised by governments/states, bilateral, regional, and international institutions.

2. The “commons” or common pool resources must be defended, strengthened, and sustained at all levels.

- The commons includes natural resources or wealth that are collectively owned such as land, water, forests, atmosphere, and elements of the environment, and also public goods and services, knowledge, and political commons such as democracy. Its nurturance remains the responsibility of everyone for the survival of the planet in the present and for the future. This nurturance is rooted in the respect of all living cultures, values, and traditions that sustain the commons. And therefore, this responsibility calls for democratic governance and sustainable, inclusive, community stewardship.
- States as duty bearers must recognise communities’ right to self-governance of their commons and work for the protection and strengthening of the commons, including the promotion of collective rights to access, govern, regulate, and manage the commons and support of community stewardship, including recognizing customary institutions but also ensuring the respect of the rights of women. There are rights which precede and/or are not dependent on government’s recognition but are derived from the community in which these rights operate.

- All state and market initiatives to enclose the commons to the exclusion of the disadvantaged, marginalized and underprivileged must be firmly resisted. Such initiatives must not be part of the guidelines for responsible governance of land, territories, and natural wealth.

3. The just, equitable, and sustainable distribution and use of land, territories, and natural wealth must be promoted and ensured at all times, by all both the states and communities.

- States as duty bearers must ensure the harmonisation of all existing policies related to land, territory and natural wealth tenure (e.g. agrarian reform, land-crop land, urban land, water bodies, groundwater, coastal areas, fishing grounds and forests) and must create an enabling framework policy environment (e.g. trade, development, agriculture, industrial policy) that will strengthen the self-determined use of the commons, ensure the sharing of territories, and support the just, equitable and sustainable distribution of resources.
- Implementing this will require states to undertake redistributive tenure reforms that will overcome discrimination based on gender, ethnicity, caste, race, age and to recover land, territories and natural wealth, which are now concentrated in a few hands and are subject to destructive uses like monoculture, market-led agrarian reforms, industrial agriculture, extractive industries, mega infrastructure projects such as dams, and mining.
- The redistributive tenure reforms must support the local communities’ control of their own territories and livelihoods, including their rights to use and control the benefits from the resources. This should be guided by the sustainability principle of “intergenerational equity”, i.e. promoting sustainable uses of land, territories, and natural wealth (conserving and fostering soil fertility, biodiversity, water sources and watersheds, and using human-centred/ecosystem-centred technology), prohibiting unsustainable uses (destroying soils, biodiversity, water sources, increasing Green House Gas/GHG emissions), and supporting sustainable food and food production systems support (adequate financial, infrastructure, institutional support, public investments, participatory research and capacity building).
- Ensure that women receive full equality of opportunities and rights to land, territories and natural wealth that recognize their diversity, and redress past discrimination against rural women.



Box A-1 Vision and strategies to defend, claim and reclaim rights to land, territory and natural wealth:

- Land, territory and natural wealth are not simply economic assets; these are the foundation of our culture, identity, society, food sovereignty, self-determination and well being. These rights are being reclaimed to achieve social justice and well being of communities and entire society, including their ecosystems in the present and for the future;
- This responsibility calls for democratic, gender just, equitable and sustainable, inclusive, community stewardship and community-based governance of such resources. States as duty bearers must work for the protection and fulfilment of these collective rights to land, territory and natural wealth, including the promotion of community-based control over land, territories, and natural wealth of different social groups and recognizing their multidimensional relationship to these resources;
- The right of communities to technologies that are accessible, affordable, sustainable, self-manageable, gender just, and respect traditional knowledge and cultural practices, where these involve good conservation and protection practices must be upheld;
- All state and market initiatives to enclose the commons to the exclusion of the disadvantaged, marginalized and underprivileged must be firmly resisted.

In continuing the struggles to defend, protect, and reclaim the commons, the participants remain:

- firm in seeking remedial justice for the destruction of land, territory and natural wealth by the state, international financial institutions (IFIs), big business and other private entities;
- steadfast in resisting the global and concerted drive of corporations, international financial institutions such as the World Bank, International Monetary Fund, regional development banks such as the ADB, etc., multilateral organizations such as the World Trade Organization, governments and elites to commodify, enclose, expropriate and privatise land, territory and natural wealth;
- active and strong in solidarity with the resource rights movements whose resolute mobilizing and consciousness raising have strengthened opposition and community defense to the commodification, privatisation, and exploitation of land, territory and natural wealth, and promoted the search for alternatives;
- resolute in promoting that any responsible guidelines of land, territory, and natural wealth must respect, recognise and uphold community control in the governance of natural commons, and any process that involves the access and use should be evolved from systems of governance that are democratic, ecologically sustainable, socially acceptable, inclusive and gender just.

4. Public, private, and customary institutions must nurture the strengthening of the commons, just, equitable, and sustainable use of land and natural wealth, and the sharing of territories by different social groups.

On Customary Laws

Public and government institutions must recognize and strengthen customary laws, especially those that do not violate fundamental human rights.

Strengthening customary laws, which refer to traditional common rules, values or practices that have become an intrinsic part of the accepted and expected conduct in a community,



requires the recognition and respect by national laws and equal legal treatment.

Customary laws that promote collective tenure systems while ensuring that they respect the rights of women must be supported by government and other institutions.

Conflicts arising out of access to and resource use are to be adjudicated by the community and between communities. This applies also to the cases of post-conflict, restitutions and reparations, in which principles of demilitarisation and non militarisation must be upheld in dealing with the conflicts at all levels and progressive realisation of the human rights principles in the customary law practised by the communities.

In cases where the communities cannot come to an agreement, an independent third party, can be an arbiter of conflicts.

On the Role and Responsibilities of Governments/States and Other Institutions

- Governments and states must ensure and respect the rights of peoples and communities and they must serve the needs of the peoples and communities and not corporate interests. This requires a thorough and comprehensive assessment of the impacts of policies and institutions in guaranteeing the rights over land, territories and natural wealth of communities.
- Sufficient resources and adequate capacity of public institutions dealing with land, territories, and natural wealth must be guaranteed.
- There should be social policies that ensure the strengthening of the commons, land, territories and natural wealth in addition to land, forests, economic, finance, and administrative policies.
- Participatory mechanisms and methodologies at all levels of operation (planning, management, monitoring) must be established, including mechanisms for inter-sectoral coordination.
- Bilateral, regional, multilateral and international institutions must ensure that the rights and control of the peoples over land, territories and natural wealth are upheld. Governments and states must establish mechanisms and institutions for redress should the

former violate the fundamental rights of peoples and communities over resources.

- In dealing with extra-territoriality issues, especially with international institutions such as transnational corporations, communities must be at the centre of decision making at all levels. In cases of bio-cultural regions, where national boundaries do not define community territories, the sharing of land, territory, and natural wealth must be upheld and recognised by governments/states, bilateral, regional, and international institutions.

5. Investments, whether public or private, should not undermine the rights of various communities and social groups to land, territories and natural wealth tenure.

- Public investments in reinforcing and strengthening the commons must be increased.
- Investments should be first and foremost for the realisation of human rights and public goods. Communities should be in control of decision making about investments through various initiatives such as participatory budget schemes.
- International laws and legally enforceable mechanisms and actions must be established to discipline and sanction companies whose investments and activities in other countries, especially with new investment mechanisms on climate change such as carbon trading/offsets, REDD, agricultural funds, etc. violate human rights or cause damage to local communities.
- There should be clear definitions on what sectors must stay within the public realm— e.g. food, agriculture, land, water, health, education, etc. Investments, especially public, must ensure that they promote the common good in these sectors.
- In dealing with extra-territoriality issues, especially with international institutions such as transnational corporations, communities must be at the centre of decision making at all levels. In cases of bio-cultural regions, where national boundaries do not define community territories, the sharing of land, territory, and natural wealth must be upheld and recognised by governments/states, bilateral, regional, and international institutions.



6. The free prior and informed consent (FPIC) about investment projects, including the change of use of land, territories, and natural wealth must be required, ensured, recognized and promoted at all times, at all levels.

- Investors—including the state and private sector—must follow national and international conventions and laws on FPIC such as the UN Declaration on the Rights of Indigenous Peoples, and give local peoples and communities a formal role and some form of veto power in the consultations and ultimate decisions about local development projects.
- FPIC as a legally condition for financing, investment and regulatory decisions must ensure the rights of indigenous peoples, communities, and all the people in the affected territory, including their rights to self-determination, to collective rights, access, and control to land, territories and natural wealth, and to share in the benefits when these are utilized by others. Without such free, prior and informed consent on large projects, a community's land, territory, and resource rights are compromised. Communities also have the right to say “no”.
- Official processes such as public hearings or referenda and customary laws must play positive roles in FPIC. In a diverse community, such processes should clarify how consent is given, who gives the consent, whether decisions will be based on a majority rule or consensus, and whether a written, legally binding agreement is necessary. The presence of an independent party as an oversight must be encouraged to verify the FPIC and to determine its legitimacy—the extent of how free, informed, and prior the consent or decisions are.
- In implementing FPIC, a balance between the state, the general public interest, and affected community interests, particularly in the distribution of benefits, must be ensured.
- Involuntary displacements, forced evictions, and arbitrary displacements are not acceptable, especially within the purview of FPIC.

7. In cases of conflict and post-conflict situations, the rights of local communities, even in occupied territories, to land, territories and natural wealth must be upheld and recognised.

- Mechanisms for restitution and reparation must be created and established at all levels.
- New conflicts around land, territories and natural wealth in conflict and post-conflict situations must be prevented.

8. Recognising the changing climate, post-disaster rehabilitation and reconstruction efforts must strengthen and sustain the commons, and uphold the rights of different social groups to land, territories, and natural wealth.

- The participants agreed with this key point but did not elaborate on this.

9. Accountability and recourse mechanisms must be created and established.

- Each person or community has a right to have access to administrative, quasi-judicial and judicial mechanisms to provide adequate, affordable, effective and prompt remedies when her/his/their right to natural resources are threaten or violated.
- Every victim of such violations should have the right to adequate remedies which could consist of restitution, compensation, satisfaction or guarantees that such acts will not be repeated.
- The development of paralegal networks and groups to help women and other groups intervene in disputes over access to land and prevent forced evictions must be supported.
- The guidelines for responsible governance must also strengthen customary laws and institutions around conflict management.

- *Accountability and transparency mechanisms must be institutionalised and ensure the right of peoples and communities to adequate, timely, legitimate, accessible, and useful information, especially about development and investment projects in land, territories and natural wealth.*
- *States, transnational corporations and other business enterprises must be held accountable and tried in international courts of justice or arbitration panels when they are found guilty of violating the rights of peoples and communities to land, territories, and natural wealth.*

10. A comprehensive, integrated, and clear monitoring system to monitor governments, and other bilateral, regional, international institutions' policies, actions and accountability, must be set up.

- *Disaggregated data based on gender, caste, race, ethnicity, location, etc. and on issues linked to security of tenure and forced evictions (for example, number of landless people, degree of concentration of resources, unsustainable uses of land, territories and natural wealth) must be collected not only by governments but also by communities through self-monitoring systems.*
- *Indicators and benchmarks regarding secure access to, equitable access, sustainable use of land, territories and natural wealth should be developed (for example, indicators for progress of integral and redistributive agrarian reform).*
- *Participatory and independent mechanisms to monitor and evaluate the implementation of these guidelines must be established.*
- *Local peoples and communities right to information—in an adequate, timely, legitimate, accessible, and useful manner—must be upheld and ensured.*
- *The monitoring system must ensure that viable mechanisms are available for communities to seek solutions in the future, especially when their tenure of land, territories, and natural wealth are threatened or violated.*

Endnote

¹ Read more: http://www.thaindian.com/newsportal/business/60-mn-asians-below-poverty-line-due-to-recession-official_100207983.html#ixzz0WerYe5UH, Accessed on November 12, 2009.

