

Land Rights and the Rush for Land

Summary



**Findings of the Global Commercial
Pressures on Land Research Project**

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



INTERNATIONAL
LAND
COALITION



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

The opinions expressed in this report are those of the authors, and can in no way be taken to reflect the official views of the International Land Coalition, its members, supporters or donors.

The ILC Secretariat would appreciate receiving copies of any publication using this study as a source at info@landcoalition.org

Illustrations: © Aldo di Domenico 2011

© 2012 The International Land Coalition

About this summary

This summarises the full report¹ that synthesises the findings of the global Commercial Pressures on Land research project, coordinated by the Secretariat of the International Land Coalition (ILC) with the support of one of its members, CIRAD, and the collaboration of more than 40 grassroots and civil society organisations, academics, and research institutions from around the world. Twenty-eight case studies, thematic studies, and regional overviews resulting from this project have already been published.² In addition, this report incorporates the latest data emerging from the ongoing Land Matrix project to monitor large-scale land transactions.

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

The “land rush”

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

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



¹ The full report can be downloaded at www.landcoalition.org/publications

² <http://www.landcoalition.org/cplstudies>

The following organisations took part in the Global Commercial Pressures on Land Research Project:



Key findings

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

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



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

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

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

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

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

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

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

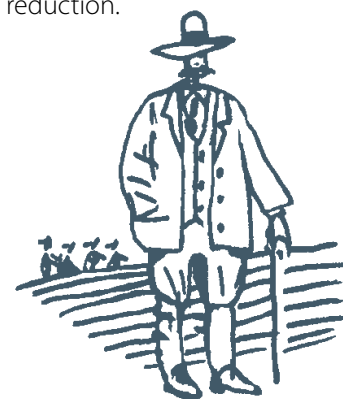
- **The rural poor are frequently being dispossessed of land and water resources under customary tenure.** While some cases reveal evictions from permanent farmland and houses, many cases also show how the resource base of rural livelihoods is being squeezed through loss of access to grasslands, forests,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

The land area of 203 million hectares is equivalent to over eight times the size of the United Kingdom.

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

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

- **Weak democratic governance:** Despite advances in democratisation around the world, huge deficits of transparency, accountability, and popular empowerment exist and contribute to elite capture of resources.
- **Land governance that fails the rural poor:** Many national legal systems centralise control over land and undermine or fail to legally recognise the land rights of local landholders, thereby paving the way for lawful – if unjust – large-scale allocations of land.
- **Economic governance that fails the rural poor:** The international trade and investment regime provides robust legal protection to international investors, while fewer and less effective international arrangements have been established to protect the rights of the rural poor or to ensure that greater trade and investment translate into inclusive, sustainable development and poverty reduction.



Agricultural development policy has increasingly been captured to the benefit of large-scale commercial ventures, undervaluing the potential of smallholder production

- The sidelining of smallholder agriculture:** Agricultural development policy has increasingly been captured to the benefit of large-scale commercial ventures, undervaluing the potential of smallholder production and excluding smallholders as partners. Despite the mixed track record of large-scale agriculture in Africa, the perception that large plantations are needed to modernise the sector remains dominant among many decision-makers.

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

Land at the crossroads

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



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

Policy Considerations

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

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

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

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

including women – play in land use and management. Institutions need to be built at the local level that are empowered to administer land and natural resources, and power asymmetries need to be addressed by explicitly prioritising the interests of vulnerable groups of land users, including the landless, the land-poor, and rural workers.

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

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

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

Secure local land rights are crucial for the enjoyment of internationally recognised human rights such as the right to food and the right to property. But in its present form, international law offers little redress to people adversely affected by large-scale land acquisitions. It is critical to build on work elaborating international guidance on specific human rights³ to strengthen the legal remedies provided by binding treaties. As the key actors in international law-making, states should ratify treaties setting human rights standards (such as ILO Convention No. 169 and the protocol establishing the African Court on Human and Peoples' Rights) and work to strengthen legal remedies. Civil society can also play a key role, by monitoring respect for human rights, challenging actions that adversely affect enjoyment of those rights, and filing cases with international bodies such as the African Court to push the boundaries of human rights law through authoritative interpretation of existing treaties.

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

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

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

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

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

Without transparency, accountability, and open debate, decision-making over land will continue to be swayed by vested interests at the expense of rural land users.

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

A shift is needed towards people-centred land policies that recognise the central role that local populations – explicitly including women – play in land use and management





International Land Coalition

Secretariat

Via Paolo di Dono, 44

00142 – Rome, Italy

tel: +39 06 5459 2445

fax: +39 06 5459 3628

info@landcoalition.org

www.landcoalition.org



INTERNATIONAL
LAND
COALITION