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**Book**

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# Routledge Handbook of Global Land and Resource Grabbing

Edited by Andreas Neef, Chanrith Ngin,  
Tsegaye Moreda, and Sharlene Mollett

“Assembling a rich and diverse set of scholarly contributions, the handbook reviews what we know about land grabbing and identifies fresh lines of inquiry. It is an excellent resource for scholars and activists.”

**Tania Murray Li**, *Professor of Anthropology, University of Toronto*

“An indispensable read, this handbook demonstrates that land and resource grabbing is much more than a sudden fever of corporate investment. It is a fundamental trait of contemporary capitalism.”

**Jacobo Grajales**, *Professor of Political Science, Université de Lille, author of ‘Agrarian Capitalism, War and Peace in Colombia. Beyond Dispossession’*

“The geographic scope – from the Arctic to sub-Saharan Africa, Brazil, Aotearoa New Zealand and a multitude of places in between – and the hugely diverse range of sectors, settings and actors mark this as the most comprehensive and nuanced examination of the global land grab phenomena to date. The volume expands the temporal and sectoral boundaries of this ‘grabbing’ from colonial resource frontiers, into the ocean (‘blue-grabbing’) and urban environments and across arenas that include renewable energy, tourism and conservation (‘green-grabs’). Along with the important conceptual work here – from the emotional geographies of green grabs to the construction of governance processes that facilitate ‘grabbing’ – the volume represents a significant step-change in academic attention towards and understanding of land and resource grabs.”

**Glenn Banks**, *Professor of Geography, School of People, Environment and Planning, Massey University, Aotearoa*

“While much has been written on the so-called global land grab since the mid-2000s, there has to date been no authoritative resource on the issue. This volume admirably fills that gap, providing a comprehensive account that is both global in scope and replete with local case studies; that is historically informed and yet entirely contemporary in its coverage; and that is richly conceptualized and yet always grounded in real world examples. This will be a go-to resource for many years to come, not only for students and researchers but also for activists, policy makers and practitioners in the field of land and natural resource governance.”

**Philip Hirsch**, *Emeritus Professor of Human Geography, University of Sydney*

“This impressive and clearly-written volume provides remarkably wide-ranging coverage of the objects, places, protagonists, narratives, technologies, causes, and institutions of 21st century land and resource grabbing. It illuminates the present while emphasizing the long histories of dispossession and resistance that shape, and are continued in, contemporary struggles. Recommended for beginners and experts alike.”

**Derek Hall**, *Associate Professor, Political Science and Balsillie School of International Affairs, Wilfrid Laurier University*



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# ROUTLEDGE HANDBOOK OF GLOBAL LAND AND RESOURCE GRABBING

This handbook provides a cutting-edge, comprehensive overview of global land and resource grabbing.

Global land and resource grabbing has become an increasingly prominent topic in academic circles, among development practitioners, human rights advocates and in policy arenas. *Routledge Handbook of Global Land and Resource Grabbing* sustains this intellectual momentum by advancing methodological, theoretical and empirical insights. It presents and discusses resource grabbing research in a holistic manner by addressing how the rush for land and other natural resources, including water, forests and minerals, is intertwined with agriculture, mining, tourism, energy, biodiversity conservation, climate change, carbon markets and conflict. The handbook is truly global and interdisciplinary, with case studies from the Global South and Global North, and chapter contributions from practitioners, activists and academics, with emerging and Indigenous authors featuring strongly across the chapters.

The handbook will be essential reading for students and scholars interested in land and resource grabbing, agrarian studies, development studies, critical human geography, global studies and natural resource governance.

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# ROUTLEDGE HANDBOOK OF GLOBAL LAND AND RESOURCE GRABBING

*Edited by Andreas Neef, Chanrith Ngin,  
Tsegaye Moreda, and Sharlene Mollett*

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Cover image: Beachfront resort development on the ancestral lands of Indigenous seafarers in southern Thailand (Photo credit: Andreas Neef)

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# FOREWORD

Despite early claims by some observers that global land grabbing was more a spectacle with little reflection in reality and that its scope was grossly exaggerated, the degree of academic research interest has never decreased, even as global media coverage waned. So, how do we make sense of such a global phenomenon and the scholarship that has emerged in its wake?

*Routledge Handbook of Global Land and Resource Grabbing* edited by Andreas Neef, Chanrith Ngin, Tsegaye Moreda and Sharlene Mollett is the first and most systematic academic effort in one volume to provide an updated and comprehensive presentation and analysis of the objective conditions out there, the current state of the scholarly literature, and how to frame our analysis of the social dynamics of the global land rush. As such, while it is very useful in helping us understand questions in the here and now, its value will last for much longer because most of the individual contributions, and the collection itself, offer important lenses of analysis, allowing us to connect questions about ‘what was’, ‘what is’, and ‘what may be’.

A decade and a half ago, the world was walloped by converging multiple crises, namely, food, energy, fuel, environmental, climate, and financial. This immediately provoked a corporate-led response that purportedly aspired to address such crises. Yet, we all know that such a corporate-led response, which overlapped with the distinct drivers and/or has been endorsed by nation-states worldwide, has led to widespread land grabbing, understood here in the broadest sense of ‘control grabbing’ (Borras and Franco, 2012). The phenomenon was so evident and widespread – that is, truly global – that even those who actually celebrated such a strategy of radically recasting land use worldwide were somehow put on the defensive politically. Such was the case with the World Bank, which put out a major report about the phenomenon in 2011 (Deininger and Byerlee, 2011). Their main line of argument, articulated by mainstream economists like Klaus Deininger, was to acknowledge widespread cases of fraud, dispossession, and displacement, but affirm the fundamental correctness of the corporate-led approach – with a caveat: making sure that fraud, dispossession, and displacement are minimized if not altogether avoided through voluntary codes of conduct and institutional instruments such as transparency and consultative processes. This mainstream approach has provoked differentiated reactions from policy practitioners, non-governmental organizations (NGOs), social movement

activists, and academic researchers. Some completely support such an approach, others categorically reject it, still others try to combine elements of both by navigating the middle ground.

The state of academic debate has remained, more or less, where it was a decade ago. This means that many issues being debated have remained unresolved and open-ended. Claims and counterclaims about over-counting the scope of land deals; what to count and how to count land deals; qualitative versus quantitative approaches in understanding land deals; how global land grabs are a reflection of the current crisis of global capitalism and the effort of the latter to fix it; how ‘control grabbing’ of land and resources are far beyond food and agriculture in scope; and so on. The issues being debated and the unresolved character of these reflect in part the various competing intellectual traditions and scientific fields that are engaged in the global land rush literature – from New Institutional Economics to Sustainable Livelihoods, from political ecology to Marxist agrarian political economy, and from geography to ecological economics. These debated themes and the kinds of questions being asked are reprised in this book, but making such debates far more informed and grounded than what we had a decade ago. Contributions to this collection now have the advantage of being able to mobilize and utilize heftier empirical materials compared to many initial, tentative and even speculative empirics used a decade ago when the key questions in major debates were framed. The overall outcome is that contributions to this collection and the collection as a whole are able to help push the boundary of our knowledge of this important global phenomenon.

The collection stretches the boundary of knowledge by allowing us to see the greater degree and extent of heft, depth, breadth, and specificities within global patterns of land grabs. The theoretical and empirical *heft* around the land grab scholarly literature over the years have been summarized and captured in this collection. True, there was a ‘literature rush’ that accompanied the global land rush, as explained by Oya (2013a). But it has not been a flash in the pan, so to speak, as demonstrated by this collection. The scholarly literature during the past decade has thickened the initial scholarship that burst into the global academia several years after the initial salvo in 2008. The scholarship that has emerged is not a hollow reproduction of the early scholarship, but has provided solidity when we aggregate the combined literature – theoretical, methodological and empirical – from 2008 to today.

Furthermore, recent publications have contributed additional *depth* to the literature and to political debates. For example, the initial green grabbing literature landmarked in the Fairhead, Leach, and Scoones (2012) collection has now gone much deeper, especially in terms of land grabs and climate change (see, e.g. Liao et al., 2021). A decade ago, Oya (2013b) was asking sharp questions about the labour and livelihoods dimension of land deals which he suggested necessarily requires time to allow for actual social processes to unfold. Since then, we have seen increasing empirical studies on this theme (see, e.g. Hall et al., 2017; Gyapong, 2021).

In addition, scholarly literature during the past decade has provided further *breadth* to the theoretical and empirical aspects of scholarship. This can be seen in several ways. Geographically, the empirical studies and theorizing of land grabs that occur in the North (Ashwood et al., 2022; Desmarais et al., 2015) and inside China (Xu, 2020) have been richer and more developed than before. Methodologically, cross-country comparative studies have been increasing despite still lagging behind (see e.g. Andreas et al., 2020). Expansion of studies in terms of institutional actors involved (Franco and Borrás, 2021) and specific

sectors has also gained ground, such as ‘pastoralism’ which is a huge sector and theme but has been poorly researched in the land grabs literature (Scoones, 2021).

Finally, scholarly literature in recent years have made theoretical and empirical contributions on themes related to *specificities* of land grabs, spatially and temporally, firmly located in the context of, and implications for, global patterns of capital accumulation and politics. Calmon’s (2022) notion of ‘redirected global land use change’ is a good example of this and so is Dwyer’s (2022) excellent book on situating local-national land grabs within broader geopolitical dynamics.

As in any major scientific accomplishments, opening a new path necessarily leads to new, uncharted territories. This book has generated the same effect, helping us frame new questions, giving importance to emerging issues, assisting us to see old existing issues that were not fully noticed earlier, or affirming persistent blind spots. There are plenty, but I will flag only a handful. *First*, the persistent view of land deals supposedly being largely hyped, suggesting that most land transactions were empty spectacles without actual changes on the ground, has remained an open-ended issue. There are some recent propositions for discussion around this issue such as Broegaard et al. (2022) and Borrás et al. (2022). *Second*, the everyday land deals (land accumulation, land transactions) that may involve large or tiny parcels of land, done in legal or illicit processes and that tend to remain outside the media spotlight remain persistent in the real world but have consistently received little attention in academic research. But this type of land deal is likely to be far more widespread, and it would not be surprising if we found out that their aggregate scale could be equal to, if not bigger than the oft spotlighted state- and corporate-driven land grabs (see, e.g. Woods, 2020, Borrás et al., 2020).

The global land grabbing phenomenon has not ceased despite decreasing interest by the international media. A cause – and effect – of this is the *routinization* of land grabs. Put simply, land grabs may no longer be newsworthy because they happen routinely, and increasingly in ways that may be legally acceptable in many societies. Routinization almost always leads to *legitimizing* and *naturalizing* land grabs. Once we reach that point, the logical effect is to *invisibilize* land grabs – and the exploitation and oppression, injustice and everyday violence that they bring to ordinary people. One way to avoid this dangerous current is to continue studying concrete realities without cease and to keep asking critical questions. This book guides us on how to do just that.

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# 1

# GLOBAL LAND AND RESOURCE GRABBING

## An Introduction

*Andreas Neef, Chanrith Ngin, Tsegaye Moreda, and Sharlene Mollett*

### **Introduction: The Global Rush for Land and Natural Resources in the 21st Century**

The global financial crisis in 2007/2008 combined with other major crises – food, fuel, climate, environmental – triggered a wave of both large- and small-scale land acquisitions and leases, primarily in resource-rich countries in the Global South and parts of Eastern Europe. These land deals for agro-industrial, energy, mining, tourism, infrastructure, urban development, conservation and carbon sequestration projects have affected hundreds of thousands of smallholder farmers, Indigenous peoples, ethnic minority groups and communal landholders. Fifteen years later, the new global land and resource rush shows no signs of abating, although media attention has significantly waned (Borras et al., 2022a). Major geopolitical shifts and the long-term ripple effects of the COVID-19 pandemic are likely to intensify land and resource grabbing for the foreseeable future.

Over the past few years, the global land and resource rush has reached new levels of absurdity and impunity. In August 2019, then US President Donald Trump grabbed the headlines when the *Wall Street Journal* revealed that he had asked his advisors whether it would be possible to purchase semi-autonomous Greenland from Denmark, which escalated into a brief but intense diplomatic row with the Danish government (Salama et al., 2019). The launch of NASA's Artemis project in 2020 – with the aim of putting humans back on the moon by 2024 – has raised questions about outer space territoriality and space resource ownership and utilization (de Zwart, 2021), nearly 60 years after a group of North American legal scholars had first pondered on the legal aspects of acquiring outer space resources (McDougal et al., 1963). And in 2022, Russian President Vladimir Putin attempted the largest land grab post World War II, when he announced the formal annexation of four occupied regions of Ukraine (Hall, 2022; Murphy, 2022). The food security concerns triggered by the brutal invasion of one of Europe's largest producers of wheat and sunflower oil could well lead to further justifications for land and resource grabs in distant places.

A number of scholars have compared the ongoing global land and resource rush to previous global land grabs (e.g., during the heydays of European colonialism and imperialism), but have offered differing forecasts regarding its long-term prospects. Many scholars, activists and journalists maintain that the 21st century land and resource rush will

have long-lasting and devastating social and ecological consequences (Land Research Action Network, 2011). Pearce (2012, p. x), for instance, contends that “the new land rush looks increasingly like a final enclosure of the planet’s wild places, a last roundup on the global commons”. Others claim that it is just another land and resource boom that will eventually fade away, as a large share of the investments is bound to fail economically and/or will be resisted locally, with support from growing domestic and international advocacy movements. Yet, as Borrás et al. (2022a) point out, failed or non-operational land deals can still have long-lasting impacts on property regimes, landlessness and social relations.

In the early 2010s, there was an intense debate on whether some of these large-scale land deals can provide tangible and positive development outcomes for affected local communities and societies (e.g., World Bank, 2011; Blumenthal, 2013; von Braun & Meinzen-Dick, 2009) or whether the global land rush should be categorically condemned as an unacceptable manifestation of ‘neo-colonialism’ and ‘accumulation by dispossession’ (Harvey, 2004), as stressed by critical development scholars, La Vía Campesina, GRAIN, Global Witness and a number of other social movements and advocacy groups (GRAIN, 2008; Hall, 2011; Bush et al., 2011; White et al., 2012; Global Witness, 2013). Associated with this debate was the question whether large-scale land deals could always be categorized as ‘land grabs’, implying that they are either outright illegal under national and/or international legal frameworks (e.g., when they involve the violent displacement of formal right-holders), largely illegitimate (e.g., when they infringe on customary land rights not acknowledged by the state) or at least unethical (e.g., when investments formally follow the rules, but still have adverse social, cultural or economic impacts on local actors) (Alden Wily, 2012; Neef, 2014; Neef, 2019; Özsü, 2019). To date, overwhelming evidence has been amassed to support the notion of land and resource grabbing underlying the vast majority of large-scale land deals. The contributions to this handbook also leave little doubt that land and resource grabbing is a global phenomenon with far-reaching negative consequences on the environment, human rights and livelihoods of Indigenous peoples and marginalized groups in countries of the Global South. Box 1.1 presents two of the most commonly used definitions of land grabbing.

### **Box 1.1 Definitions of Land Grabbing**

The International Land Coalition (ILC, 2011) defines land grabbing as “acquisitions or concessions that are one or more of the following:

- i in violation of human rights, particularly the equal rights of women;
- ii not based on free, prior and informed consent of the affected land-users;
- iii not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered;
- iv not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and;
- v not based on effective democratic planning, independent oversight and meaningful participation.”

Borrás et al. (2012, p. 851) define land grabbing as “the capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms that involve large-scale capital that often shifts resource use orientation into extractive character,

whether for international or domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital.”

*Source:* ILC (2011).

Another debate that has occupied critical development scholars, legal experts and human rights advocates over the past 15 years has been around the effectiveness of the various soft law instruments that have been developed at national and international levels to govern and control the global land rush (Cotula, 2012; Dhanarajan, 2015; Tzouvala, 2019, Anseeuw et al., 2022). De Schutter (2011, p. 274), then United Nations Special Rapporteur on the Right to Food, asserted that “voluntary approaches to discipline land-grabbing are bound to fail”, largely because both investors and host governments have strong motives to “shield the deals they negotiate from outside scrutiny”. In the most recent assessment, Anseeuw et al. (2022) find that notwithstanding the developments of global and national frameworks for land governance in the past decade, effective changes in large-scale land acquisition practices have remained scant. In their assessment of the implementation of the most popular international legal framework – the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) – in the context of land deals on the African continent, the authors find that 78% of all deals showed unsatisfactory levels of VGGT uptake and implementation and 87% of the countries assessed presented unsatisfactory results in terms of VGGT implementation. The main areas of concern include (1) weak or non-existent consultative processes, (2) lack of respect for national law and legislation, (3) low regard for legitimate tenure rights, including informal tenure of local communities and Indigenous peoples, (4) lack of respect for human rights, (5) lack of safeguards, unlawful expropriation, and minimal application of agreed-upon compensation measures, and (6) continuous lack of data and the dire state of transparency (Anseeuw et al., 2022, p. 3).

### **Actors Driving the Global Land and Resource Rush**

The actors involved in land and resource grabbing have been well-described in the scholarly literature and reports of international advocacy groups, and this section can only provide a sketchy and highly selective picture of the major actors. In origin countries, *national governments*, notably in the Gulf States, East Asian countries and the BRICS states – play a major role in driving investments in land and other natural resources in large parts of the Global South. South-South land and resource grabbing is increasingly common (e.g., land grabs by Vietnamese rubber companies in Laos and Cambodia), as are triangular South-North-South collaborations. One example of the latter is the trilateral agrarian cooperation program ProSavana, instigated by the Brazilian government, the Japanese Ministry of Foreign Affairs, the Japan International Cooperation Agency, the Mozambican government and a number of agricultural corporations, which threatened to dispossess thousands of smallholder farmers in northern Mozambique before it was eventually discontinued in 2020 by the Mozambican government following a decade of fierce resistance by domestic and transnational advocacy movements (Bussotti & Nhauelique, 2022). In many cases, national governments invest in overseas land through *Sovereign Wealth Funds (SWFs)*, such as the



Qatar Investment Authority, Singapore's Temasek Holdings, the Abu Dhabi Investment Authority (ADIA) and Saudi Arabia's Public Investment Fund (Clark et al., 2013; Woertz, 2013). The first decade of the 21st century saw the establishment of 29 new SWFs, exceeding the number of newly established SWFs in the entire second half of the last century (Clark et al., 2013). In the wake of the COVID-19 pandemic, SWFs' direct investments reached a record number in 2021, increasing 60% on the five-year average number of deals, with investments of USD 15.5 billion in infrastructure (almost doubling the USD 8.1 billion investments in 2020) and around USD 12.2 billion in real estate (IFSWF, 2022). SWFs have thus become a major element in international finance, and their economic power and global outreach can hardly be overstated. **Real Estate Investment Trusts (REITs)** have also become major players in the global land rush (Fairbairn, 2020). Other types of investors include **private equity funds and hedge funds** that have substantially increased their positions in global farmland investments, critical infrastructure and real estate, which they consider as more tangible assets in an increasingly volatile global financial system (Fairbairn, 2014; 2020). **Transnational corporations** have been either directly involved in land and resource grabbing (e.g., multinational mining companies) or are indirectly fueling land and resource grabs through their huge demands for commodities associated with land grabbing. A study by the Zoological Society of London in 2021 identified 12 corporations as the major culprits for the continuation of global deforestation, including Cargill, Walmart, IKEA, Starbucks, Procter & Gamble and McDonald's (Lai, 2021). **International environmental nongovernmental organizations (NGOs)** have purchased vast amounts of land, dubbed the 'great green land grab', that is, the appropriation of forestland and other natural resources for conservation purposes (Fairhead et al., 2012). Evolving international carbon markets, such as the global REDD+ initiative (**Reduced Emissions from Deforestation and Forest Degradations**), have attracted a number of **reforestation companies** that aim at turning conservation forests and monoculture tree plantations into lucrative businesses under the guise of climate-saving investments in the green economy (Nerlich & Koteyko, 2010; cf. Milne et al. (Chapter 11, this volume) and Bruna & Mbanze, Chapter 12, this volume)).

Large-scale land deals often rely on **national governments and state agencies** in host countries, often with weak or bad governance structures and a large share of poor and undernourished populations. Some governments may invite large-scale investors to overcome a perceived or actual lack of investment in rural areas and to exploit allegedly 'underutilized' areas. Another motivation for national governments to encourage large-scale land acquisitions is to make the rural landscape legally legible through a combination of territorialization and privatization. In some countries that have undergone a major decentralization process in recent years, such as Indonesia, **regional governments** at provincial or district level may willingly collaborate with predatory investors. Several African countries and small island nations in the Pacific have provided legal recognition of customary land rights through their constitutions and land legislations, often with **chiefs** as the holders of legal titles and **traditional councils** as land administrators (Peluso & Lund, 2011). Although the alienation of customary land tends to be restricted by law, traditional authorities oftentimes hold the legitimate power to negotiate with investors over leasehold terms (Schoneveld & German, 2014).

Finally, the success of land deals relies on support from intermediaries – that is, those actors that play a major role in promoting, brokering or financing large-scale land acquisitions and resource grabbing. Among these intermediaries feature **international development banks and aid agencies** that have promoted investor-friendly policies and legislative

frameworks in many countries of the Global South. The World Bank's lending arm – the International Finance Corporation – has provided direct financial support for a large number of land deals (White et al., 2012). While both the World Bank and the Food and Agriculture Organization (FAO) have also advocated support for smallholder farming in the Global South and have been involved in major international initiatives to regulate the global land rush (e.g., FAO, 2012), some of their representatives have provided and reinforced discursive justifications for large-scale, transnational land deals and prepared fertile ground for land and resource grabbing through supporting and implementing investor-friendly property rights legislation (cf. Gould, Chapter 6 in this volume). ***Internationally operating commercial banks*** are another major group of intermediaries in transnational land acquisitions. Germany's Deutsche Bank and Australia's ANZ, for instance, have been condemned by human rights organizations and international media for financing companies involved in large-scale land grabs and violent evictions of local communities in Cambodia and Laos (Global Witness, 2013; Inclusive Development International, 2014). According to Forest & Finance (2019), a coalition of civil society organizations and research groups, the ***world's 50 largest banks and investors***, including Bank of America, Sumitomo Mitsui Banking, Industrial and Commercial Bank of China (ICBC), BlackRock, and Vanguard are driving deforestation through major investments in commodities (beef, palm oil, pulp and paper, rubber, soy and timber) that are directly linked to tropical rainforest destruction. In September 2022, Global Witness published a briefing document 'Bankrolling Destruction' that implicated three of the world's biggest ***central banks***, namely the Bank of England, the US Federal Reserve and the European Central Bank, in having bought millions of USD in bonds issued by companies linked to deforestation and land grabbing (Global Witness, 2022).

### **Discourses and Narratives around Land and Resource Grabbing**

The discursive justification for land and resource grabbing comprises a whole set of discourses and narratives, most notably (1) development discourses, (2) crisis narratives, (3) idle land discourses (the myth of empty lands or terra nullius) and (4) conservation discourses.

#### ***Development Discourses***

These discourses emphasize the need for land-based investment to increase land productivity and resource values, provide job opportunities and alleviate poverty. They are often linked to an efficiency narrative which asserts a superiority of capital-intensive, large-scale agriculture over semi-subsistence smallholder farming and small-scale commercial agriculture (Blumenthal, 2013; Riddell, 2013). In the context of infrastructure and urban development projects, development discourses are used to legitimize land confiscation and involuntary resettlement. Once a development project involving land deals is accepted by wider society as a 'public purpose', governments can then invoke the concept of 'eminent domain' as a legal mechanism to take away private or communal property from rightful owners.

#### ***Crisis Narratives***

These narratives aim to create a sense of urgency to address various global crises, most notably those around food, water, energy, the environment and climate change. Through

creating, manipulating and managing crises, governments in alliance with corporate actors and international financial institutions construct a rationale for (foreign) land-based investments as a pathway out of the crisis (cf. Harvey, 2006). It is claimed that corporate land acquisitions are necessary to achieve global food security, ensure global water supplies, provide energy security through fossil fuel extraction, preserve the environment and combat climate change. Leaving the solution to major crises to customary landholders, local communities and Indigenous peoples is considered too risky and/or inefficient.

### ***Terra Nullius or the Myth of Empty Lands***

This narrative builds upon the Lockean notion that a declaration of land as “wasteland would come to legally justify the dispossession of Indigenous peoples” (Bhandar, 2018, p. 47). Accompanying colonial invasion are myths and presuppositions that render Indigenous land use, often nomadic and collective, inferior to sedentary and individuated Euro-American land use arrangements and becomes the basis of Indigenous dispossession. Such narratives conjure the myth of an abundance of unused or under-utilized land, in the hands of Indigenous peoples, that could be brought into (more) productive use by Euro-American (white) settlers (see Bhandar, 2018; Mollett, 2016).

### ***Conservation Discourses***

These discourses brand the original landowners and customary users of pristine forest areas, wildlife conservation zones or cultural heritage spaces as ‘eco-threats’ or dangers to the preservation of sites of cultural significance. Conservation discourses have been deployed to justify the forced relocation of Indigenous people from protected areas, such as from Yellowstone National Park and Yosemite National Park in the United States in the second half of the 19th century and more recently from wildlife conservation zones in Eastern and Southern Africa, South Asia and Southeast Asia (Brockington & Igoe, 2006). In Cambodia, the government has recently instigated the ‘voluntary’ relocation of 10,000 families from the country’s iconic Angkor Wat Heritage Site, using the discourse that this measure is necessary to preserve the integrity of the archaeological park and maintain its status as a UNESCO World Heritage site (Kelliher & Rathana, 2022).

### **Practices of Dispossession and Social Impacts of Land and Resource Grabbing**

Drawing on Devine and Ojeda (2017) and Neef (2021), this section identifies five major practices of dispossession associated with land and resource grabs, (1) eviction, (2) enclosure, (3) extraction, (4) exclusion and (5) erasure. These practices are explained in detail in Table 1.1.

While proponents of large-scale land deals point to a range of benefits that these investments may entail for host countries and local communities – most notably the modernization of agriculture, the revival of rural economies, the improvement of infrastructure and the beautification of urban areas – “there have been shockingly few examples of projects that offer real benefits to local populations, or even to host governments” (Spielloch & Murdoch, 2013, p. 61). A number of land deals have in fact provided new job opportunities for rural people, but many of these jobs may be seasonal and/or low-wage only (Li, 2011). Others have included compensatory measures, such as provision of wells,

*Table 1.1* Practices of dispossession through land and resource grabbing

<i>Type of practice</i>	<i>Characteristics</i>
<i>Eviction</i>	Land and resource grabbing physically removes communities and individuals from territories that they have previously occupied, whether under non-codified customary ownership or formally recognised communal or private land title. Eviction can occur via openly violent measures (such as the burning of houses) or by more subtle means of threats, bribery and false promises and may or may not include compensation.
<i>Enclosure</i>	Land and resource grabbing dispossesses people from access to material means of subsistence, such as land, water, timber, fisheries and other resources. It is linked to ‘accumulation by dispossession’ as governments, corporations and other actors physically appropriate various types of natural resources that were previously vital to local people’s livelihoods, e.g., for subsistence farming, timber for construction and fuel, or artisanal fishery.
<i>Extraction</i>	Land and resource grabbers exploit the natural environment by such extractive practices as exhausting fragile agro-landscapes through monocultures, drilling and mining fossil fuels metals and minerals, extracting large amounts of freshwater, and removing forests through logging and land clearing for plantations.
<i>Exclusion</i>	While all forms of land use and resource access involve exclusion of some kind (Hall et al., 2011), land and resource grabbing exercises particularly exclusionary powers by excluding former land and resource users from the benefit streams of their rightfully owned resources. These benefits may be tangible (e.g., harvesting crops or wild honey) or intangible (e.g., being intimately connected to an ancestral domain).
<i>Erasure</i>	Land and resource grabbing renders pre-existing definitions of place, livelihood, identity and history invisible or erases them deliberately. Land deals might infringe on culturally important places (e.g., graveyards, sacred sites), destroy artifacts of cultural and historical significance or render Indigenous and minority cultures invisible through a variety of measures.

*Source:* Partially adapted and expanded from Devine and Ojeda (2017) and Neef (2021).

health stations or school buildings. In most recorded cases, however, customary land rights of farmers, pastoralists, fishers, hunters and gatherers, and other occupational groups with high dependency on natural resources have been compromised by large-scale land deals without any compensation or relief mechanisms. Dispossession, semi-proletarianization, forced resettlement and increased social conflicts are among the most commonly noted impacts of land and resource grabbing (Pearce, 2012; Neef et al., 2013; Borrás et al., 2022b).

Women tend to be particularly adversely affected by large-scale land deals, especially in cases where forests or other essential communal resources are affected, as they may lose their traditional access to medicinal plants, wild fruits and nuts, fuel, bamboo shoots and other non-timber forest products (Hall, 2011; Park & White, 2017; Mollett; 2017; 2021). Often the gendered impacts of land grabs are less noticeable as land grabbing also results from the accumulation of small tracts of land over time where bit by bit through policy changes, land commercialization, land registration and land invasions alike, women are rendered landless (Mollett, 2010; Behrman et al., 2012; Perry, 2013; Verma, 2014; Hajjar et al., 2020).

Land and resource grabbing does not only affect the land rights and livelihoods of affected populations; it also affects their freedom and may even put their lives at risk. Defenders of land rights against corporate and government land and resource grabs are

particularly under threat from persecution and extrajudicial killings. In Myanmar, one-third of political prisoners in 2015 were land rights activists (Neef, 2021). In Cambodia, authoritarian populism and crackdowns on media and NGOs have considerably constrained spaces for social movements and human rights advocacy (e.g., Beban et al., 2020). According to Frontline Defenders (2022), 53% of the 358 human rights defenders who were killed globally in 2021 – as reported to the International Human Rights Defenders Memorial – worked on land rights, Indigenous people’s rights and environmental rights, with land rights defenders in Colombia, Mexico, Brazil, India, the Philippines, Honduras, Guatemala, Nicaragua and the Democratic Republic of the Congo being most at risk of being killed.

Women are also at the frontlines of many resistance movements. Women, like men, as land defenders, suffer intense violence in their quests to defend collective rights to lands against impending extractive development. As Mollett writes (2021), while more male land defenders are killed around the world, women land defenders face particularly gendered (and often carnal) attacks where they are terrorized, criminalized and often murdered while working to defend their communities from extraction.

### **Contributions to This Handbook**

The remainder of this handbook comprises 30 chapters divided into nine thematic parts. Each part contains between three and four chapters. The contributions to Part 1 examine the historical trajectories of land and resource grabbing. Colonization has been aptly described as “the most dramatic and violent rupture and reordering of property and political subjectivity in human history” (Lund, 2016, p. 2013). All three chapters in this section are stark reminders that colonialism has never ended. Drawing on a review of land grab cases in Sub-Saharan Africa, Thembela Kepe (Chapter 2) suggests that contemporary land and resource grabbing in the Global South is just another version of the infamous Doctrine of Discovery, which originated as a papal bull issued by Pope Nicholas V in 1454 and was subsequently adopted by European colonizers to legitimize the unfettered seizure of ‘discovered’ foreign lands inhabited by non-Christians and subjugate Indigenous Peoples to violence, dispossession and unfreedom (cf. Winchester, 2021). Kepe argues that the contemporary land rush is a toxic legacy of the Doctrine and bears many of its elements, including what he refers to as ‘dignity takings’ which is the dehumanization of the dispossessed (cf. Atuahene, 2016). Turning to settler colonial states, Margaret Mutu (Chapter 3) deconstructs the ‘legal fiction’ of the Doctrine by demonstrating how the British colonizers used deceit, violence and theft to dispossess and subjugate the Indigenous Peoples of the United States, Canada, Australia and Aotearoa New Zealand, thereby disempowering them with ramifications that have lasted to this day. She examines the contemporary struggles of Māori, the Indigenous peoples or tangata whenua of Aotearoa New Zealand to regain sovereignty and self-determination and achieve land and resource restitution. Joel Correia (Chapter 4) explores Latin America’s resource frontiers and demonstrates how contemporary land and resource grabs and Indigenous labour exploitation are a form of normalized racial dispossession rooted in colonial capitalism. Drawing on his analysis of agrarian extractivism in the Paraguay-Brazil borderlands, he describes the land and resource rush as a form of slow violence and continuation of colonialism through new forms of agrarian technologies and juridical mechanisms.

Contributions to Part 2 explore the complex processes and governance mechanisms of land and resource grabbing. Rachel Goffe (Chapter 5) examines the phenomenon of ‘capture land’ in Jamaica, which refers to informal land settlements on abandoned public and private land, which from the 1970s were widely accepted by the anti-imperialist, postcolonial state as a form of ‘expropriation by the people’. With the turn to neoliberal development policies and property rights regimes, these settlements are now seen as illegitimate obstacles to foreign and local investments. Goffe argues that contemporary anti-squatting policy in Jamaica establishes a form of processual land grab that is rendered justifiable by incriminating squatters as the culprit behind national crises and by detaching the postcolonial land question from colonial legacies of genocide, dispossession and enslavement. Kevin Gould (Chapter 6) continues the historicization of land grabs by focusing his analysis on the role of technocrats, such as consultants and other experts, in creating favorable conditions for land and resource grabbing. Drawing on a land grab in northern Guatemala, he demonstrates how World Bank technocrats established an exclusionary, neoliberal property rights regime that provided large landowners (cattle ranchers and oil palm plantation owners) with the legal mechanisms to acquire lands that were previously owned by marginalized Indigenous people and peasants (*campesinos*). Miles Kenney-Lazar and coauthors (Chapter 7) examine the frictions around government-sanctioned foreign land concessions that have met increasing resistance from dispossessed peasants. The authors take a critical and relational approach to analyze the various relations between different actors (government officials, private market actors, civil society groups and farming communities) and processes that determine how authority and power over land are established and how land and resource grabbing is governed, in terms of both facilitation and regulation.

Part 3 looks into the scramble for food, feed and agro-biofuels to resolve real or imagined food and energy crises which underpins a large share of contemporary land and resource grabs. In a study of 80,000 land deals concluded between 2000 and 2018 in 15 countries across Sub-Saharan Africa, Latin America and Southeast Asia, Davis et al. (2020) found that the largest increase in deforestation stemming from these deals was associated with concessions for oil palm plantations, tree plantations, and wood fibre (cf. Neef, 2020). Drawing on concepts of agro-extractivism, flex crops and commodity frontier and case studies from Eastern Africa, Guiliano Martiniello (Chapter 8) explores the expansion patterns of sugarcane cultivation. He argues that the advancement of the sugar frontier has driven land enclosures, dispossession, livelihood destruction and massive social conflicts, while adversely incorporating poor farmers through contract farming into new agro-scapes and politico-economic assemblages. Mark Vicol and Helena Pérez Niño (Chapter 9) take this analysis a step further, aiming to provide an advanced conceptualization of contract farming within the global land grabbing literature. They start by exploring the various scholarly perspectives on contract farming in the land grab debate, seeing it as (1) a particular form of land grabbing, (2) a more inclusive alternative to land grabbing, or (3) a way of organizing crop production post land grab. The authors offer an alternative view of contract farming as a form of controlling land through capital without actually gaining ownership of land. Their analysis allows an important distinction between outright dispossession of farming communities and cases in which farmers retain land ownership while losing control over the production process. In the final contribution to this section, Lindsay Naylor (Chapter 10) takes a critical look at the proliferation of genetically modified (GM) crops, claimed by many scientists and philanthropists to be a solution in the fight against

global hunger, despite a large share of GM crops being cultivated either as non-food crops or as feed for livestock to support meat- and dairy-based diets in wealthy countries. Naylor argues that the combination of neocolonial land grabbing and the use of a large portion of that land for GM crops engenders sites of multiple enclosures (geopolitical, geoeconomic and biopolitical) and perpetuates the problems (such as food insecurity) that they claim to resolve. She calls on land grab scholars to challenge universalizing discourses of industrial-capitalist modes of agricultural production by incorporating pluriversal and place-based thinking into knowledge production that can inform agricultural policy and practice.

Contributions to Part 4 examine land and resource grabbing in the context of nature conservation, eco-tourism, renewable energy and carbon markets. The recent Land Gap Report 2022 found that the total land area needed to meet the projected biological carbon removal in national climate pledges amounts to nearly 1.2 billion hectares which is almost equivalent to the current global cropland (Dooley et al., 2022). This is likely to place enormous pressure on Indigenous people and smallholder farmers whose ability to access and control land and protect their customary tenure rights will be put further at risk. Sarah Milne, Tim Frewer and Sango Mahanty (Chapter 11) discuss the process of green territorialization in Cambodia, where over 40% of the country's land area has been demarcated for conservation purposes, while this Southeast nation has been notorious for foreign and domestic land grabbing, deforestation and other types of resource extraction (cf. Neef et al., 2013). The authors critically reflect on this ambiguity and scrutinize the Cambodian government's motives for green territorialization. They argue that the expansion and consolidation of 'protected' areas advance a dubious agenda of state control, resource extraction and elite accumulation, legitimized and greenwashed by international donors and environmental actors through such programs as REDD+. In a similar vein, Natacha Bruna and Aires A. Mbanze (Chapter 12) discuss how Mozambique's government is changing its focus from solely efficiency-driven foreign direct investment (FDI) to *green* efficiency-driven FDI and financialization by embracing 'climate-smart policies' that are in disregard of local communities' aspirations, priorities and needs, but cater for the interests of corrupt and neopatrimonial governments at national and local levels. These investment projects – which include REDD+, CSA, and biofuel projects – receive financial and regulatory support from the World Bank and other international actors that have jumped on the 'green economy' bandwagon. Arnim Scheidel and colleagues (Chapter 13) demonstrate how the global land and resource rush intersects with the increased demand for land and other natural resources to advance the transition from fossil fuel-based economies to 'greener and cleaner' ones. They discuss the gross environmental and social injustices that are emerging from the global energy transition, focusing on large-scale biofuel projects, hydropower dams, solar megaprojects and wind parks. The authors call for a socially just energy transition that emphasizes local energy sovereignty and inclusive community participation. Drawing on a case study of Guatemala's Maya Biosphere Reserve, Laura Aileen Sauls and Jennifer Devine (Chapter 14) provide insight into how the global tourism industry enables land and resource grabbing and the role geo-spatial knowledge production and securitization plays in dispossessing Indigenous peoples and community foresters. The authors disentangle a complex web of (geo-)political and economic interests in the El Mirador Maya archaeological sites, which includes the introduction of legislation in the United States that aims to fortify national borders and control migration streams from the Mirador Basin under the guise of eco-tourism and archaeological conservation. They also show the relative success of forest dwellers in El Mirador in defending their land rights and livelihoods, albeit at a very high cost.

Part 5 turns attention to the ‘classical’ extractive industries that are concerned with the extraction of fossil fuel, minerals and metals. Markus Kröger (Chapter 15) sheds light on a particular resource frontier, the Arctic region, which has not received much attention from global land grabbing scholarship to date. He highlights the enormous risks that are rapidly accelerating climatic changes in this fragile region, leading to dangerous tipping points in terms of permafrost melting. This questions the sustainability of extractive infrastructures that have been built despite these risks, but are now deteriorating and spreading pollution into Arctic ecosystems. Pascale Hatcher and Etienne Roy Grégoire (Chapter 16) explore the political economy of large-scale mining in Asia and the pluralist interests of myriad stakeholders – multinational corporations, domestic elites, armed actors, international financial institutions and civil society – involved in the development, implementation and contestations of mining regimes. Their contribution calls for the preservation and protection of the disruptive capacity of grassroots mobilization as a way to address the complex and multilayered web of interests that characterize the mining sector’s extractive governance model. Catherine Alexander, Katerina Teaiwa and Andreas Neef (Chapter 17) explore how decades of grabbing phosphate resources in distant places have contributed to the success of pastoral farming in Aotearoa New Zealand which is the backbone of the country’s economy and a major source of its wealth. What started in colonial times with the exploitation of the country’s Pacific Island neighbors continues with the contemporary import of phosphate from conflict zones in Western Sahara, where the Indigenous Sahrawi people have been dispossessed and displaced through the annexation of their territories by Morocco. The New Zealand government’s prioritization of the strategic supply of phosphate resources over Indigenous land sovereignty and human rights – discursively justified by the need to contribute to ‘feeding the world’ – appears at odds with official government policy but has largely remained under the radar of national and international public interest.

Contributions to Part 6 examine the global rush for freshwater and marine resources, popularly referred to as ‘blue grabbing’. Globally, pressure on freshwater and marine resources is increasing as a result of such factors as rising food demand, indiscriminate groundwater extraction, offshore fossil fuel and mineral explorations, hydro-energy expansion, climatic changes and the enhancement of biofuel production (Gerbens-Leenes et al., 2009; Nasr & Neef, 2016; Ayelazuna & Ovadia, 2022; Birkinshaw, 2022). Mansee Bal Bhargava (Chapter 18) explores the entanglements of waterscape developments with land appropriation and water grabbing in the Indian city of Ahmedabad. She demonstrates that such ‘legal’, but largely uncontrolled, urban development processes as groundwater extraction, dredging, draining and wastewater discharges can amount to water grabbing and have serious impacts on water ecosystems, life in and on the water, and even urban resilience. Drawing on concepts of resource-making and resource frontiers and an analysis of three distinct historical periods, Oliver Lilford and Matthew Allen (Chapter 19) trace the successive shifts by which deep-sea mineral deposits in Oceania have become desirable elements that are increasingly seen as indispensable for fueling the global energy transition. The authors demonstrate how these shifts have been shaped by changing political-economic, regulatory and techno-scientific conditions, involving a wide range of actors, including Pacific Island governments, the deep-sea mining industry, powerful economies and trading blocs, as well as scientific bodies and international organizations. Lilford and Allen see a strong role of Pacific civil society actors in countering these blue economy discourses through their deep Indigenous Pacific connections to the ocean and their legacies of resisting foreign incursions. Achim Schlüter and his coauthors (Chapter 20) employ the



Institutional Analysis and Development Framework to examine both formal and informal institutional changes in the use of marine space for scallop production in Peru's Sechura Bay. They show how the state-led formalization of a previously informal open access activity through the allocation of exclusive extraction and territorial use rights opened the field for large-scale investors who pushed most small-scale fishers out of business. The authors found that standards and preferences of European market actors also played an important role in locking out those small-scale fishers that were not able to align themselves with more powerful players. Drawing on the concept of terraqueous territoriality, Glenn Finau and colleagues (Chapter 21) discuss how overlapping rights to various resources (e.g., mangroves, sand and fisheries) in the Ba River Delta in the South Pacific nation of Fiji have enabled a process of coastal grabbing by a mining company that is extracting a large deposit of iron sand from this fragile area. The authors explain how the ongoing re-territorialization of this transitional space between land and sea affects the livelihoods and resource rights of coastal communities and creates tensions between mining companies, state actors and Indigenous landowners. They call for a close collaboration between civil society, communities, media and academics to debunk the myth of 'minimal social and environmental impacts' perpetuated by foreign mining companies and the Fijian government.

Part 7 looks into the role of large infrastructure projects in driving land grabbing. China's 'Belt and Road Initiative' (BRI), which focuses mainly on infrastructure development, is a major case in point. By mid-2022, China had signed over 200 BRI cooperation documents with about 150 countries and 32 international organizations (Nedopil, 2022). These BRI investments were worth over US\$900 billion, of which more than US\$500 billion was in construction contracts (*ibid*). A global study recorded about 700 incidents of human rights abuses, chiefly related to land grabbing and associated loss of livelihoods, conducted by over 10,000 Chinese companies involved in BRI projects from 2013–2020 (Business and Human Rights Resource Centre, 2021). Jessica DiCarlo and Kearnin Sims (Chapter 22) examine the Laos-China Economic Corridor as a case that highlights how the corridor model and associated megaprojects of capital accumulation contribute to territorialization, land grabbing and dispossession. Their contribution calls on land grabbing scholarship to pay theoretical, methodological and empirical attention to the adverse impacts of large-scale infrastructure development on land relations and land governance. The authors argue that land grabs are not a by-product of infrastructure development, but a constitutive element of it. Drawing on a close examination of large infrastructure projects in northern Kenya, Evelyne Atieno Owino, Kennedy Mkutu and Charis Enns (Chapter 23) demonstrate how the ongoing transport infrastructure boom in this region has triggered a cascade of land grabs, thereby multiplying the spatial and social impacts of new infrastructure. They find that land alongside upgraded infrastructure routes is targeted by a wide range of actors, forcing existing land users to secure their land and resource access by warding off potential land grabbers. Tobias Haller and Samuel Weissman (Chapter 24) use case studies of the BRI in Tibet and development corridors in Tanzania to shed light on the massive obstacles facing minority groups in their attempts to resist at the local level. Deploying the concept of 'anti-politics machine' and approaches from new institutional political ecology, the authors show how the false promises of infrastructure development lead to widespread commons grabbing and undermine local institutions and resilience.

Contributions to Part 8 explore land grabbing in the context of urbanization and special economic zone (SEZ) development. Kei Otsuki, Murtah Shannon, Griet Steel and Femke van Noorloos (Chapter 25) provide an overview of urban land grabs, analyzing empirical

cases from urban developments in Sudan, Mozambique and Kenya. The authors discuss two key issues surrounding urban land grabs; first, the complex alliances between actors involved in urban investments, and, second, the different types of economic and physical displacement associated with urban land grabbing. They argue that these issues obscure the question of who is responsible for addressing dispossession and displacement and call for a closer analysis of the chain of effects triggered by urban development investments. Conceptualizing urban areas as products of history, Eberhard Weber and colleagues (Chapter 26) examine processes, power structures and interests that have marked the restructuring of Indigenous land tenure in Fiji's capital Suva over one and a half centuries, starting with colonial land grabbing in the 1860s. The authors show how for a long time, poorer sections of Suva's society living in informal settlements have used their agency to avoid forced relocation from prime neighborhoods. Yet, in recent years, they are facing increasing pressure from the expansion of commercial interests into former peripheries of the city, jeopardizing tenure security of the least resilient groups of urban society. Setsuko Matsuzawa (Chapter 27) explores how transnational NGO advocacy against the Thilawa SEZ in Myanmar – a joint venture between the governments of Japan and Myanmar – was partially successful in remedying injustices caused by land grabbing and forced relocation. The author sheds light on how project-affected persons became transnational activists and joined forces with national and international NGOs to pressure the Japanese government to examine the human rights violations and adverse environmental impacts of the SEZ, as the Government of Myanmar remained unresponsive to their plight. She discusses the re-configurations that occurred through the transnational advocacy process, particularly through the involvement of a Japanese NGO.

Part 9 takes a closer look at resistance against land grabbing, processes of land restitution and potential remedies for the global land and resource rush. Ian Baird (Chapter 28) looks beyond the adverse social and environmental impacts of large-scale land concessions in southern Laos and northeastern Cambodia and examines the challenges that foreign investors have faced as a result of commodity price declines, resistance from villagers and activists, poor planning and management, technical and environmental problems, and lack of government support. He finds that many plantations have either been totally abandoned or are performing below expectations, which questions the sustainability of these often ill-informed investments. While such failed land grabs could potentially offer opportunities for land restitution to dispossessed communities, the author cautions against overly optimistic voices, as abandoned land will not be automatically returned to the former owners who need to join forces with advocates in their long struggle to get their land back. Drawing on studies of anti-land grabbing struggles in contemporary India, Saba Joshi (Chapter 29) explores how gender shapes the dynamics of collective action against land dispossession and displacement. Combining insights from feminist political ecology and feminist critical agrarian studies, she discusses three key themes, which are social reproduction, women's leadership in collective action and transformative outcomes generated due to participation in anti-dispossession struggles. Her chapter makes an important theoretical contribution by emphasizing the relevance of the wider political and institutional context for gendered resistance against land grabbing. Comparing two cases of gendered resistance in rural Cambodia, Alice Beban and Sochanny Hak (Chapter 30) argue that emotions matter in struggles over land and can be both enabling and disabling land grabs. They demonstrate how state and corporate actors use diverse strategies to produce negative emotions of fear and distrust among communities while simultaneously generating positive emotions of desire and gratitude through discourses of

promised prosperity, thereby limiting social mobilization. The authors find that emotions also play an important role in building a sense of solidarity and encouraging collective action within resistance movements. They conclude that inquiries into resource struggles should not only look into tangible claims and responses but also include a focus on emotional resources which can provide a more complete analysis of the factors determining collective action. In the final contribution, Fons Coomans, Rolf Künemann and Andreas Neef (Chapter 31) identify two important gaps in international human rights law to address global land and resource grabbing, namely extraterritorial human rights obligations of states and the rights of future generations. While the 2011 Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights have provided a sound legal framework for holding to account corporations that are involved in land and resource grabbing beyond national borders (albeit with limited implementation), the rights of future generations have remained a blind spot in international human rights law. The authors discuss how closing the gaps in the legal acknowledgment of the human rights of future generations might help to address the grabbing and destruction of those resources that future generations need to use to meet their own needs.

We hope that the contributions to this handbook will provide new perspectives on the global and local dimensions of land and resource grabbing. We are confident that the handbook will spark even more scholarly interest in examining the theoretical, methodological and empirical dimensions of the global land and resource rush and supports advocacy and activism in resisting land and resource grabbing locally and globally.

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## **PART 1**

# Historical Trajectories of Land and Resource Grabbing





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## 2

# FROM THE COLONIAL DOCTRINE OF DISCOVERY TO CONTEMPORARY LAND GRABS

## ‘Dignity Taking’ against the Poor

*Thembele Kepe*

### **Introduction**

It can be argued that many ‘wars’ are triggered by lies, baseless claims or outright and deliberate bullying by those who perceive themselves to be powerful than the non-aggressors. This is the case with Donald Trump’s cultural wars during his single term as the president of the United States, where his lies and baseless claims pitted Americans against each other, along cultural lines, including race. The invasion of Iraq by America during the 1990s; the recent invasion of Ukraine by Russia in 2022, and the establishment of apartheid by a minority white government in South Africa in 1948, are all examples of violent tensions that were justified by the aggressors as necessary for the sake of peace or ‘development’, nationally or globally. What is common in all these cases is their destructive nature to land, in all its meanings (e.g. as a commodity, identity, place of belonging and power) (Li, 2014). Above all, such interventions by the aggressors have been proven to have devastating effect on their victims, particularly their rights to live their lives how they wish (Miller et al., 2010). Colonial land dispossessions had the same effect; hence the increase in the number of studies linking colonialism, land rights of the marginalized people and their suffering in the Global South.

After almost two decades of critical analysis of the phenomenon of land grabbing, a vast amount of literature has reflected on the numerous controversies of land grabs, particularly on land and resource rights, and food security of people in the Global South. It is safe to argue that most of the literature on land grabbing has been comprehensive in its breadth and depth. Borrás et al. (2011), among others, were instrumental in highlighting the North-South dynamic of this phenomenon, emphasizing that most land grabs are initiated by wealthier nations on land in poor/marginalized countries. The same authors, however, drew attention to increasing phenomenon of South-South land grabbing, where the North was not directly involved (Also see Hall, 2011; 2012). In addition to the early analyses, more scholars have improved our understanding of land grabs by focusing on the scale and multiple drivers of the process (Zoomers, 2010; Cotula, 2012), the prominent role of corporate food regime as a one of the major drivers (McMichael, 2012) and the role of the state within the South in making land grabbing possible (Wolford et al., 2013). Li (2014: 589) also draws attention to what land means to different people, and the different ways that it is

made legible through different means or what she calls ‘statistical picturing’ (e.g. mapping), as ways in which land is ‘advertised’ as ready for land grabbing. Mollett (2016) encourages attention to the role that race plays in the making of land and territorial arrangements; meaning that race should not be ignored when analyzing land grabs in the Global South.

While acknowledging studies that have linked colonization to contemporary land grabbing (Carmody, 2011; Mosley, 2012), this chapter extends that link by arguing that contemporary land grabs in the Global South should be firmly viewed as a version of, and having been enabled by, the colonial Doctrine of Discovery, an international legal principle that facilitated colonial land dispossession, and whose legacy remains evident in contemporary property law (Miller et al., 2010). It can be argued that most of the ten elements of the Doctrine of Discovery discussed by Miller et al. (2010) have reappeared in contemporary land grabs. Versions of these elements of the Doctrine of Discovery are arguably responsible for the violence of land grabbing. By exploring the linkages between colonial land dispossession and contemporary land grabs, the chapter seeks to broaden our understanding by using Atuahene’s (2016a; 2016b) concept of ‘dignity takings’, to explore the different ways that injustices manifest in land grabbing in the Global South, as was the case during colonial land dispossessions. Atuahene defines dignity takings as ‘property confiscation that involves the dehumanization or infantilization of the dispossessed’ (2016b: 796). The dignity takings concept focuses on how loss of land, physical or otherwise, has a dehumanizing effect, as it often translates to violence against the body and soul, which she equates to social death or social invisibility of the victims of land dispossession (Atuahene, 2007; 2016b). Given the extensive literature on land grabbing, it is important to reflect on how the land grabbing instruments, which have resemblance to the Doctrine of Discovery elements, translate to dignity takings, mainly through denying people their land rights, threatening food security, betrayal by the state, among other things. This chapter argues that, while subject to polarization of facts between proponents and opponents, land grabbing taking place on the African continent largely amounts to dignity takings (Atuahene, 2016b), because even in instances where land deals are ‘legal’, or supported by the domestic governments, marginalized land users tend to bear the brunt, and often are not given autonomy to decide about their land. The chapter does this drawing from some African cases. Information used in this chapter mainly comes from published material, particularly peer-reviewed journals, but also from the author’s own research in South Africa and other southern African countries.

In what follows, this chapter presents a brief review of the dignity takings concept; drawing connections between land grabbing and this concept. Next, it highlights how the Doctrine of Discovery that served as a justification for colonial land dispossession in much of the colonized world manifests in similar ways in contemporary land grabbing in the Global South, and how this translates to dignity takings. This section is animated by examples of *modus operandi* and consequences of land grabbing in Africa. The last section of the chapter presents a conclusion.

### **Dignity Takings and Land Grabbing**

Working on a case of apartheid land dispossession and subsequent land claim of the Popela community in South Africa, Atuahene (2014; 2016a; 2016b) suggests that land dispossessions of the poor historically mean loss of not only land but also dignity. She makes a compelling argument that confiscation of property often involves dehumanization of the marginalized, and deprivation of their dignity. Referring to racially motivated land loss

during apartheid South Africa, Atuahene (2007) presents her initial thinking about dignity takings by arguing that, due to the important place that land holds for (African) people, its loss results in invisibility, or what she calls social death. Her core argument is that restoring lost property through land reforms that happen following political changes (e.g. decolonization; abolishment of apartheid) is not enough. She advocates for a process of restoring both land and visibility of the victims. Hence, she calls this ‘dignity restoration’ (2016b), which is an acknowledgement of, and action to redress for, the emotional trauma that dehumanizes when something is taken away from the victim without their consent.

In Atuahene (2007; 2014; 2016a), land dispossession is viewed broadly, with colonialism and apartheid in South Africa being the two systems that were characterized by both property loss and dignity takings. In this chapter, land disenfranchisement that characterizes land grabbing is similarly viewed broadly in terms of its negative impact on the marginalized people, including as permanent loss of land, unfair land deals, weaker land rights, displacement in terms of land use and coercion to engage in particular land uses that are not preferred by the victims (Zoomers, 2010; Borrás et al., 2011; Cotula, 2012; McMichael, 2012; Ajefu & Abiona, 2020). This broad view of land loss should be considered alongside multiple meanings of land; where land is considered more than a physical resource. Fisher (2016) argues that even though land is physically ever-present, meaning that it has permanence and can be tangible; from a socio-cultural perspective, it is subject to numerous adaptations, as it can be a natural resource needed for livelihoods, or a form of social power. Li (2014) argues that in addition to land being a cultural symbol, it allows for rich and diverse uses and values that are both dynamic and often contested. Manona (2021) emphasizes this point about different meanings of land by arguing that even within categories and sub-categories of users, such as people involved in farming, there can be divergent conceptualizations of land. It is these different meanings that lead Kepe et al. (2017) to argue that even desirable actions such as land justice, should be cognizant of the multiple and dynamic meanings of land; meaning that there should be multiple and dynamic forms of land justice that reflect local or internal dynamics. Seen this way, Atuahene’s argument about the inadequacies of popular forms of redressing land injustices of the past, such as land reform, makes sense, as these tend to largely focus on land as a commodity.

Like land, human dignity as a concept is seen as ambiguous and complex. As complex and contested the concept of dignity is, Malpas and Lickiss (2007) argue that at the core of dignity, from a legal and medical points of view, is *autonomy* where dignity means that human decision-making is respected, upheld and that people are treated in non-hierarchical and non-discriminatory ways. Taking from this conception, Atuahene (2016b) then sees dignity takings as being when other people or institutions, such as the state, dispossess, destroy or reduce the rights of a person or persons to property, without their informed consent. By implication, loss of, or reduction of the rights of people to, land during colonialism and subsequent processes (e.g. apartheid), translated to dignity taking, because the victims were stripped of their ability to make their own decisions about their land, primarily because there was no informed consent to speak of. Additionally, Yancy (2008) argues that during colonial land dispossession, the victims were othered, in the sense that they did not look like the Europeans, and that made it easy for violence to be an acceptable instrument used to take away their autonomy. Yancy contends that the othering and marginalization of the victims of land grabs has similar effect when it comes to the use of violence to disenfranchise them.

Considering the multiple meanings of land, land grabbing should be similarly seen as possibly having a negative impact that is as diverse as the different meanings of land to

different users. Studies have shown that at the core of critique against land grabbing is the unfairness of the land deals to the people in the Global South, where there is autonomy to make decisions about the land that is taken away (Klopp, 2000). Seen this way, most land grabs are similar to colonial and apartheid land dispossessions, in that, in addition to the physical loss of land, dignity is taken away in multiple ways.

### The Violence of the Doctrine of Discovery and Contemporary Land Grabs

Miller et al. (2010) argue that the legal principle known as the Doctrine of Discovery remains a force in property law to this day. The landmark United States of America Supreme Court case, *Johnson v. M'Intosh* in 1823 held that private citizens could not legally purchase land from Indigenous people in America, as Indigenous rights to the land were extinguished at the time of discovery. Here the Chief Justice John Marshall and his colleague, Justice Joseph Story, wrote that the 'rights of the discovery' were required to be established and maintained by the sword, 'as the rights of the strongest' (Miller et al., 2010: 6). This has set precedence globally when dealing with legal challenges affecting Indigenous people's land rights, but the outcomes have almost always favoured non-Indigenous people. Drawing from this case, as well as other historical documents relating to colonial land dispossessions in English colonies, Miller et al. (2010) argue that the Doctrine of Discovery that was instrumental in colonialism contained at least ten elements that this chapter suggests are relevant to how we ought to view contemporary land grabs. Of the ten elements of the Doctrine of Discovery Miller et al. (2010)

Table 2.1 A selection of the elements of the doctrine of discovery

<i>Element</i>	<i>Explanation</i>
<i>First Discovery</i>	A European country that discovered lands that were unknown to other European nations qualified to hold property and sovereign rights over the lands, but first discovery alone was not enough to fully have rights of control of the land.
<i>Actual occupancy and current possession</i>	To claim complete title, the country that first discovered the lands had to occupy or have other physical evidence on the land, within a reasonable time after first discovery.
<i>Indigenous nations having limited sovereign and commercial rights</i>	The nation that first discovers new lands took away all trade rights from the local people, thus restricting them to only conduct commercial business with them.
<i>Contiguity</i>	A European nation that claimed first discovery of Indigenous lands had reasonable claim to other land near or in proximity to the lands they originally claimed.
<i>Terra nullius or vacuum domicilium</i>	Lands that were not occupied by Europeans and were not used or occupied in the fashion that the European legal system understood or approved of, were considered to be empty, and therefore free to be taken over by Europeans.
<i>Civilization</i>	This represented the idea of European superiority, whereby Europeans regarded themselves as having the right to bring education, religion and civilization to the Indigenous people of the lands they 'discovered' first. In a way, the discovering nation regarded themselves as having the right to exercise paternalism and guardianship powers over Indigenous people on the land.

Source: Adapted from Miller et al. (2010).

identified, several mirror or have future lessons for land grabbing controversies that currently exists in the Global South. These are *First Discovery*, *Actual Occupancy and Current Possession*, *Indigenous Nations Limited Sovereign and Commercial Rights*, *Contiguity*, *Terra Nullius* or *Vacuum Domicilium* and *Civilization*. These are explained in Table 2.1, and are the basis for the rest of the discussion in the present section, where relevant examples, mostly from the African continent, are discussed. That discussion simultaneously reflects on how these elements of the doctrine of discovery are key contributors to dignity takings against the marginalized victims of land grabs in Africa.

Even though land grabbing cannot be seen as the exact equivalence of colonial land dispossession, the *modus operandi* and ideological basis, as explained in the six elements of the doctrine of discovery (Miller et al., 2010) discussed earlier, is helpful for analysing the controversies of land grabbing. It is argued here that all these elements, when they are legible in land grabbing, represent dignity takings, as they are based on discrimination and loss of autonomy for the victims. In other words, these elements of the Doctrine of Discovery can help us analyse the suite of factors that combine to produce dignity takings in contemporary land grabs. While there could be many such factors, this chapter focuses on four issues, including whether land grabbing is a form of neocolonialism; *Terra nullius*, or the empty land/productive use thesis; endless land grabbing through contiguity/proximity of other land; and the role of the state and collusions between institutions in enabling dignity takings in land grabs. In discussing these issues, the chapter draws from the literature and the author's insights from African cases of land grabbing.

### *Neocolonialism*

Becker and Wittmeyer (2013) controversially argue that to describe land grabbing in Africa as neocolonial is flawed, as this framing fails to account for the complexity of commercial agriculture in Africa. They believe it is better to instead characterize African land grabs as being simply a process that is guided by neoliberalism, in the sense that the vast majority of deals are mediated by market conditions, than anything else. They argue that to characterize land grabbing as neocolonialism, it would be unfairly arguing that the developing states are not able to voice their concerns and interests, or that if they do, they are not heard, a point they clearly disagree with (Becker & Wittmeyer, 2013). Yet there is plenty of evidence that shows that collusions by various actors, including the domestic state, does exactly that – takes away local people's voices and interferes with their agency in the process of land grabbing (Carmody & Taylor, 2016; Kepe & Suah, 2021). Zambakari (2017), among others, believes that the colonial legacy, particularly in Africa, characterizes contemporary land grabs.

Recently scholars have explored the different ways that land grabbing has ties to colonialism of one form or another, in ways that the elements of the Doctrine of Discovery outline. Carmody (2011) argues that old powers, including former colonial powers, have continued their interests in Africa to this day. In reference to the New Partnership for African Development, Carmody (2011) cites the words of the former official of the Commonwealth Office, Tom Porteous (2008: 5), who stated that the former British Prime Minister, Tony Blair, “led Britain back into Africa in a manner that was self-consciously interventionist and neo-imperialist, albeit justified in terms of partnership with African leaders and humanitarianism”. Others invoke the partition of Africa by European powers at the Berlin Conference in 1884–1885, and argue that contemporary land grabs represent the ‘New Scramble for Africa’, similar to what colonization of Africa did (Dzingirai, 2003;

Southall & Melber, 2009; Carmody, 2011; Craven, 2015). In making this connection, these scholars explore the continuing and new ways that former colonial powers and other new Western actors are aggressively pursuing natural resources interests in Africa.

While there are nuances in terms of the nature of this new scramble or colonization, including through investment in land and other natural resources, it is clearly characterized by collusions with the domestic states, as well as being justified by the language and notion of helping or saving Africa. Lee (2006) argues that for the scramble for African resources and markets to take place, two processes have to be in play. First, Africa has to be presented as a basket case that is in need of saving. This is done through development programs that are presented as aid, as well as investment in the countries, on a number of resources, including land, oil and minerals, among others. Second, the new scramble for Africa, unfolds as 'naked imperialism', 'an aggressive, consumer capitalism that destroys and exploits everything in its path, including people, in the name of capital accumulation or profit-making', where there is no pretense on the part of the external actors or their African collaborators about the desire to exploit African resources (Lee, 2006: 303).

Other scholars have linked land grabbing to colonialism of sorts by explicitly referring to what they see as internal colonization that is linked to state building in some African countries (Borras et al., 2011). In reference to Ethiopia, Mosley (2012: 5) argues the state's agricultural investments in the peripheral regions of the country, which throughout the 19th century fell outside formal Ethiopian boundaries, are examples of the current state claiming and investing on the land as a form of territorial consolidation. Mosley continues to argue that even smallholder, ethnic, family farming communities' resettlements, and their replacement with state-supported and -run projects, be they of local or of foreign origins, the process was still all about bringing these marginal, and formerly disputed buffer zones into physical and economic integration within the Ethiopian state. Similarly, in their research in Uganda, Carmody and Taylor (2016) conclude that land grabbing that is motivated by global climate mitigation strategies, which sees the planting of forests on vast areas of land, can be seen as a form of colonization, which deepens socio-spatial power inequalities that are associated with previous (colonial) eras. What these authors emphasize is the deepening control of ecological spaces by both transnational investors and domestic political elite, where new frontiers of capital accumulation become important vehicles for reproducing and bolstering colonial state formations.

Dzingirai (2003), presenting a rather pessimistic assessment of Zimbabwe's much-promoted natural resource management approach known as the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE), also invokes the New Scramble for the African Countryside. He argues that CAMPFIRE is a product of colonial wildlife management policies, that saw Indigenous people moved to marginal lands, with some wildlife, but that were governed by chiefs who accounted to colonists rather to their fellow citizens in their local communities. To pacify villagers, CAMPFIRE promoted collaboration between local communities and private business, to utilize existing wildlife in these areas. Dzingirai (2003) believes that this is a form of internal colonization, as local people remain at the mercy of private business; not having a voice and with their Indigenous rights to land and other natural resources curtailed. Dzingirai argues that what happens in rural Zimbabwe around CAMPFIRE is partly because the domestic state, rather than being an honest broker on behalf of the Indigenous people, colludes with outsiders in the subjugation of the country's citizens.

To conclude this section on the links between land grabbing and colonization, it is clear that such links do exist, and they should be seen as making the impacts thereof qualify as

dignity takings. This is because it is unlikely that the marginalized people in these mostly rural areas in Africa are keen to lose their homes and fields when they are resettled, or that they enjoy being in poverty, or being subjected to aggressive market forces, where the private sector or investors hold superior economic powers. With domestic states in Africa mostly supporting land grabbing as a form of needed investment, it is not difficult to see this as dignity takings, as not only do the marginalized people get the short end of the stick in these deals, but they do not get the protection they deserve from the state.

### ***Empty Land and Productive Use Thesis***

One of the clearest legacies of the Doctrine of Discovery is the invoking of *Terra nullius*, or empty land, as a motivation for land grabbing. As discussed earlier in this chapter, the empty land metaphor in the Doctrine of Discovery related more to absence of land uses that are seen as appropriate by those who seek to take over new lands during colonial conquests. In other words, it is mainly about the idea of appropriate land use that is held by powerful people. While there are many influences to how empty land ideas become instrumental, it can be argued that collusions between researchers and international organizations has been important in contemporary land grabs. A good illustration is the report produced by the World Bank in 2011, entitled ‘Rising Global Interest in Farmland: Can It Yield Sustainable and Equitable Benefits?’ (World Bank, 2011). Researched and written by many academic researchers from all over the world, this report appropriately acknowledged the lack of availability of accurate data on land grabbing, as well as the need to have a more balanced debate about its impact, rather than the current polarized opinions about the good and the bad sides of the phenomenon. Among other things, this influential report aimed to produce empirical evidence about availability of land, in order to assist both the client (domestic) countries that hold large amounts of land, and the investors globally, in the name of encouraging economic growth in rural areas.

However, the World Bank report referred earlier made one of its main conclusions, stating: “Many countries have suitable land available that is either not cultivated or produces well below its potential” (World Bank, 2011: XV). This conclusion is then supported by data tables that show how much land, in hectares, is available for cultivation, and in what part of the world. This leaves no doubt that the identification of ‘unproductive’ land is done by people who are outsiders from those spaces, including domestic elites or the state, as well as the investors from outside the target countries. The report also acknowledges that the African continent is leading in terms of being a land grabbing target, with 70% of the demand for land being directed at it (World Bank, 2011). The report continues to state that improved productivity of smallholder agriculture in Africa is a high priority, yet a sentence later also argues that ‘When done right, larger-scale farming systems can also have a place as one of many tools to promote sustainable agricultural and rural development, and can directly support smallholder productivity, for example, through outgrower programs’ (World Bank, 2011: XIII). Based on this direct quote, it is clear that the World Bank and perhaps other powerful transnational organizations view land productivity in farming from the perspective of large-scale farming. Some of these views about the low productivity of African smallholder agriculture originate internally, clearly guided by political calculations of the ruling class. According to Holmen (2015), the publicized argument for the Ethiopian government’s resettlement of 1.5 million people, to create space for foreign investment in land, was that smallholder farmers were not productive and were not optimizing the use of



their land, as well as being seen as backward and in need of being modernized. Similarly, the post-apartheid government in South Africa has for decades pushed land reform beneficiaries, most of whom are in rural areas or are smallholder farmers, to move towards large-scale commercial agriculture, even to a point of making it a condition of government financial support for these beneficiaries to either have mentors or strategic partners to help them move towards higher levels of productivity (Hall & Kepe, 2017). The global links of these strategic partners are not restricted, meaning that they could originate from or have partnerships in, foreign countries (Sommerville, 2019).

### ***Contiguous Land in Land Grabbing***

During colonial land dispossession, it was common practice for the colonizers to add nearby lands to the territories they originally claimed, and these lands ended up being seen and recorded as officially belonging to the occupying colonizers (Miller et al., 2010). This colonial practice that was a fundamental element of the Doctrine of Discovery has emerged in contemporary land grabs. In Africa, there are numerous examples of how this can happen, legally or extra-legally. Lisk (2013) discusses land grabbing in Liberia for growing oil palm plantations, where Sime Darby, a Malaysian agribusiness giant in palm oil production, had a 63-year lease, and 220,000 hectares concession for palm oil production covering 4 of Liberia's 15 counties. However, Sime Darby's operations took off on a bad note, as there were immediate conflicts with local villagers, eventually leading to a freeze in production and eventual departure of this company from Liberia (Kepe & Suah, 2021). Like many other land concessions to foreign companies in Liberia, local people did not have a say when the deals were concluded, and some of the land offered to these companies overlapped with land that was used for local subsistence production by communities. Based on interviews from the rural town of Gbah, Liberia, Kepe and Suah (2021) discuss how some of these land use conflicts started. It turns out that having been imposed on Gbah with limited or no consultation, Sime Darby began extending their boundaries beyond what villagers say they were given by the state, thus encroaching on swamp land that local people used for growing rice. While not pleased about this, local people argue that employment opportunities and food rations provided by Sime Darby mollified them and put them in a difficult situation of feeling they need to be silent about their land rights if they are to keep their jobs.

Green grabbing, which is loosely defined as appropriation of land or natural resources to meet environmental goals (Fairhead et al., 2012), is fast gaining recognition for being a major factor responsible for the marginalized losing more of their land in the name of saving the environment. While acknowledging that green grabs are not new, Corson and MacDonald (2012) argue that international environmental agreements, such as the Convention on Biological Diversity (CBD) that was agreed upon by nations at the Earth Summit in Rio de Janeiro, Brazil in 1992, helped speed up the amount of land that nations felt they needed to put under conservation. It is in such context that in 2003, the Mozambican government initiated a massive relocation of villagers, numbering 7,000 to increase the size of the Greater Limpopo Transfrontier Park, of which Mozambique was a participant, along Zimbabwe and South Africa (Lunstrum, 2016). While these evictions were carried out by the Mozambican state, Lunstrum shows how they were shaped by spatial processes far beyond the national borders, consistent with what Corson and MacDonald (2012) discuss. In South Africa, Benjaminsen et al. (2008) discuss land grabbing through appropriating neighbouring land in the case of the creation and expansion of the

Namaqua National Park. In this case, even after the park was created, conservation philanthropists provided funds to allow for the purchase of adjacent private farms to increase Namaqua National Park; this being seen and praised by conservation supporters as land consolidation. Benjaminsen et al. (2008), however, point out that some of this adjacent land was also targeted by racialized and resource poor livestock keepers, who wanted to purchase it to expand their own grazing lands, as part of South Africa's land redistribution program. However, in the competition between the marginalized livestock keepers and Namaqua National Park, the philanthropist funds made the difference.

### **Conclusion**

The central argument in this chapter is that while subject to polarization of facts between proponents and opponents, land grabbing taking place on the African continent largely amounts to dignity takings (Atuahene, 2016b), because even in cases where land deals are 'legal', or where foreign investments on land are supported by the domestic governments, marginalized land users, particularly in rural areas, bear the brunt, and often are not given autonomy to decide about their land. In extending this argument about dignity takings, it has been argued in this chapter that despite the lack of accurate information about the extent of land area that falls under land grabbing globally, as well as the inclination by opponents to exaggerate the negative impact of land grabs on local people (Edelman, 2013), there is little doubt that the trajectory of land grabbing shares similarities with the elements of the Doctrine of Discovery (Miller et al., 2010) that justified colonial land dispossessions of Indigenous people. As Porteous (2008) shows in the case of Britain's continued extractive relationship with its former colonies, for example, prior colonial linkages continue to benefit the former colonizers, to the disadvantage of the marginalized land users. Additionally, new forms of colonialism that originate from domestic states, in their attempt at territorial consolidation and state formation through resettling people and making space for agricultural investment, are equally negative if they also result in dignity takings.

Most studies on land grabbing, including by institutions that help potential land investors identify available land (e.g. the World Bank, 2011), agree that empty and unused land, also known as unproductive land, is a major motivator for investors. This empty land logic is problematic because it mainly considers powerful outsiders' views, including the domestic states and other leaders, about what the appropriate land use should be. Local land users, if they are marginalized, usually have no voice or power to convince these outsiders about the productivity of their land in multiple ways. The goal in this chapter is not to list the myriad of negative impacts that the empty land logic that motivates land grabbing unleashes to unsuspecting land users. But it is safe to say that land rights are usually threatened. Aha and Ayitey (2017) have argued that poor consultation and fair and adequate compensation of Indigenous people living on communal land in Africa are rife, leading to land tenure and food insecurity among the land holders. Even the World Bank report (2011) that mainly assists potential land grabbers identify available (empty) land admits that lack of documented rights, coupled with poor consultation, has often led to uncompensated land loss, particularly for groups that were already vulnerable. Along the same vein, and in her analysis of the landmark World Bank (2011) about the state of land grabbing and available land, Li (2011) argues that for the most part, these large-scale land deals have not even yielded the expected jobs for the local people, even those who have

gained improved education. She contends that the main reason is that the global capitalist system has no place for this local labour, thus leaving the people in a predicament.

It has become clear that despite land grabbing having been a feature in violent land dispossession spanning the colonial times to the present, powerful interests who focus on capital accumulation, whether originating in poor countries or from the West, will continue to drown any consideration for the marginalized voices who lose out in these deals. This means that the impact of land grabbing on the rural poor in Africa, for example, will continue to result in social death and invisibility for the marginalized, much like colonial land dispossessions did to the victims to this day (Atuahene, 2007). This chapter concludes by arguing that as long as we continue to be reluctant to acknowledge the colonial present (Gregory, 2004) in, and the reality of dignity takings as an outcome of, land grabbing, the debate is unlikely to yield positive results for marginalized people. Additionally, if these linkages to colonial present and dignity takings around land grabbing are acknowledged, then it is necessary to take seriously Atuahene (2007; 2016b) and Atuahene and Sibanda (2018) when they advocate for serious projects of restoring visibility and dignity of victims of land dispossessions.

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# 3

## RIRO WHENUA ATU, HOKI WHENUA MAI

### Land Grabbing in British Settler States and Contested Land Restitution to Māori in Aotearoa New Zealand

*Margaret Mutu*

#### **Introduction**

For more than 1,000 years, Aotearoa New Zealand was entirely Māori. Our Māori communities, whānau (extended families) and hapū (groupings of whānau), exercised power and authority over our territories which covered the entire country, using our legal system we call tikanga – the first law of Aotearoa. In 1840, our ancestors signed a treaty that invited British immigrants to come and reside amongst us as our guests, on the condition that the Queen of England took responsibility for and prevented their lawlessness. Māori power and authority, our form of sovereignty, and tikanga would remain. British subjects took up the invitation but then ran amok – and the queen was never able to control them. Instead of living in peace and friendship with Māori as agreed in the treaty, they wrote their own laws giving themselves permission to colonise the country and set up the New Zealand state by brutally and violently dispossessing Māori of our power, authority, lands, resources and lives. They were repeating the behaviour that they and other Europeans had displayed in the territories of Indigenous Peoples throughout the world. Despite being driven into poverty, deprivation, marginalisation and powerlessness, Māori, along with the Indigenous Peoples of Australia, Canada and the United States, have never accepted British colonisation as legitimate and have fought to rid our countries of the devastation it has wrought. For Māori, that has included an unwavering determination that recognition of our power, authority and tikanga along with land and resource restitution are inevitable and that these will be pursued down through the generations until they are achieved. Riro whenua atu, hoki whenua mai – as land is stolen, it is land that must be returned.

In this chapter, I draw on the writings of some of the Indigenous scholars working in this field to provide a very brief introductory overview of some of the main methods that were adopted by the British to dispossess the Indigenous Peoples of Canada, the United States and Australia, along with the struggles in those countries to achieve land restitution. I will then summarise the schemes deployed against Māori and the steps Māori have taken as we tried to recover our lands and resources over the past century. I will also consider Māori

responses to the ongoing refusal of New Zealand governments to meet their treaty and international obligations to Māori to provide land restitution.

### **Dispossessing Indigenous Peoples**

British colonisation relies on the illogical and deeply racist legal fiction known as the Doctrine of Discovery (Deloria 1985). Of the countries invaded by the British, the anglosphere's four largest settler states of New Zealand, Australia, Canada and the United States continue to rely on it as the legal justification for the ongoing colonial occupation of our territories (Manuel & Derrickson 2015: 4). The Doctrine of Discovery is an old international legal construct that purports to give Europeans who practise the Christian religion the right to 'discover' new territories and dispossess, enslave and commit genocide against peoples who were not white and not Christian in order to take over their territories (Miller et al. 2010; UNESCO 2010). Although the Doctrine has been delegitimised (UNGA 2007; Lightfoot 2016: 31), it continues to determine the attitudes and approaches taken by the anglosphere in respect of Indigenous Peoples. The four states also continue to rely on it for their authority to rule, and to maintain these countries as white possessions (Manuel & Derrickson 2015: 108; Miller et al. 2010; Moreton-Robinson 2015: xii). They have frequently collaborated to remove Indigenous rights. Canada and New Zealand in particular, collaborate closely (Lightfoot 2016). This resulted in these four states being the only ones to vote against the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007. One hundred and fifty-eight states took part in the vote. The vehement and sustained opposition of the anglosphere was their reaction to the Declaration recognising Indigenous land rights and self-determination, and free, prior and informed consent (ibid: 16). By 2010, under international pressure, and a barrage of criticism from Indigenous Peoples, and from diplomatic sources, they had all endorsed or supported the Declaration (ibid: 98). Over the past decade, they have continued to be criticised for not implementing it and Indigenous Peoples from the four states continue to work closely with United Nations bodies to have their rights upheld.

### *Canada*

For the First Nations, Métis and Inuit Indigenous Peoples whose territories are within the area taken over by Canada, colonial land grabbing has resulted in them controlling only 0.2 per cent of their lands while the settlers have appropriated 99.8 per cent (Manuel & Derrickson 2015: 8). The 2016 census identified 1.67 million Indigenous people, 4.9 per cent of the Canadian population, made up of more than 600 bands living in more than 1,000 communities. The British Royal Proclamation of 1763 "acknowledges the Indians as continuing to own the lands which they have used and occupied", a significant departure from the usual Doctrine of Discovery approach (Lightfoot 2016: 159). But the Proclamation allowed the Crown to extinguish those rights through treaties (Manuel & Derrickson 2015: 45). There are more than 70 pre-1975 treaties that allowed British and later Canadians to reside in the territories of more than 360 First Nations (Anaya 2014: 4). The legitimacy of many of the treaties is disputed as most Indigenous Peoples who signed them insist they never gave up their underlying title, and that the treaties were legally abusive and largely incomprehensible to those who signed them, often under duress (Manuel & Derrickson 2015: 45–46).

The rigidly paternalistic 1876 Indian Act imposed legal restrictions that prohibited status Indians (those Canada chooses to recognise as Indigenous) from taking cases to have their

Aboriginal title recognised until the 1970s (Anaya 2014:4; Lightfoot 2016: 159). Once the restrictions were removed, the Supreme Court's *Calder* decision of 1973 "recognised that Aboriginal title over unceded lands could possibly have survived the assertion of sovereignty by the crown" (Lightfoot 2016: 159). To combat this affirmation of Indigenous land rights, Canada embarked on a series of land claims settlement negotiations that aimed to extinguish Aboriginal title despite the 1982 Constitution, including constitutional protection for "any existing Aboriginal right" at Section 35(1) (ibid). There are a further 24 modern treaties or comprehensive land claims settlements that cover 40 per cent of Canada's land mass and affect 95 Indigenous communities (Anaya 2014: 17). The first was the 1975 James Bay and Northern Quebec Agreement. Canada manipulated, bullied and slandered Cree and Inuit into accepting cash-for-land and extinguishment-of-title agreement for a vast country, of which 11,500 square kilometres was flooded for hydroelectric power dams. The cash was \$225 million paid out over 20 years (Manuel & Derrickson 2015: 47). It set the pattern for those that followed.

Many negotiations drag on for years, some for decades. United Nations Special Rapporteur on the rights of Indigenous Peoples, James Anaya (2014: 18), reported:

In the comprehensive land claims processes, the Government minimizes or refuses to recognize aboriginal rights, often insisting on the extinguishment or non-assertion of aboriginal rights and title, and favours monetary compensation over the right to, or return of, lands. In litigation, the adversarial approach leads to an abundance of pre-trial motions, which requires the Indigenous claimants to prove nearly every fact, including their very existence as a people.

Protests are common as are arrests and sometimes shootings in land disputes, and Canada's lack of sympathy and denial of Indigenous rights has resulted in numerous complaints to the United Nations (Manuel & Derrickson 2015: 172).

Countering this Doctrine of Discovery approach of the comprehensive land claims settlements processes have been landmark court decisions. The 1997 *Delgamuukw* decision confirmed Section 35 rights of Constitution Act 1982 and gave weight to historical possession and oral tradition in determining title. The 2014 *Tsilhqot'in* decision recognised Aboriginal title to almost 2,000 square kilometres of Tsilhqot'in territory which Arthur Manuel, Shuswap nation leader and scholar, characterised as "a fundamental decolonising action" (Manuel & Derrickson 2015: 224). Over the past two decades, Canada's ongoing lawlessness has seen it lose more than 150 legal cases on Indigenous rights (ibid). Most recently, it introduced legislation, Bill C-15, intended to begin the process of implementing the United Nations Declaration on the Rights of Indigenous Peoples (Global Indigenous Rights Research Network 2021: 1). It remains to be seen whether this will lead to Indigenous land restitution.

### ***United States***

For American Indian, Native Hawaiian and Alaska Natives within the territories overrun by the United States, population figures vary. According to the U.S. Census Bureau, the 2021 total population of Indigenous Americans in the United States is 6.79 million, which is about 2.09 per cent of the overall population. In the 19th century, three Supreme Court decisions known as the Marshall trilogy entrenched White Supremacy. They remain relevant today. The decisions relied on the Doctrine of Discovery to determine that Indian nations the United



States chooses to recognise are “domestically dependant nations” subject to the overriding power of the United States and that their sovereignty and land rights can be unilaterally modified or extinguished by the United States (Anaya 2012: 7; Miller 2021: 353). The United States currently recognises and maintains what it refers to as government-to-government relations with about 574 Native American nations and differs from the other British settler states in recognising some form of Indigenous sovereignty, albeit diminished (Miller 2021: 359; Anaya 2012: 7).

There are many more nations that the United States chooses not to recognise, including Native Hawaiians who, despite having agreed upon three treaties with the United States in 1826, 1849 and 1875 (Miller 2021: 357), were subjected to the illegal overthrow of their monarchy by the United States in 1893 and their lands confiscated. A tiny portion of those lands are administered by the Office of Hawaiian Affairs (Anaya 2012: 16). Likewise for the Indigenous Peoples in Alaska whose aboriginal title to all their lands along with their fishing and hunting rights were extinguished by the 1971 Native Claims Settlement Act and their ownership reduced to shareholdings in assimilationist corporate bodies that hold assets provided under the settlement (Anaya 2012: 15).

As in Canada, treaties with American Indian nations were used to acquire vast areas of the lands of different nations while ensuring sufficient lands for the Indigenous Peoples. From 1778 to 1871, the United States entered 375 treaties with American Indian nations. Numerous flagrant violations of these treaties saw the blatant theft of almost all these lands as the insatiable greed of British immigrants for land spiralled out of control. Massacres and other gross human rights violations were common. They included the forced relocation of more than 46,000 Cherokee, Choctaw and others in the 1830s from the south-eastern United States to the territories of other Indigenous nations in Oklahoma on a trek that has been called a “trail of tears” (Anaya 2012: 11). More than 4,000 Indigenous people perished on that trek.

Treaty making ceased in 1871 and the United States embarked on a programme to assimilate Native Americans and dilute or eliminate their sovereignty and collective rights over land and resources. A vast government bureaucracy was established to consolidate and manage the system of reservations, pueblos, rancherias and settlements that were home to the surviving Indigenous nations. Land ownership was individualised facilitating further substantial theft of land by whites and causing even greater impoverishment and upheaval (Anaya 2012: 8). Although nations had self-government functions, this was removed for many in the 1950s under the “termination” policy that aimed to complete the assimilation of American Indians (Deloria 1969). The policy was eventually abandoned but not before many nations had lost recognition and their self-governing status and lost even more of the tiny land holdings they still had.

In 1946, the Indian Land Claims Commission was established to comprehensively resolve Native American grievances. The scope of the claims it considered was very narrow as were the rules of evidence (Deloria 1985: 208). Over its life, it determined hundreds of land claims based on treaties or ancestral occupation, but its legislation permitted only monetary compensation rather than land restitution, leaving most claims unresolved or further complicated (Anaya 2012: 18). The Commission was dissolved in 1978. Subsequently, the United States has restored small areas of land, for example, the sacred Ba Whyea (Blue Lake) in northern New Mexico to Taos Pueblo and a tiny portion of Tüpipüh (Death Valley National Park) in California to the Timbisha Shoshone nation (*ibid*). But others are having to purchase their own lands that were stolen from them on the open market. In order to prevent the land being stolen again, they must go through a tortuous process to convert it into trust land that is held

not by the nation but by the federal government. The Department of Internal Affairs is responsible for overseeing some 56 million surface acres and the subsurface mineral resources in some 57 million acres in trust for American Indian nations (ibid), some 2.4 per cent of the 2.3 billion acres of Indigenous lands that the United States now controls.

### ***Australia***

The Indigenous Peoples whose lands and lives were overrun by Australia make up approximately 3.3 percent of the population, an estimated 850,000, according to the Australian Bureau of Statistics, with about 250 distinct languages and over 600 dialects. They have inhabited their territories for over 50,000 years. Unlike other British invasions, no attempts were made to negotiate treaties here. The Doctrine of Discovery was brutally and mercilessly applied with the British claiming the land under the legal fiction of *terra nullius* (land belonging to no one) as they systematically dispossessed, murdered, raped and incarcerated the original owners on cattle stations, missions and reserves (Moreton-Robinson 2015: 4). Indigenous people were denied their customary proprietary rights under international law and only attained citizenship in the late 1960s.

The 1976 Aboriginal Land Rights Act allowed Aboriginal peoples of the Northern Territory to own land based on traditional connection, and more than 50 per cent of Northern Territory lands were returned to the traditional owners. However, the assimilationist amendments to the act made in 2006 increased individualisation of communally held lands and impaired traditional decision making (Anaya 2010: 12). New South Wales and South Australia have similar legislation that also falls well short of international norms. The landmark 1992 *Mabo* decision of the High Court of Australia had rejected the racist *terra nullius* fiction and recognised the existence of Indigenous proprietary rights in land. But the decision also held that asserted Crown sovereignty extinguishes native title rights. Goenpul scholar, Aileen Moreton-Robinson and others argue that in choosing to protect the property and privileges of whites over those of Indigenous Peoples, the High Court decision is contrary to common law which recognises and protects customary rights (Moreton-Robinson 2015: 67–68).

The decision prompted the passing of the 1993 Native Title Act which set out very restrictive, onerous, and discriminatory processes for determining native title rights (ibid: 69). In 1998, it was controversially amended to protect white property interests over those of native titleholders (ibid: 72). Indigenous people considered this a violation of the 1975 Commonwealth Racial Discrimination Act which made discrimination on the basis of race illegal. They took the matter to the United Nations Committee for the Elimination of Racial Discrimination who criticised the legislation and recommended it be suspended in order to find a solution acceptable to the Indigenous people. Australia ignored the recommendation (ibid: 76) and even though native title has been recognised over more than 32 per cent of the Australian continent, native titleholders' rights are severely restricted. The discriminatory legislation continues to allow whites wishing to exploit those lands, especially for mining purposes, to override the wishes of native titleholders (AIATSIS 2021).

### **Dispossessing Māori**

Statistics New Zealand estimates the 2021 population of Māori in New Zealand at 875,300, some 17.1 per cent of the New Zealand population. There are more than 120 nations whose

dialects are mutually intelligible (Mutu 2020: 88). Early British visitors we chose to have living amongst us were our guests who contributed to the communities who accommodated them (ibid: 89). They were allocated lands to live on in accordance with our law. That law, tikanga, determined that land was communally held and belonged to the hapū who exercised power and authority in the area. British visitors were often slow to understand our laws and frequently lawless (ibid: 90). The proposed solutions were the 1835 declaration of independence, He Whakaputanga o te Rangatiratanga o Nu Tirenī, which affirmed Māori sovereignty, and the 1840 treaty with the British, Te Tiriti o Waitangi (ibid: 89; Waitangi Tribunal 2014).

As elsewhere, British immigrants were, for the most part, poor people. Many were former peasant farmers, driven from their own homes in Britain and stripped of communally held lands and resources by the processes of enclosure and dispossession that delivered wealth, prosperity and privilege to the landed classes of British society and poverty and marginalisation to those it dispossessed (Wynyard 2019). Large numbers of these British subjects came to New Zealand seeking wealth and prosperity from the lands and resources of Māori. Initially, they traded for goods and use rights to land. But then, as their lawlessness and attitudes of White Supremacy took hold, they started misrepresenting the allocation of temporary use rights to land as permanent alienations in order to steal the land of their Māori hosts (Waitangi Tribunal 1997).

The treaty guaranteed to prevent this behaviour but on 21 May 1840, just three months after it was first signed, the British issued a proclamation that falsely asserted that the treaty had ceded sovereignty to the British. They relied on this to set up illegitimate power structures including a parliament, courts, and government agencies, to take control of the entire country including the lives, lands and all the resources of Māori. They fabricated policies and laws that gave themselves unfettered powers to ‘rule by administrative fiat’ (Miller et al. 2010: 208; Rishworth 2016).

Legally sanctioned land grabbing formally started with the 1841 Land Claims Ordinance. It allowed British immigrants to lay claim to Māori lands on the basis that Māori had allocated the land to them prior to the signing of the treaty. Commissioners overseeing the process ignored the fact that only temporary use rights had been allocated and that Māori had no concept of nor words in our language for the land sales of English culture (Waitangi Tribunal 1997: 3). Millions of acres of land were stolen using this technique (Moore et al. 1997: 8). Over a century later, one of the government commissions of inquiry set up to investigate breaches of Te Tiriti o Waitangi, the Waitangi Tribunal, found that pre-treaty transactions had not transferred ownership of land from Māori to British immigrants (Waitangi Tribunal 1997).

The 1856 Land Claims Settlement Act revisited the 1841 Ordinance to steal large portions of those and additional lands for the Crown. Commissioners overseeing this process refused to consider the interests of the Māori owners in their investigations (Moore et al. 1997: 5). They authorised land surveys, encouraging British claimants to claim much larger areas, and paying them bonuses for every acre they stole for the Crown (Waitangi Tribunal 1997: 132–134). The Crown used this scheme to acquire millions of acres which they then sold to newly immigrated British subjects (Moore et al. 1997: 8; Waitangi Tribunal 1997). As with the pre-treaty transactions, these were also found to be invalid over a century later (Waitangi Tribunal 1997).

Between 1840 and 1865, the Crown embarked on a land grabbing programme it disingenuously called “Crown purchases”. Promises of protection of Māori well-being benefits and future developments were made if Māori allowed the Crown to use their lands in exchange for small payments (Waitangi Tribunal 1997). As promises were broken and Māori

started withholding lands, Crown agents resorted to bullying, threatening and then divide and rule tactics. The same insatiable greed for Indigenous lands witnessed in Canada, the United States and Australia consumed the burgeoning British immigrant population in New Zealand, and their government made no attempt to follow its own English law requirements of due process. As a result, the “Crown purchase” transactions were also proven to be invalid over a century later (Waitangi Tribunal n.d.). This technique was used to seize almost all of the 34.5 million acres of the South Island and 9.9 million acres in the North Island (Moore et al. 1997: 8; Waitangi Tribunal 1997; Wynyard 2019). The Waitangi Tribunal has upheld numerous claims Māori have made against the Crown for the theft of these lands (Waitangi Tribunal n.d.).

In the 1850s, south of Auckland, nations affiliated to the Kīngitanga, the King movement, issued statements that they refused to sell any of their lands. The demands of British immigrants for Māori land were relentless and so the Crown decided to declare war on Māori to take their land by force. It passed legislation giving itself permission to confiscate lands for British immigrants from any Māori who defended themselves and their homes against the foreign invaders. British soldiers and civilians embarked on frenzied slaughter as they drove hapū off their lands, destroying homes, waka (canoes), wāhi tapu (sacred sites) and crops, and raping, plundering and pillaging as they went (Waitangi Tribunal 1996; 1999; 2004; 2017). And then they denied how they had done it, misnaming their invasions as “the Maori Wars” and then later, “the New Zealand Wars”. In fact, they were the British Invasions. The myth of British inherent superiority simply allowed them to ignore their barbarity. The confiscations that followed stole 3.49 million acres of Māori land including some of the most fertile, flat, and productive land in Aotearoa New Zealand (Wynyard 2019: 165). As with the earlier Crown land grabs, the Waitangi Tribunal has upheld the claims taken against the Crown for these (Waitangi Tribunal 1996; 1999; 2004; 2017).

By the mid-1860s, Māori still held more than 20 million acres. The 1865 Native Lands Act set up the Native Land Court to destroy Māori communal land tenure and facilitate the acquisition of Māori land by British immigrants (Wynyard 2019: 165). The Court granted tenure of Māori land to individuals or to small numbers of owners. British land buyers, surveyors, land agents and money lenders descended upon Māori as they attended Court proceedings, enticing individuals into British-defined debt so that they could use it to force Māori to part with their ancestors’ lands to remove the debt (ibid). The Crown also continued to pursue its land grabbing agenda through its Native Land Court. Between 1865 and 1930, the Native Land Court facilitated the theft of more than 14.5 million acres of Māori land (ibid), far more than had been confiscated during the British Invasion. The Waitangi Tribunal has also upheld Māori claims against the Crown for these thefts (Waitangi Tribunal n.d.).

Approximately 3.4 million acres (1.4 million hectares) of New Zealand land is currently legally recognised as being held in Māori ownership, that is, less than 5 per cent of our territories. Despite this, legal theft of Māori land continues to this day, especially in the so-called treaty claims settlement process imposed over the last 30 years which extinguishes underlying Māori title to all our lands on a settlement by settlement basis (Mutu 2019: 153).

### **Attempts at Land Restitution to Māori – Repossessions**

Ever since British immigrants and the Crown started stealing our land, we have been demanding that they relinquish it. We allocated more than sufficient lands for them and their

descendants to live and prosper on, but we refused to tolerate their insatiable greed for land and their delusions of White Supremacy. Driving us off our lands did not mean we would give up and stay away. Our lands and territories are an integral part of our identity. Our traditions embed the genealogical links we have to our ancestor, Papatūānuku, the Mother Earth, and all her descendants, the natural elements of our world that include us, and the inseverable bonds we have with them in our own territories.

The British attempts to outlaw and destroy our culture and language failed. They conjured up myths about us no longer existing and belonging only in museums. They went as far as claiming that only they could say what Māori culture and history was because there were no Māori left. We did not die out in the early 1900s as they had hoped but it took another 70 years before we could intervene to start putting a stop to the myth making. By that time, incalculable damage had been done to our nations (Mutu 2015: 121).

Some of us simply refused to move off our lands, evicting trespassers such as British surveyors, government agents, speculators and other imposters. We continue to do this to this day. Each generation trains the next on how to carry out these evictions to prevent further theft of our lands. We also take direct action to repossess lands that have been stolen, knowing full well that we risk arrest and likely imprisonment because of legislation written specifically to hold our lands in non-Māori ownership. Some repossessions have attracted national and international media attention. The Māori Land March of 1975 brought together thousands of whānau to send an unequivocal message to our British colonisers that “not one more acre” of Māori land was to be stolen and that we would never stop fighting to get our lands back (Harris 2004: 68).

In 1976, Ngāti Whātua o Ōrākei repossessed their lands at Takaparawhau (Bastion Point) in central Auckland to stop the government subdividing and selling them. They were evicted 17 months later when the government sent army trucks rumbling through the streets of Auckland carrying 600 police and soldiers to arrest 222 people (Hawke 1998: 83; McClure n.d.). That show of white force ended up clogging up their court so that all the charges and convictions were eventually dropped (Hawke 1998: 83; Harris 2004: 84–85). Ngāti Whātua kept going back and kept getting arrested. Eventually, in 1987, the Waitangi Tribunal recommended that the land be returned, and in 1991, it was (ibid).

Many high-profile repossessions followed. At Whaingaroa (Raglan), land belonging to Tainui Awhiro had been stolen for a war-time airfield but instead of being returned to its owners, it was leased to the local golf club who turned it into a golf course. Tainui Awhiro repossessed it in 1978 after years of protest and were arrested, charged and convicted. In 1984, the government finally returned most of it (Angeline Greensill, personal communication, 9 March 2017).

In 1994, the government announced its ‘treaty claims settlement’ policy to extinguish all Māori claims to the Waitangi Tribunal and underlying Māori title. It precipitated a spate of repossessions throughout 1995. Under its unilaterally determined policy, the government was continuing to refuse to relinquish land it had stolen. That includes 8.8 million hectares (22 million acres) administered by the Department of Conservation, over a third of the country (Ministry for the Environment 2010). More than a dozen repossessions took place throughout the country (Mutu 2011: 30 footnote 64; Harris 2004: 134). Most were short-lived but sent clear messages that Māori refuse to give up the fight to recover what had been stolen. Others which drew little or no media attention carried on for many years, with some having been maintained for over a decade now. One of the most recent high-profile repossessions at Ihumātao in South Auckland drew tens of thousands of supporters over its

four-year duration. It also drew uncharacteristically sympathetic media coverage that demonstrated a willingness to start considering the history of Māori dispossession at the hands of British invaders (Wynyard 2019). The government finally returned the land in 2020. Repossessions continue to this day (Scoop Media 2021).

The biggest protest against the theft of Māori land took place in 2004. A 50,000-strong march descended on parliament in an unsuccessful attempt to stop the government legislatively stealing the foreshore and seabed from Māori (Mutu 2011: 148). The 2004 Foreshore and Seabed Act was replaced in 2011 by the Marine and Coastal Area Act. Both confiscated the foreshore and seabed from Māori, primarily to ensure that the government and not Māori benefited from lucrative marine and coastal mining licenses. It was a shameless display of White Supremacy that drew criticism from the United Nations Committee for the Elimination of Racial Discrimination (UNCERD 2005). Some nations issued statements that they did not recognise the legislation and would not allow it to be implemented in their territories (Mutu 2011: chapter 12).

### **Alternatives to Repossessions**

Repossessions take place after numerous attempts, usually over several generations, have failed to achieve land restitution for Māori. Crown agents, ministers, lawyers, judges and others loyal to governments have always held out false hope that governments would see the error of their ways, stop stealing Māori land and relinquish what they had stolen. For at least six generations, Māori have been extraordinarily patient as promises were repeatedly broken. Governments since the late 1800s sought to divert our attention away from their land grabbing activities and tie us up in endless inquiries. They established various commissions to inquire into alleged wrong doings, restricted what they could inquire into or recommend and then dictated how any findings of unlawful and criminal Crown behaviour would or would not be addressed.

The Rees-Carroll Commission of 1891 and the Stout-Ngata Commission of 1906 were both “utterly damning” of the Crown’s behaviour in the theft of Māori land. Their findings were ignored, their recommendations overruled (Wynyard 2019: 166). With thousands of petitions flooding into the Native Affairs Committee, the 1920 Jones Commission made recommendations that included the return of land. Again, they were ignored (ibid: 167). Undeterred, we kept petitioning. In 1928, the Sim Commission reported on the confiscations carried out during the British Invasion, finding they were, to varying degrees, excessive and unjust and recommending monetary compensation in some cases but no land restitution (ibid). Following the same assimilationist agendas of other British settler states, the government established English culture trust boards to receive modest annuities, and enacted legislation which stated that Māori had agreed that these payments were a ‘final settlement’ of their claims (ibid). There is no evidence that these nations had agreed to a final settlement and all these claims were subsequently revisited.

Government land grabbing continued as they steadfastly ignored our pleas through the 1950s and 1960s. However, international concern was mounting over the discrimination against Indigenous Peoples and the oppression, marginalisation, and exploitation we suffer (UN DESA 2021). The 1975 Treaty of Waitangi Act set up yet another commission, this time a permanent commission of inquiry, the Waitangi Tribunal, to inquire into alleged breaches of the ‘principles’ of the Treaty of Waitangi. The government’s primary intention was not to address the numerous breaches of the treaty but rather to remove the

increasingly embarrassing protest from the streets and away from public and international view (Oliver 1991: 9–10). Repossessions continued until the Tribunal started to issue reports that demonstrated they had both heard and understood what we said (Mutu 2011: 5). More than 3,000 claims have been lodged with the Tribunal to date (Waitangi Tribunal n.d.), and it is rare for the Tribunal not to uphold our claims that the Crown stole our lands (Mutu 2011: 4).

As with all previous commissions, governments have overwhelmingly ignored the Waitangi Tribunal's findings and recommendations that land be returned (New Zealand Government 2018). Since the 1980s, there have been fewer arrests. A glimmer of hope appeared in 1988 when an out of court settlement between the New Zealand Māori Council and the government gave the Tribunal powers to make binding recommendations to order the return of lands held by State Owned Enterprises, as well as Crown forest, railways and some education lands to Māori (Mutu 2019).

By 1994, the government had developed its treaty claims settlement policy that had no statutory basis and aimed primarily to defeat this legislation (Mutu 2019: 157). Under the policy, the government vigorously opposes all applications for binding recommendations. That includes threatening to downgrade the Tribunal's powers or abolish it if it ever makes binding recommendations, a clear breach of the rule of law (Mutu 2019; Hamer 2004: 7). The government instead exerts pressure on claimants to accept a punitive regime which aims to remove the constant threat of Māori claims as cheaply and expeditiously as possible while maintaining all land and resources under British immigrant control (Mutu 2019). The policy has been increasingly imposed on Māori over the last three decades. Large groups of those claimants the government chooses to recognise are herded together, then bullied, threatened, lied to and subjected to brutal divide and rule tactics as government officials coerce some of us into accepting government-determined settlements. Many have reported settling under duress (*ibid.*).

More than 70 settlements, which extinguish many hundreds of claims to land, have been legislated to date. There are still thousands of land claims to be settled. Governments offer apologies for the Crown's atrocities they are prepared to acknowledge but only to those groups who agree to legislation that extinguishes their claims. They refuse to apologise to all Māori. They offer small amounts of money which claimants may choose to use to purchase tiny pieces of their own land at full market value. Out of desperation, some have borrowed money from sympathetic overseas companies and spent decades repaying the debt. Governments refuse to consider restitution, compensation, satisfaction or rehabilitation that is required under international agreements such as the United Nations Declaration on the Rights of Indigenous Peoples (UNGA 2007). Better treatment in the future is promised but rarely delivered. Settlement legislation sets up assimilationist governance entities designed to entrench British colonisation (Mutu 2019). For those who have accepted settlements, it has been a pragmatic stance to accept, in the short term, the limited nature of Crown 'settlements' in order to start trying to climb out of desperate poverty, with the expectation that in the long term, broader change may still occur or be forced by Māori (*ibid.*).

In effect, these settlements change nothing. Governments continue to steal Māori land as racism against Māori remains unchecked (Smith et al. 2021), and Māori remain impoverished and deprived while British immigrants continue to enjoy wealth, prosperity, privilege and power (Borrell et al. 2018). The few who have been able to persist with binding recommendations have been fighting through the Tribunal and the courts for more than 30 years (Mutu 2019). To date, no one has succeeded, even though the Court of Appeal ordered the Tribunal to make binding recommendations for two sets of claimants in 2017 (Court of Appeal 2017).

### **International Influences**

Te Tiriti o Waitangi is an international treaty of peace and friendship between two sovereign nations. When the British breached the treaty, Māori sought advice and support internationally, first, unsuccessfully at the League of Nations in the 1920s (Jackson 2018) and then, eventually more successfully, in the 1980s in the United Nations. Māori played a key role in drafting the United Nations Declaration on the Rights of Indigenous Peoples in the 1980s and 1990s (ibid). The Declaration sets out the minimum and normative international human rights standards for states to uphold in respect of Indigenous Peoples, including restitution of our lands, territories and resources. It is a blueprint for implementing Te Tiriti o Waitangi. The Declaration is emphatic that the most important human right is the right of self-determination (ibid). Although it is not legally enforceable, it has been increasingly referred to in Tribunal findings and court decisions as the international norm for the minimum human rights standards that Indigenous Peoples, including Māori, can legitimately rely on (Charters 2019).

Like other Indigenous Peoples, Māori have continued to work closely with the United Nations and increasing pressure on New Zealand to comply with its international obligations to Māori has been articulated in reports and recommendations from United Nations bodies (Lightfoot 2016: 17). This has included reports of the General Assembly (UNGA 2007; 2014; 2019), the Committee for the Elimination of Racial Discrimination (UNCERD 2005; 2017), the Committee on Economic, Social and Cultural Rights (UNCESCR 2018) and three Special Rapporteurs' reports (Daes 1988; Stavenhagen 2006; Anaya 2011). In 2019, the government finally agreed to develop a national action plan to implement the United Nations Declaration on the Rights of Indigenous Peoples. A ministerial working group drew up a set of guidelines, *He Puapua*, which prioritised self-determination and constitutional transformation (Charters et al. 2019). In 2021, work began on drafting the national plan of action in consultation with Māori. It remains to be seen whether New Zealand's vociferous White Supremacists can prevent the government from embarking on the national conversation about constitutional transformation that both the guidelines and the draft plan call for.

### **Constitutional Transformation**

For over a century and a half, Māori have fought for constitutional arrangements that adhere to the founding constitutional documents of New Zealand, He Whakaputanga o te Rangatiratanga o Nu Tirenī of 1835 and Te Tiriti o Waitangi of 1840. The establishment of National Iwi Chairs Forum in 2005 heralded the beginning of a national conversation led by Māori on the need for constitutional transformation. In 2016, Matike Mai Aotearoa: the Independent Working Group on Constitutional Transformation released its report after widespread consultation with Māori (Matike Mai Aotearoa 2016). The report, which sets out values and models on which to build an agreed and inclusive constitution for the country, has generated interest and strong support from Māori and from many non-Māori groups. Predictably, it has been attacked by White Supremacists. A key element that has been taken up is that Māori must make our own decisions for ourselves, leaving the Crown to make decisions for its people, and that Māori and the Crown, as equals, will reach decisions on matters of mutual interest by consensus (ibid). Calls for Māori to make our own decisions about our own lives, lands and resources are becoming increasingly strident



as widespread Māori homelessness and disproportionately high Māori incarceration rates persist (Rout et al. 2019), and the need to protect Māori children from government agencies has become a national embarrassment (Office of the Children's Commissioner 2020). Pressure on government for land restitution to allow Māori to return home is targeting unused "conservation land" where repossession by Māori assists the Department of Conservation to achieve its statutory obligation at Section 4 of the Conservation Act 1987 to give effect to the treaty, an obligation it has eschewed for more than three decades.

### Conclusion

As Aileen Moreton-Robinson points out, "It takes a great deal of work to maintain Canada, the United States, Hawai'i, New Zealand and Australia as white possessions" (Moreton-Robinson 2015: xii). The rampant land grabbing it necessarily involves has not severed the ancient bonds that Indigenous Peoples have to our lands. Those bonds are the genealogical source of our existence, our Mother Earth, Papatūānuku. This is a concept far removed from the unsustainable notion that land is a possession, a commodity to be exploited for monetary gain. International pressure and increasingly strident Indigenous activism are becoming more focussed on marginalising and eliminating the White Supremacy that treats our lands so cruelly, and restoring some form of balance between Indigenous Peoples and our guests. Land restitution is fundamental to that process. Six generations of my whānau have passed on the knowledge, wisdom and understanding we needed to unravel the suffocating colonial weaving of our oppressors (Mutu 2015). That evidence enabled the Waitangi Tribunal to lay bare the truth about the atrocities committed against Māori that the Crown had kept hidden under a blanket of amnesia for so long. My children's and grandchildren's generations have grown up knowing that truth. They are far less tolerant of White Supremacist nonsense than my generation has been and are in a much stronger position to ensure that Papatūānuku ceases to be a white possession.

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## 4

# RUPTURES AND CONTINUITIES

## How the Global Land “Rush” (Re)produces Slow Violence on Latin America’s Resource Frontiers

*Joel E. Correia*

### Introduction

We left the capital city of Paraguay long before the sun rose so that we would arrive in time for memorial services commemorating the 2012 Curuguay massacre. It had been two years since 11 *campesinos* (farmers) and 6 police officers died in a state-led effort to forcibly evict a group of *campesinos* who were attempting to claim land via agrarian legal statute for a community settlement (Escobar 2018). Our pickup truck was full, with four people in the cab and a load of donated food supplies in the back that would be distributed to families of the victims. The four of us—one nongovernmental organization (NGO) representative, two state functionaries, and myself—traveled to Curuguay to attend the public memorial and drop food supplies for *campesino* families affected by the violence. The sun rose as we passed San Estanislao, revealing a landscape marked mostly by smaller farms established during the agrarian reforms of the 1960s.

As we entered the town of Cruce (pop. 6000) new artifacts marked that we were entering the soybean territory. The Restaurant Brasiguayo harkened to the history of Brazilian immigration to the area and its role in introducing soybean agriculture. Signs directed semi-trucks to offload their soybeans at the Cargill silos just north of town from where they would eventually be exported. Large billboards advertised agrochemicals promising “the best yields,” while displaying images of verdant, green soy plants growing before the setting sun. The landscape changed just east of town moving from a scene populated with small *campesino* communities to one seemingly devoid of people but populated with vast fields planted with winter cover crops used in no-till agricultural practices common to genetically modified (GM) soybean production dominating southeastern Paraguay agriculture during the summer months. We were getting close.

Not long after passing the spur road to Curuguay, we saw several hundred people gathered on the side of the highway in front of a large memorial clad with Paraguayan flags and an altar to the deceased. Crosses, candles, offerings of fresh fruit, and life-sized black and white photographs of each victim’s face adorned the memorial, their names printed in bold letters (Figure 4.1): Fermin Paredes G., Luis Paredes, Juan Gabriel Godoy, among others. After parking, we joined the group just in time to catch Bishop Mario Melanio



Figure 4.1 The 2014 Curuguaty Massacre memorial services. Photograph by author, June 2014.

Medina give a short, liberation theology inspired sermon that denounced state-led violence against *campesino* and Indigenous peoples struggling for land amid the expanding agro-extractivist frontier. He then blessed the alter built to commemorate the 17 lives lost two years prior. During a pause in the activities, we walked back to the truck to unload and carry the donated food staples to the community kitchen built under a plastic tarp at the edge of an agricultural field. Despite the violence that occurred two years prior, several *campesino* families refused to leave the area. They remained just outside the disputed property in small, tarpaulin shelters while waiting for a legal remedy for their land claims. Giant pots of stew, cassava, and rice spewed steam into the cold winter air as we passed. Such solidarity kitchens, “*ollas populares*,” are collective efforts that support memorial attendees and the enduring resistance of surviving families of landless *campesinos* who had become the face of how Paraguay’s legacy of land inequality intersects with the increasing demand for commodity exports.

After dropping the food supplies, we walked back to the roadside to watch the memorial services. The event was attended by news media from across South America, many local NGO representatives and activists, and *campesino* families from the Curuguaty area. It was then that Pilar received a phone call from her supervisor at the National Institute for the Indigenous (INDI) about reports of a violent attack against the Mby’a Indigenous community of Y’apo that had just transpired. She explained the situation to Santiago, who had driven us to the memorial in one of his NGO’s trucks. No other INDI representatives were

in the area, and it would take at least eight hours for officials from Asunción to arrive in Y'apo, given its remote location. Would he be willing to drive us to gather testimony and assess the situation? Santiago agreed. We left immediately. The drive took two hours, first further east down the highway, then onto an unmarked dirt road that meandered along the edges of soybean fields. We knew we had arrived when we saw the burned shell of an SUV sitting in the middle of a field (Figure 4.2).

Written against the backdrop of the 2014 Curuguaty memorial and Y'apo confrontation, this chapter highlights ruptures and continuities in Latin America's resource frontiers to rethink the temporality of land grabs and their relationships with enduring racial violence. I return to Y'apo later in the chapter. But suffice to say here, the confluence of events that transpired that day index how contemporary land rushes articulate the slow violence (Nixon 2013) of coloniality and its lasting legacies. Land grabbing is not merely a recent phenomenon but one that builds from sedimented histories of routinized dispossession. By attending to the *longue durée* of frontier violence that (re)shapes land control, I consider the multiple temporalities of land grabbing that have acute implications on social-environmental justice. Long histories of labor alienation and land appropriation shape contemporary dynamics of resource rushes in Latin America (Galeano 1971; Mollett 2016a; Speed 2017). Early resource rushes grabbed both land and people, which were seen as expendable resources. Thinking in conversation with the notion of *cuerpo-territorio* (Zaragocin & Caretta 2021), I insist that resource grabbing is an embodied and emplaced



*Figure 4.2* The charred SUV sitting in a field of winter cover crops just outside the entrance to Y'apo. Photograph by Author, June 2014.

practice with a lasting, slow violence that current rushes magnify. The chapter contributes to debates about land grabbing by showing how four resource rushes based on histories of Indigenous labor exploitation and land dispossession define the region's racial geography. I argue that land grabs are not isolated moments that merely change existent landed relations, but that they are colonial continuities that reproduce the violence of generational dispossession reiterated through new agrarian and juridical technologies.

### Rethinking the Rush

Across the world, the wave of large-scale land acquisitions driven by the intersection of global commodities crisis of 2006–2007 and the so-called Great Recession of 2008–2009 set the stage for a groundswell of new research and activism about “global land grabbing” (Zoomers 2010; Borras Jr. et al. 2011; Borras Jr. & Franco 2012). Indeed, the second Land Deal Politics Initiative conference held at Cornell University in 2012 was ground zero for cutting-edge research that brought together scholars, activists, and policymakers who sought to trace the outlines of a phenomenon re-shaping political ecologies while provoking concerns about injustice and neocolonialism. The conference call for papers provided an evocative framing of land grabs that has come to shape much of the academic debate:

A convergence of factors has been driving a reevaluation of land by powerful economic and political actors ... As a result, we are seeing a dramatic rise in the extent of cross-border, transnational corporation-driven and foreign government-driven, large-scale land deals unfolding worldwide. The phrase “global land grab” has become a catch-all phrase to describe this explosion of (trans)national commercial and government-driven land transactions revolving around the production and sale of food and bio-fuels, conservation and mining activities.<sup>1</sup>

At the conference, I shared a working paper about my research on alternative agricultural models led by an Aché community located adjacent to the Paraguay-Brazil border and in the heart of what many considered the country's land grabbing frontier (Galeano 2012). The study investigated how the fair trade production of shade-grown yerba mate for export to the United States affected Aché producers. Yet as with all ethnographic research, broader dynamics often call researchers' attention to phenomena beyond their original questions. The community granted me permission to conduct the research on grounds that I contribute to community interests. At the time, it turned out that they needed a driver. So, I ended up spending a lot of time as a *de facto* chauffeur and shifted from conducting interviews and learning about yerba mate to driving community members around the Curuguaty area.

Kue Tuvy is located in the heart of a conflicted landscape beset by intersecting contemporary resource rushes built from a history of land appropriation, Indigenous labor exploitation, and genocide. Kue Tuvy and Curuguaty are located in the Canindeyú department, the heart of Paraguay's soybean agriculture and home to much of the country's booming illicit marijuana industry (Garat 2016; Benítez 2020). The department is also the site of contraband smuggling routes used to traffic everything from felled trees and drugs to cigarettes and cars over the border into Brazil (Moriconi & Peris 2019; Tucker 2020). Having the opportunity to drive the backroads of these contested borderlands took me to the site of illegal logging operations, the homes of *campesino* families who would shortly thereafter be involved in the land occupation at Campo Morombi that precipitated the

Curuguay massacre, and through the heart of the soybean agriculture that had radically transformed the traditional territories of Aché and many other Indigenous peoples living in the region. Away from the community's yerba mate plantation, the long unfolding land grabs that shape contemporary struggles for justice in Paraguay were impossible to ignore.

Yet, the dynamics I observed unfolding in those borderlands did not sit easily with what some have called the “global land grab meta-narrative” (Baird 2014), particularly regarding the novelty of large-scale land appropriations for commodity exports (McMichael 2012). The presence of transnational agribusiness corporations and exporters like Bunge, Archer Daniels Midland, and Cargill have undeniably increased since the early aughts in Paraguay (Kretschmer 2004; Souchaud 2005; Torre 2015), with the country ranking among the top five global exporters of soybean tonnage annually since at least 2010 (RepórterBrasil and BASE 2010; Gudynas 2017). Yet the restructuring of land control has less to do with the introduction of new international finance seeking secure food, feed, and fuel sources in response to the global commodities crisis (Borras et al. 2014) than with an established Brazilian, Paraguayan, and “Brasiguayo” class of landholders who advance production of soybeans alongside the introduction of new agricultural technologies and export mechanisms (Galeano 2012; Elgert 2016; Correia 2019a). The intensification of soybean production and concentration of land control converted southeastern Paraguay to a site where numerous small-scale land dispossessions erode Indigenous and campesino land access, further concentrating property with large-scale producers. Such dynamics of dispossession include, direct violence like that of the Y'apo and Curuguay (Correia 2019a; 2019b); subtle forms of dispossession achieved through the indiscriminate use of agricultural herbicides that pollute water sources and subsistence crops (Hetherington 2013; Ezquerro-Cañete 2016) and the erosion of campesino and Indigenous livelihoods and access and control over land (Glaser & Villagra 2015; Bogado et al. 2016; Cardozo et al. 2016; Wesz Junior 2021).

While much global land grab literature evaluates the role of states to facilitate large-scale, international land deals (Wolford et al. 2013; Petrescu et al. 2020), my intervention here takes a different tack. I address two other less discussed albeit important sub-themes in analyses of land grabbing. First, I attend to recent calls to evaluate land grabbing vis-a-vis different forms of dispossession (Oliveira et al. 2020) and thus highlight how incremental land appropriations spur territorial transformations that effectively produce what Oskarsson et al. (2019, 1488) call “cumulative land grab[s].” Second, I build from critical scholarship that attends to longer histories of land appropriation and grabbing that assess how racial geographies of land tenure inequality are “justified” in the current conjuncture (Edelman & León 2013; Verma 2014; Mollett 2016b). With these two focal points in mind, I shift the scale of analysis, both spatially and temporally, to other dynamics often overlooked or outside the purview of a strict focus on the financialization of land and transnational deals—everyday forms of racialized dispossession on resource frontiers. Here, I agree with Edelman et al. (2013, 1250–51) that “viewing today's land rush in greater historical perspective permits both a more profound analysis of its origins and dynamics and a greater appreciation of the specificity that may characterize contemporary land grabs.” Mollett's (2016a; 2016b) scholarship has been instrumental in making that point clear while revealing how land grabs in Latin America are simultaneously racial projects that render new geographies through the appropriation of resources, labor, and people. Mollett (2016a, 415) insists “land grabbing is an old process routinely operationalized through the state and naturalized through development practices that are bound up in historical racial hierarchies.” Further, Mollett (2016a) attends to these histories and their articulations with the



present through an analysis of micro-scale land deals that collectively erode Indigenous and Afro-descendant land control. I expand on this work by drawing from Lund (2016) to show how ruptures in resource access and control often framed as “grabs” or “rushes” cannot be dissociated from the slow-moving historical continuities that create the condition for their possibility.

Contemporary land grabs can thus be seen as acute ruptures that rework institutions and power relations in the current moment when placed in conversation with the *longue durée* of colonial land relations in Latin America. Even though the form and outcomes of contemporary ruptures are distinct, they resonate with the colonial continuities of racialized access regimes that diminish Indigenous land control. Land appropriations unfolding in places like eastern Paraguay and southern Brazil are not starkly different nor represent an entirely new phase of seizure than the historical processes of land appropriation that preceded them. The region has long been the site of land (re)valuations driven by different forms of speculative finance to support extractive industries and international interests over those of local peoples (Richards 2011; Sullivan 2020; Friggeri 2021). I am not suggesting that the historical dynamics of land control in the Paraguay-Brazil borderlands are the same as that which has taken place since the early 2000s. Instead, contemporary processes of land grabbing in this region that manifest in moments of violent rupture and dispossession represent a phase in a much longer process with resonant logics of racial violence that persist.

### A Land Rush in Four Acts

Act One of the land rush in Paraguay is like so many others; European colonizers arrived only to claim the land, resources, and people as their property. First colonized by the Spanish as an outpost to search for gold and silver, Paraguay’s capital city Asunción was established on the banks of the country’s eponymous river in 1537. Devoid of precious minerals and far from the Andes where they lay, Spanish colonizers turned their sites on two other resources—yerba mate and Indigenous labor. Yerba mate (*ilex paraguariensis*) is a tree endemic to Paraguay with leaves long consumed for their stimulating qualities. The Spanish soon established an *encomienda* system whereby colonizers forced Indigenous peoples to harvest yerba mate leaves from the forest for consumption, sale, and exchange (Rendón 2017). Instead of sending gold or silver as tributes to the Spanish Crown, colonizers in Paraguay sent yerba mate and profits garnered from its sale in the region (López 1974).

In the waning years of the 16th Century, an order of Catholic priests—the Jesuits—arrived and established large *reducciones* (missions) in southeastern Paraguay that operated by controlling the yerba mate market. To do so, the Jesuits scaled up the local *encomienda* system by forcing many Guaraní peoples into the *reducciones* where they labored in veritable servitude (Service 1951; Austin 2016).<sup>2</sup> Over their nearly 175-year operation in Paraguay, the Jesuits created a pseudo-state system based on enslaved Indigenous labor and yerba mate production with a territory that spanned southeastern Paraguay and spread into southern Brazil and northeastern Argentina (Wilde 2017). Yet, tensions existed between Jesuit and Spanish colonizers. The growing political power, economic success, and territorial extent of the *reducciones* coupled with their control of much of the yerba mate economy threatened the Spanish Crown and its claims to the region. In 1767, the Spanish expelled Jesuits from Paraguay and the Paraná basin to reassert control over the lands, yerba industry, and Indigenous labor (Telasca 2009). In sum, the first resource grabs in Paraguay were never merely about land; they established a form of racial capitalism that

simultaneously dispossessed Guaraní peoples on their lands while capturing their labor for the yerba mate trade.

Independence from Spain in 1811 marks the Second Act in Paraguay's land rush history. José Gaspar Rodríguez de Francia, the country's first dictator, advanced a suite of new laws that dramatically transformed property rights and land occupation regimes across Paraguay. One of his first acts entailed the *Reforma de Regulares* that dissolved all Catholic Church landholdings by transferring them to the state. Moreover, in 1825 Francia mandated that all property holders provide the state written documentation of their proof of ownership to substantiate their land rights (Kleinpenning 2009, 423). The act effectively dispossessed all Indigenous peoples of land, given that none had titles or written documentation proving their occupation or ownership. Further still, Francia's successor, Carlos Antonio López, issued the October 7th decree of 1848 that formally declared all Indigenous lands *tierra fiscal*—state land. Through these and other land reform laws, by 1870, the Paraguayan state took direct ownership of all but 489,375 hectares that were recognized as private property (Kleinpenning 2009, 425). The state's rush to assert ownership over its territory was twofold: first as a means of controlling the economy in the wake of independence, then as a means of reasserting territorial control following the devastating losses incurred during the Triple Alliance War (1864–1870). Paraguay lost nearly half of its territory to the victors of the War.

The state's attempts to regain financial solvency by converting land to *tierra fiscal* failed, and officials moved to sell huge swaths of state-held lands to private investors. In the late 1800s, local elites and foreign investors thus established huge *latifundias* with enduring consequences. Illustrating the scale of this resource grab, the three main foreign-owned *latifundias* controlled nearly 55,000 square kilometers of land, or 34 percent of southeastern Paraguay at their height of operations (Richards 2011, 348–9). Most of the new *latifundias* extracted forest products like yerba mate and timber for export, often using Indigenous laborers forced into debt slavery (Kleinpenning 2009, 651–2), thus echoing histories of racial violence established by the Jesuits. With the near-total collapse of Paraguay's yerba mate industry in the late 1950s, the country's new leader, Dictator Alfredo Stroessner, moved to break up the largest *latifundias* to spur development along the border with Brazil.

The Third Act of land grabbing in southeastern Paraguay stems from Stroessner's agrarian reforms enacted in 1964. The reforms promised to redistribute so-called unproductive lands to *campesino* families, thereby serving as a vehicle for internal colonization and frontier development (Nickson 1981). Stroessner's agrarian reforms incentivized Paraguayan campesinos to move east to the country's borderlands coincided with Brazilian efforts to settle Mato Grosso and Paraná through the "march to the west" (Friggeri 2021, 136). The two waves of settlers descended upon the Paraguay-Brazil borderlands from opposite directions and effectively enclosed existing Indigenous territories in the process. The expansion of cattle ranching, cotton farming, and road infrastructures in Indigenous territories sparked new conflict with widespread reports of violence against Aché, Mby'a, Avá Guaraní and other Indigenous peoples who inhabited the region, including formal accusations of genocide (Reed & Renshaw 2012). Stroessner's government was complicit in this violence by tacitly allowing the hunting of Indigenous peoples who trespassed on private property and malicious treatment of Aché on state-supported resettlement sites (Correia 2019b). Further, Stroessner's brutal dictatorship operated through political patronage; the agrarian reforms created the pretext to gift large parcels of lands—*tierras malhabidas*—to military officials and other allies to ensure their loyalty (Hetherington 2011).

The colonization and development that followed Stroessner's agrarian reforms incited the first contemporary land grab in the region that has radically changed social-ecological relations in the region primarily due to the introduction of soybean agriculture. Instead of assuaging land tenure inequality by redistributing lands to campesinos, the agrarian reforms mapped onto a longer process of unequal relations that has created extreme inequality, particularly along racial lines whereby Indigenous lands have been reduced to enclaves amid a vast soybean landscape (see Figure 4.3). Today, Paraguay ranks among the world's most unequal countries regarding land tenure with a Gini coefficient of .93 (Guereña 2016),

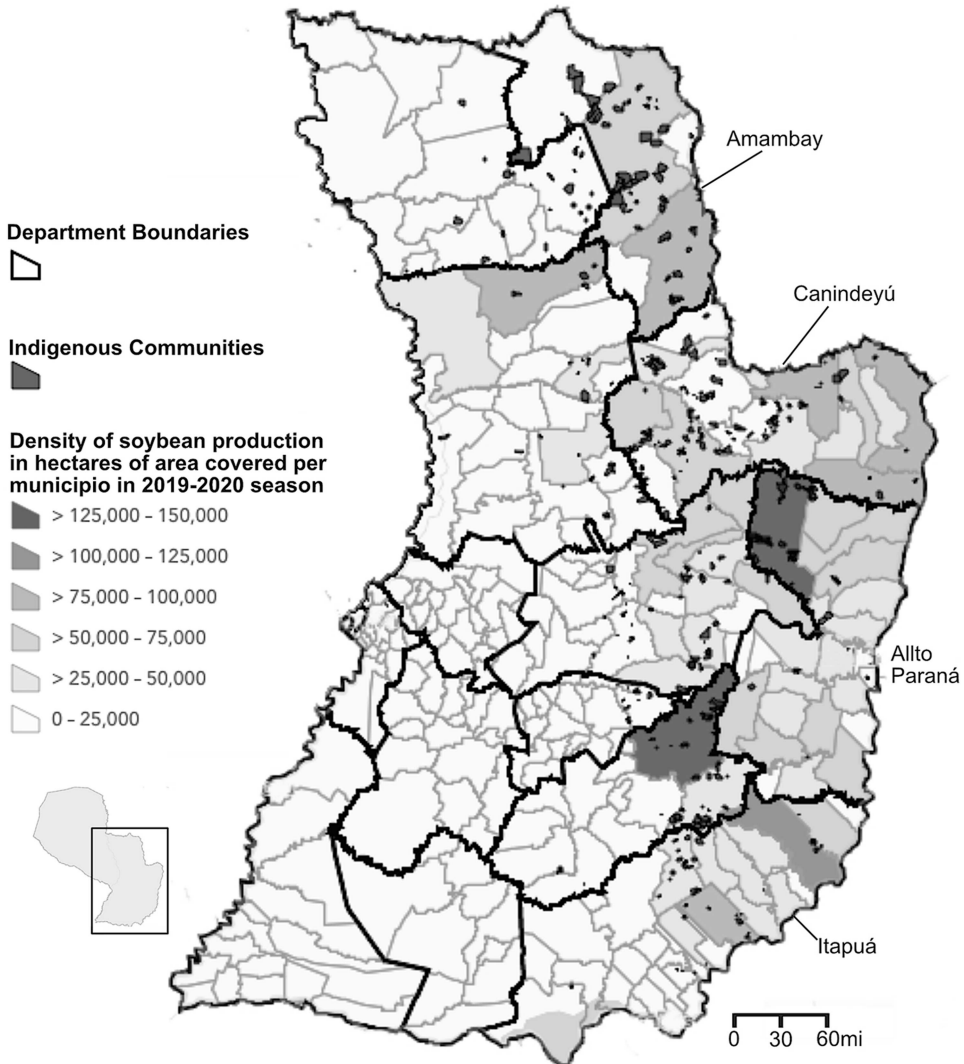


Figure 4.3 Soybean area planted in the 2019–20 season by *municipio* with the location of Indigenous communities overlaid. Map by author.

where 1 is a measure of total inequality and 0 is a measure of absolute equality. Results from the most recent agrarian census conducted in 2008 report that approximately 2 percent of the country's population owns over 80 percent of its arable land. Given the expansion of the soybean and cattle ranching industries, it is likely that the census scheduled for 2022 will reveal higher levels of inequality.

The Fourth and current act of grabbing is not defined by large-scale land acquisitions like those driven by the Jesuits, the post-independence *latifundias*, or Stroessner-era distribution of *tierras malahbidas*. Instead, regular small-scale dispossessions slowly erode existing Indigenous and *campesino* landholdings with the effect of gradually expanding areas dedicated to commodity exports. The production of GM soybeans is the primary driver of small-scale dispossessions in the current conjuncture. First, Brazilian migrants who colonized the Paraguay-Brazil borderlands during the Stroessner-era reforms introduced the contemporary export-oriented soybean agriculture model and remain today some of the most influential actors in this area (Blanc 2015). Paraguayan scholars and activists have long critiqued the extensive presence of Brasiguayo producers and their territorial control as a threat to national sovereignty and a clear example of regional imperialism (Galeano 2012; Wesz Junior 2020). Second, soybean production has expanded dramatically since introduction to Paraguay in the late 1960s and the legalization of GM soybean varieties in 2001. Today, the country is the world's fourth-largest exporter of soybean, and over 75 percent of arable land is dedicated to producing the crop (Palau 2015). Third, large-scale producers (>1,000 hectares) overwhelmingly control the soybean sector and operate with the logistical support of the world's most prominent grain exporting and processing companies, like Cargill, Bunge, and others. That is to say, though there are few examples of *campesinos* and Indigenous communities that produce soybean (<500 hectares), the crop and the lands it is grown on are controlled by a relatively small group of elites, Brasiguayos, and beneficiaries of *tierras malhabidas*. Fourth, given that over 95 percent of soybeans now produced in Paraguay are GM, the use of herbicides like Round-Up is pervasive, and the country imports over 6 percent of the agrochemicals sold globally (Apipé 2018). Indigenous peoples and *campesinos* regularly denounce that the application of agrochemicals pollutes their water sources, destroys their subsistence crops, has led to increased prevalence of illnesses, and forces peoples from their lands (Ezquerro-Cañete 2016; Correia 2019a). All this bears asking, is export-oriented soybean production indicative of land grabbing, given that lands are largely controlled by agrarian elites or foreign nationals and nearly all beans harvested are exported? Is this not a case of contemporary land grabbing?

### **Grabbing as a Racialized Logic of Dispossession**

While soybeans are the target of critique and drive the predominant mode of production in the present, they are but the most recent iteration of extractive capitalism that has been used to legitimate Indigenous dispossessions and racial violence. The logics of grabbing, both bodies and land, have been forged over centuries of colonial exploits rooted in principles of extractivism. In other geographies, similar logics have manifest as the white possessive (Moreton-Robinson 2015), the plantation (McKittrick 2011), and in the figure of the barbaric indian (Saldaña-Portillo 2016)—each of which indexes a form of racial capitalism that frames other-than-white lives as those not worthy of protection, or as those that can be let to die (Li 2010). Thus, soybeans in and of themselves are not the problem. The problem lies in the structure of racialized land relations crafted from the time of the Spanish colony

Table 4.1 A partial accounting of documented Indigenous disposessions in southeast Paraguay between 2009 and 2021

<i>Documented cases of violent Indigenous disposessions related to soybean production, 2009–2021</i>				
<i>Cases</i>	<i>Year</i>	<i>Indigenous people</i>	<i>Community name</i>	<i>Department</i>
1.	2009	Avá Guaraní	Ka'agy Roky	Alto Paraná
2.	2009	Avá Guaraní	Loma Tajy	Alto Paraná
3.	2009	Avá Guaraní	Formosa	Alto Paraná
4.	2009	Avá Guaraní	Ka'aty Mirí	Alto Paraná
5.	2009	Avá Guaraní	Ysati	Alto Paraná
6.	2009	Avá Guaraní	Ka'a Poty	Alto Paraná
7.	2009	Mby'a	Manduvi'y	Itapúa
8.	2009	Pãi Tavyterã	Pai retã juaju	Amambay
9.	2010	Mby'a	15 de enero	Caaguazú
10.	2011	Pãi Tavyterã	Yvyra'ijã	Concepción
11.	2012	Avá Guaraní	Carrería'i	Alto Paraná
12.	2012	Avá Guaraní	Yva Poty	Canindeyú
13.	2013	Mby'a	Makutinga	Itapúa
14.	2014	Mby'a	Y'apo	Canindeyú
15.	2015	Avá Guraní	Takuara'i	Canindeyú
16.	2016	Avá Guaraní	Bajada Guasu	Canindeyú
17.	2016	Avá Guaraní	Tekoha Sauce	Alto Paraná
18.	2016	Ava Guaraní	Jetyty Mirí	Canindeyú
19.	2016	Mby'a	Y'apo	Canindeyú
20.	2017	Avá Guaraní	Ysati	Alto Paraná
21.	2018	Avá Guaraní	Tekoha Jetyty Mirí	Canindeyú
22.	2018	Avá Guaraní	Takuara'i	Canindeyú
23.	2019	Avá Guaraní	Ysati	Alto Paraná
24.	2019	Avá Guaraní	Takua'i	Canindeyú
25.	2020	Avá Guaraní	Guyrapaju	Caaguazú
26.	2020	Avá Guaraní	Ysyrymi	Itapúa
27.	2020	Mby'a Guaraní	Hugua Po'i	Caaguazú
28.	2020	Mby'a Guaraní	Loma Piro'y	Caaguazú
29.	2020	Avá Guaraní	Ka'a Poty	Alto Paraná
30.	2020	Avá Guaraní	Veraro	Canindeyú
31.	2020	Mby'a Guaraní	Jaku'i Guasu	Itapúa
32.	2021	Mby'a Guaraní	Panambi	Caaguazú
33.	2021	Avá Guaraní	Cerrito	Alto Paraná
34.	2021	Avá Guaraní	Yvy Porã	San Pedro
35.	2021	Avá Guaraní	Acaraymí	Alto Paraná
36.	2021	Avá Guaraní	Ka'a Poty'i	Alto Paraná
37.	2021	Avá Guaraní	Cristo Rey	Canindeyú
38.	2021	Avá Guaraní	Tekoha Ka'avusu	Alto Paraná
39.	2021	Pãi Tavyterã	Tekoha Guasu Yvypyte	Amambay
40.	2021	Mby'a Guaraní	Loma Piro'y	Caaguazú
41.	2021	Ava Guaraní	Arroyo Kupa'y	Alto Paraná
42.	2021	Mby'a Guaraní	Hugua Po'i Syryka	Caaguazú

Note: Data compiled by author from media reporting and human rights organizations. Note some communities appear multiple times in different years.

through the contemporary imaginary of Syngenta's "United Republic of Soy" (Correia 2019a) that has always valued some populations over others. Hetherington (2020) has theorized a related point as "agribiopolitics." However, I also want to suggest that violence exacted on Indigenous peoples in the Paraguay-Brazil borderlands is a form of agrarian necropolitics that produces distinct racial geographies. The agribiopolitics of monoculture crop production assumes the simplification of diverse lifeways because such methods require that landscapes be reduced to a singular function, in this case raising soybeans.

The disparity in land tenure and distribution of property rights cannot merely be explained as a colonial legacy but also cannot be entirely divorced from that legacy. With repeated cycles of land grabbing by colonists countered by state acquisitions that are later ceded or sold to facilitate new forms of agrarian colonization, specific laws create juridical ruptures in pre-existing land relations that result in new forms of agrarian extractivism. Indigenous dispossession is the colonial continuity that runs throughout each round of grabbing. Whereas Indigenous labor exploitation was central to the logics of colonial accumulation in the first two acts of land grabbing, settlers, and the state began to see Indigenous peoples as surplus populations "in the way of development" in acts three and four. While the logics of dispossession resonate across historical periods, the ruptures that legitimate and manifest dispossession take a different form in each of the acts I have outlined.

There is thus a clear racial geography written in the violence normalized against Indigenous peoples in soybean territory. Brasiguayos, Paraguayans, and other non-Indigenous landholders own and operate nearly all the soybean plantations in Paraguay, a fact that maps onto the unequal land tenure mentioned earlier but exacerbated by violent land dispossessions that seek to remove remaining Indigenous peoples from the margins of soybean fields where their legally-recognized territories often lie. Our trip to Y'apo (see introduction above) was but one such event. The regularity of violent land dispossessions in soybean territory has affected thousands (see Table 4.1). Each case indexes one of many small-scale dispossessions that slowly erode Indigenous land control while advancing racialized dispossession that values capital over life.

### **Conclusion: Colonial Continuities**

Histories of Latin America have been written in land theft and rewritten through subsequent struggles over new ownership regimes and modes of extraction. The appropriation of Indigenous land for European colonization in the Americas is the germinal logic of grabbing across the region.<sup>3</sup> Indeed, the very "idea" of Latin America (Mignolo 2009) can be traced to European colonization and land theft in the 15th century and the legacies of unequal relations that result (Galeano 1971). In stating this, I do not suggest that contemporary land grabs are not important, that the financialization of land and resources since the 2006 food crisis is not distinct, nor that scholars of the "global land grab" debates are not aware of histories that preceded events like the Land Deal Politics Initiative conference I attended at Cornell (see, e.g., Edelman et al. 2013). But I highlight the different temporalities and scalar dynamics of land grabbing. Doing so renders clear colonial continuities of racialized violence that are often only attended to in moments of rupture that rework institutions of resource control. Such ruptures are visible in moments like those I witnessed at Y'apo, in the grainy black and white images of *campesinos* that adorned the memorial to those killed at Curuguaty, and on the faces of protestors I joined in front of Paraguay's Supreme Court before the 2017 trial of Curuguaty survivors. Such ruptures are

laid bare by legal and extra-legal changes in property rights regimes (Peluso & Lund 2011; Grajales 2011; Mollett 2016b), the imposition of new technologies that facilitate the enclosure of and production of new natures (Escobar 1998; Oliveira & Hecht, 2016; Hetherington 2020), and in the continuing logics of violent dispossession levied against rural poor and Indigenous peoples living on the leading edge of Latin America's extractive frontiers (Mollett 2014; Bryan 2017; Correia 2019b).

As I write this chapter, two alarming processes are unfolding in Paraguay. First, 2021 has been one of the most violent years in recent memory regarding the use of (extra)legal action and direct violence to remove Indigenous peoples from their lands. Second, conservative Paraguayan senators aligned with ranchers and soybean farmers are advancing legislation to imprison anyone caught "invading" private property in an attempt to claim it via the Agrarian Statue or the state's Indigenous rights laws. Critics suggest that, if passed, the legislation will both criminalize Indigenous and campesino families seeking land rights or restitution while simultaneously rendering legal the *tierras malhabidas* given by Stroessner to many landholders who today control the country's soybean industry. It should come as no surprise then that the majority of the cases listed in Table 4.1 have occurred in areas of the country with the highest concentration of soybean production—a legacy of unequal land relations that stems from colonial enclosures to the violent ruptures we witnessed that fateful day in 2014 upon visiting the Curuguaty memorial and Y'apo.

With the unexpected trip to Y'apo, we witnessed more than a burnt SUV in a field. We arrived to find men and women who had been violently attacked by a private security company working for a soybean producer (Correia 2019a). Some community members had been beaten. Some had been shot with rubber bullets. We recorded their testimonies for legal proceedings and gathered visual evidence (photos and videos) of blood-saturated earth and bruised bodies. Our return to Asunción entailed taking a mother and her child injured in the confrontation to the hospital where they could obtain treatment. We also took one man who had been shot with rubber bullets and one of the *campesinos* from the Curuguaty memorial services. Because the truck cab was full, three of us laid in the back of the truck for the duration of the eight-hour trip and talked intermittently through the cold night as we retraced our path back to the capital city. Laying between a Mby'a man who had been shot earlier that day and a *campesino* man whose family members had been attacked in the massacre two years prior, the violent ruptures conditioned by colonial continuities of land control were as clear to see as the stars in the winter sky.

### Notes

- 1 See The Transnational Institute website for the full call for papers (Land Deal Politics Initiative 2011).
- 2 There are many different peoples within the Guaraní language family. The area currently known as southeastern Paraguay is home to Mby'a, Ava Guaraní, Aché, Paí Tavyterã, among others.
- 3 The term *acaparamiento de la tierra* has long been used in Spanish language scholarship to name and assess what many translate as "land grabbing" in English (see, e.g., Pereira 1977; Ruiz 1985).

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## **PART 2**

# **Enabling Mechanisms and Governance of Land and Resource Grabbing**



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# 5

## CAPTURE LAND

### Anti-squatting Policy as Processual Land Grab in Jamaica

*Rachel Goffe*

#### Introduction

“Capture land” is a Jamaican colloquialism for a pattern of land invasions that occurred in the 1970s. The term came to refer more generally to land occupied against the wishes, or without the knowledge of, the landowner. While not without a sense of the pejorative, the term also connotes longstanding and celebrated anticolonial traditions of claiming land in order to pursue life closer to freedom. The spirit of capture land arises from traditions that have long run parallel—and counter to—the persistent monopolization of land as property that was established through colonial land theft and perpetuated through the plantation. Anticolonial land claims have been made through marronage and within plantation interstices. For marronage, Jamaica’s hilly interior represented a potential: space and time to engage in “negotiating sites of relation and communal spaces of dwelling away from the immediate sphere of the plantation” (Cummings 2018, p. 49). Claiming land towards freedom was also integral to daily plantation life—springing from the provision grounds where enslaved people raised their own food crops.<sup>1</sup> Within the plantation but often far from the structures that surveilled the daily life of enslaved people, the grounds “offered them space and time to assert their own understanding of what it meant to be freely human” (Mullings 2020, p. 151), including an island-wide circuit of food trade that ensconced a “market marronage” (Sweeney 2019) that held the promise of food sovereignty.

In this chapter, I will trace a “history of the present” (Hall 2009, p. 665), locating capture land and its other, liberal property, in a time when state formation momentarily aligned with anticolonial land practices, a time when a former sugar worker could articulate his invasion of a defunct sugar plantation as “what the society wanted to see” (Author’s interviews, 2014). Though not officially, the land invasions of the 1970s were supported by the state in its brief divergence from a long history of complicity with plantation land monopoly. In that conjuncture, ordinary Jamaicans found their traditions amplified by the alignment of the formal political sphere. However, even at the height of its anti-imperialism, the state failed to formally secure an enduring redistribution of land, or a full reckoning with the divergent epistemologies embedded in tradition. As such, capture land’s significance persists, both as sustenance and as a ground from which to imagine the future otherwise.

Situating capture land in these genealogies of anticolonial land claims is important to a present-day struggle between the state and those whose tenure is deemed extra-legal. Today, emergent land policy deploys the term “squatting,” renovating colonial discourse to rationalize grabbing land from those who have been excluded from, or refused, property. But extra-legal tenure does not in and of itself compel state intervention. In fact, the legal burden to maintain possession falls on the landowner, as is typical for land law systems modeled on British common law. Therefore, part of the policy development process involves creating criteria that trigger state intervention even where its agencies are not the landowner.<sup>2</sup> These criteria implicate the squatter settlement as symptom and catalyst of ongoing national crises in street crime, political corruption, environmental catastrophe and economic stagnation. In this way, dispossession is made to seem inevitable, even necessary to the future of the nation. This is not new; implicating the squatter in societal crises is a renovation of historical discourses, as I will show.

Despite the urgency of anti-squatting discourse, actual dispossession is uneven and fractured. Each settlement is assessed for one of three outcomes—eviction, relocation or formalization—but the state’s follow-through is vulnerable to suspension without resolution.<sup>3</sup> Owners (occasionally) and non-owners (more often) are dying as they wait: owners as they wait for state assistance in carrying out evictions (e.g. RJR 2022), and non-owners as they wait for authorization to dwell somewhere, hopeful for places that help them evade premature death, rather than feed them to it (Goffe 2021, 2022). The friction in the present conjuncture underscores the value to capital of the projected future when land transactions are reliably efficient.

This chapter draws on ethnographic research undertaken in 2013–2014 in a settlement occupying a defunct sugar plantation. For reasons of confidentiality, I call this plantation Tulloch, and have also changed the names of the interviewees I discuss further. Based on interviews with Tulloch residents, as well as civil servants from a variety of state agencies—spanning social welfare, public health, construction regulation, housing and land administration—I argue that anti-squatting policy is a form of land grabbing elided by the conflict between epistemes of land (Woods 2017). In order to locate capture land as one material and epistemological thread of anticolonial land traditions, I trace a history of the present in three parts that together show the persistence of colonial epistemes of land and the continuous thread of critique by the dispossessed. I start with legal emancipation and the transformation of the colonial state to dispossess formerly enslaved people of their customary and formal landholdings between 1834 and the 1890s. Next, I review state regulation and distribution of land and housing in the 20th century, showing how exclusion from property-in-land was extended rather than dismantled even as Black Jamaicans secured their sustenance and a degree of autonomy through practices of land tenure that are in tension with the values embedded in law. Third, I discuss capture land as a practice that emerged in the 1970s out of resistant grassroots traditions in entanglement with the anti-imperialist state. Before closing, I return to the renovation of colonial discourses in contemporary anti-squatting policy.

### **Anti-squatting Policy as a Processual Land Grab**

Scholarship on the contemporary dispossession of informal settlements has noted its differentiation by social hierarchies and its incremental spatiotemporality (e.g. Anand 2017, Doshi 2012, Levien 2018, Perry 2013). What do these uneven and contingent processes have

to do with land grabs? Contrary to its initial framing, land grabbing is not limited to novel, large-scale incursions by foreign capital (Edelman & León 2013, Mollett 2016). Rather, the grabbing of land also accrues through acts that are individually small in scale, but cumulative in effect, often relying on “historical dynamics that created the conditions of possibility for current forms of both dispossession and resistance” (Edelman & León 2013, p. 1700). Repeating differently the discourses of the past, these ongoing land grabs differentiate groups whose dispossession can be legitimized.<sup>4</sup> These discourses racialize existing placemaking and land practices, property arrangements, and epistemologies of land by characterizing some ways of being with the land as backward, inefficient, hazardous to the environment (Mollett 2016)—or as I show here, a threat to nationalist goals of law and order and economic growth.

Additionally, as Mollett (2016) cogently argues, scholarship that focuses only on concrete land grabs—eliding the simultaneous conflict of property epistemes—ultimately fails to challenge the naturalization of liberal property as the only legitimate (civilized) relation to land. Theorizing land grabbing with this in mind highlights that it is not merely the present-day instantiation of historical land dispossession, but also an epistemological confrontation.

Emergent land policy in Jamaica enacts a processual, rather than all-at-once-land grab through reductive and delegitimizing discourses that: (1) rationalize the current and projected aggregation of dispossession and, (2) imagine (but do not guarantee) a future in which land tenure conforms to the property epistemes embedded in the law. Despite the obvious difference between dispossession and formalization, both outcomes incrementally draw land and people into a liberal property regime; formalization creates “conditions of possibility” (Edelman & León 2013, p. 1700) that ease future eviction and individualize future dispossession (Ybarra 2009). This undermines traditions that have defined the postcolonial land question as social, structural, and cultural rather than individual, juridical, and a matter of personal finances (Besson 2002). Shifting terminology from capture land to squatter settlement in the contemporary moment severs the land question from the legacies of genocide, land theft, enslavement and exploitation. In so doing, the law-and-order state undermines the moral grounds of radical opposition to land monopoly. Against this, capture land offers those who practice extra-legal tenure the language to ground themselves in tradition, and in the persistence of place alongside, but in tension with, the persistence of the plantation (Cummings 2021).

## **A History of the Present**

### ***Post-emancipation Land Policy***

Whereas 19th century land policy was shaped by the fungibility of Black life, 21st century land policy is shaped by disposability, the absence of a need for replacement. In Jamaica, extra-legal land tenure emerged as an object of state policy in the post-emancipation era. In that moment, the plantocracy’s racialized and gendered land policy aimed to extend its coercion of labour (Paton 2001). Today, the policy to curtail extra-legal tenure would largely affect those Jamaicans who are structurally—wholly or intermittently—excluded from the wage economy, mostly women, and all of African-descent, given Jamaica’s predominantly Black population (see Robotham 2000). Evictees would be excluded from housing, but also likely other means of sustenance, including foraging, farming, livestock



rearing, vending, and family strategies for managing limited income (Goffe 2022). Tracing the resonance of today with the first anti-squatting laws requires a history of the present that follows epistemes of land across space and time, attending to the shifting geographies of social reproduction across categories of housing and land.

Over centuries, colonial land law deployed contradictory discourses to enable colonial theft of territory without surrendering the claim to civility and superiority. In a scathing critique of this pretense, Jamaican reggae artist Chronixx refutes the pejorative use of “capture land” by flipping the script:

Di whole a Jamaica a capture land [...]  
A tief dem tief it in the name of Christ.<sup>5</sup> (Chronixx, *Capture Land*, 2014)  
[The whole of Jamaica is captured land [...]  
They stole it in the name of Christ]

The lyrics unsettle the “lands of law,” “the land tenure systems imposed through European colonially derived legal systems, and perpetuated by Euro-American neo-colonialism and by the Jamaican postcolonial state” (Besson 2000, p. 130). Chronixx does this by showing how the authority of the law derives from illegitimate claims dating back to conquest. European colonial law erased Indigenous and African claims to land by representing those who resisted conquest as barbarous, or compliant; as occupants of useless lands, or good land they would not put to use; or by racializing Indigenous people as Africans who, as newcomers to the region, had no territorial rights under colonial logic (Newton 2022). These strategies were fluid, responding to the particularities of space and time to make theft appear just. Similarly, following British emancipation in 1834, planters and the colonial state manoeuvred furiously to devise narratives adequate to the goal of perpetuating plantation agriculture.

During the collapse of British West Indian sugar in the mid-nineteenth century, acres under sugar—by far the largest plantation crop in Jamaica—shrank rapidly (Satchell 1990). Despite this “organized abandonment” (Gilmore 2008, p.31) the plantocracy continued to pose plantation agriculture as the only viable future for the colonies (Olivier 1936). With the end of legal slavery, British colonists believed their ability to realize colonial plantation futures relied on limiting the land on which formerly enslaved people might realize other futures (Goffe 2022). For the remaining plantocracy therefore, a surplus of available land meant an opportunity for Black flight that would threaten the survival of the colony (Green 1976, cf Bolland 1981).

Jamaica’s sharp rise in abandoned land and the perceived vastness of its “unimprovable” (Edwards 1793, p. 248) interior attracted particular anxiety. Planters claimed that an innate African propensity for laziness, which had been curbed by the civilizing influence of Britishness, would be reawakened by that “unimprovable” land, conveniently re-envisioned in that conjuncture as a fertile place where sustenance was available without any effort. In a display of racist environmental determinism, formerly enslaved people were assumed to have low aspirations and therefore little motivation to work, since their desires could (the British claimed) be met by living off the natural fecundity of tropical wasteland. This logic naturalized the condemnation of Black people to minimal living standards and low wages (Holt 1992).

But land that the colonial project understood as waste—whether temporarily surplus by organized abandonment, or wasted by its characterization as unimprovable—posed a threat even greater than “labour scarcity” (Cumper 1954). As Moulton (2022) shows, British chroniclers blamed the hostility of “the interior” on its terrain but also on its role in

marronage. Long after the Spanish had ceded the island to the English in 1670, Maroons living in upland forests tormented British yeoman land grantees—until the Maroon Wars were brought to an end in the 18th century by treaties that circumscribed Maroons territories, promising parallel sovereignties.<sup>6</sup>

Symbolizing laziness, ungovernability, “terror and havoc” (Cummings 2018, p. 50), space beyond the (active) plantation was one spectre that put Jamaica at the focal point of British debates about “the African” (C Hall 2002, p. 11, cited in Lewis 2020). At their core, these debates had to do with repressing alternative epistemologies so as to secure the plantation’s reproduction (Williams et al. 2020). For the most part, any distribution of property in land that did occur required the intervention of advocates. Against the resistance of the plantocracy, churches helped establish “free villages” by buying, subdividing and selling parcels to formerly enslaved people (Besson 2002).

In 1865, a rebellion was triggered by the use of the courts to prop up land monopoly. Part of a pattern of resistance to the plantocracy’s manoeuvres, the Morant Bay Rebellion was the widest and most sustained of the 19th century. It was led by the peasant Paul Bogle, who a century later would be instituted as the first National Hero. The rebellion was maliciously suppressed through extensive state-sanctioned violence (Hutton 2015, Robotham 1981).

Just two years later in 1867, the British Secretary of State for the Colonies said that the ubiquity of wasteland and the difficulty under extant law for the Crown to reclaim abandoned plantation land, “underlies all that is bad and dangerous in the political condition of the Colony.” He continued, “There is perhaps nothing more damaging to the welfare of a country than uncertainty of land tenure and insecurity of titles” (quoted in Satchell 1990, 65).

Many new laws were passed to remove the “danger” posed by Black access to land—from the Trespass Act in 1851 to the 1889 Registration of Titles Act. Some laws quickened the movement of abandoned land back onto the market. Others broadened the land market: for the first time, married women acting without their husbands’ permission were included among potential sellers, and foreigners among potential buyers (Satchell 1990).

The application of the most explicitly anti-squatting law reveals exclusion from both property and extra-legal tenure, structured by race and class. The 1867 District Court Land Law undermined the rights of anyone who could not produce a registered conveyance deed. Veront Satchell (1990) has shown that, while squatting was widespread across all social groups, the law targeted Black Jamaicans, who were the majority of the 1,381 evictees between 1869 and 1900 (p. 74). The biased application of the law was even deeper than this since many of those evicted were likely *purchasers* of the land they occupied; the documents they received did not meet the requirements of the law passed in 1867 (p. 77). But this merely indexes a pattern; associated figures vastly underrepresent dispossession because they exclude ejections by private landed proprietors, which are not well documented (p. 75).

In the midst of organized abandonment, the state was transformed in order to resecure land as the property of the plantation system. Implicating Black people accused of squatting in the plantocracy’s crisis, legislation was passed to repress their access to land. The state instead facilitated land transfers to a new set of imperial interests including banana purveyors, and the new railway (Satchell 1990, Satchell & Sampson 2003).

### ***Postcoloniality and the Land Question***

The devalued landscape of plantation agriculture and the ubiquity of idle land was a key critique levied by nationalist leaders in the 20th century due to its role in impeding economic

growth and perpetuating poverty (Beckford 1999). Several decades of periodic state-led “land settlement” (subdivision and redistribution) that belatedly started in the 1890s failed to end land hunger for peasant farmers; even now there remain persistent structural barriers to livelihoods in this sector (Crichlow 2005, Weis 2006). With the declining significance of agriculture in the 20th century, new industries emerged that sustained and expanded land monopoly: plantations along the north coast (the main tourism belt) have been sold for resort development. Meanwhile, the bauxite industry summarily dispossessed peasants under terms enabled by the 1947 Mining Act, still in effect.

Regarding housing, in response to the 1930s rebellions across the region, a developmentalist mission emerged for the colonial state and was given a modest revenue (Harris 2008; see also Post 1978). The Moyne Commission—convened to identify the rebellions’ root causes—charged the state with creating a “general improvement of education, health services, housing and slum clearance, the creation of labour departments, the provision of social welfare facilities and land settlement” (Crichlow 1988, p. 116). The state bureaucracy expanded to execute these new mandates. Nevertheless, Jamaicans were still living in moveable self-built homes that were sometimes called “chattel houses” (Besson 2000) on land they did not own.<sup>7</sup>

In contrast to the radical spatial practices of ordinary Jamaicans, the political will to breach the property regime was never mustered as formal state policy even while conceptualizing constitutional decolonization (see Munroe 1972). National political parties debated whether to legislate a financial disincentive to holding land idle and later, in the 1970s, whether to expropriate the landowning elite (N Manley & Nettleford 1971, Stephens & Stephens 1986). In 1955, the leader of the People’s National Party (PNP) Norman Washington Manley (NWM) responded to charges by the ruling Jamaica Labour Party (JLP) that the PNP intended to expropriate landowners. Denouncing the charge but highlighting the issue he said,

A man who owns his land is under a sacred obligation to use it or develop it, or means must be found to put it to use for the benefit of the people as a whole. This country cannot afford to have one acre of idle land.

(N Manley & Nettleford 1971, p. 213)

In 1964, it was estimated that only one-fifth of land held by “the big men” was under cultivation. In a radio broadcast that year, speaking as the Leader of the Opposition, NWM ventured the proposal:

Make it law that any man who has more than 100 acres of land must see to it that all his land over the first 100 acres is put to use according to a national plan or else Government will step in and take it over to put it to the best use for the country and our people.

(N Manley & Nettleford 1971, p. 326, *emphasis added*)

From the perspective of those from whom land had been withheld, this was a modest suggestion. Decades of colonial land settlement had made insufficient change to the *quantitative* inequity in land and almost none to the *qualitative* inequities; programmes tended to subdivide marginal lands—a pattern reproduced through time—from provision grounds to

peasant plots. In addition, a lack of infrastructure typical of the marginal land apportioned through settlement limited beneficiaries' success (Crichlow 2005, p. 86).

In the mid-20th century, amid a global wave of national independence that made non-aligned development and the expropriation of landed elites thinkable, anti-imperialist experiments—whether embedded in state formation or not—envisioned economic and cultural sovereignty. Capture land, initially referring to the entanglement of the state with land invasion, was one such experiment.

### *Plant It Up, 1978*

A decade after independence in 1962, the charismatic Michael Manley swept into power in a landslide election promising “betta mus’ come,” citing a lyric from Delroy Wilson’s 1971 hit song, which his party had appropriated as a campaign anthem.<sup>8</sup> Styled as the Biblical Joshua wielding a rod of correction, Manley rode a wave of popular optimism that the state might help undo (rather than reproduce) persistent social hierarchies. In a country emerging from the cultural domination of Anglicized public life, and under the influence of popular movements that centered Mother Africa instead of the English mother country (Chevannes 1976), the syncretic citations of Black Atlantic and continental African culture by both parties were intended to strike a chord with Jamaica’s Black majority but without alienating their Christian influences.

Among the many structural inequities the administration promised to address was land hunger; despite an abundance of land held idle by large landowners, redistributive land reform had stalled throughout decades of constitutional decolonization. But the “betta” promised in 1972 was also slow to come. Kaufman writes, “The government’s promised land reform was important yet inadequate. In response thousands of Jamaicans created a land reform from below” (1985, p. 99). Waves of capture punctuated the decade. By seizing *prime* land, capture emulated the state-led land reform of the time in making a radical departure from decades of land reform that redistributed marginal land.<sup>9</sup>

In illustration from Tulloch, the following quote is from an interview with Ivan, a former sugar worker. In 1978, his family captured idle land on the Tulloch plantation where he had been employed. He said,

Those man was dead out in those times now, so we just come down here [from the adjacent village where they lived] and just put up a house. ‘Cause nobody never have no argument’bout land. Yuh just live and plant. *Yuh know seh what the society wen want see.*<sup>10</sup> You just live there and you plant it up and ting.

*(Former Sugar worker, Jamaica. Author’s Interviews, 2014)*

By 1978, “those man”—the resident managers who had kept plantation discipline—were gone. Ivan understood capture as aligning with what the society wanted to see. In other words, putting idle plantation land to use—to live on and to support one’s livelihood—echoed the tenor of formal land reform of the time.

The administration’s land reforms had multiple goals. A 1972 election slogan, “Put idle land into idle hands,” blamed the hunger of many on the profligate few. Freeing land from large landowners—who produced export crops—was envisioned to serve a dual purpose. First: provide rural working people with a decent livelihood by making available additional acreage. Second: support domestic food production in order to consolidate economic

sovereignty and reduce the foreign exchange burden of food imports. Between 1972 and the end of the first term in 1976, 23,000 farmers were leased 45,000 acres (Stephens & Stephens 1986). Though this redistribution of land access did not solve the magnitude of land hunger—even falling short of the minimum acreage to secure beneficiary farmers a livable income, it nevertheless contributed to a second electoral triumph (Kaufman 1985). As Ivan said, “Plant it up!” was indeed “what the society wanted to see.”

During constitutional decolonization, the formal political sphere had viewed the land question through the lens of the legislative means by which land might be freed from the large estate system; they were arguments for public policy rather than incitements to popular action. In contrast, the 1970s PNP also politicized the extra-legal capture of land. Based on interviews with PNP-affiliated activists, Kaufman writes, “In the countryside there were waves of the ‘capture’ of idle land or land used for grazing, especially in 1972–3, 1975, early 1977 and late 1978” (1985, p. 100). Officially, the party rejected expropriation as a strategy to increase the acreage available to reform programmes. However, its leftwing members were in favour of expropriation by the people. According to Stephens and Stephens, the radical PNP Youth Organization (PNPYO) became “unhinged” (1986, p. 179) from PNP leadership and instigated several instances of land capture. Noting the involvement of party activists he continues,

One large capture [was] on rich, unused land owned by another leading family, the Clarkes. This capture was partially organized by a left-of-centre PNP [Member of Parliament], but included the participation of supporters of both parties. In Manchester, in the centre of the island, takeovers included a 1974 capture by 30 people of land that had been idle for 12 years. In St. Catherine there was the capture of a 335-acre property at Succaba Pen owned by the Wong family and idle for 18 years. By the mid-1970s 1000 families had settled on this land and had built housing. Finally the Ministry of Housing bought the property in 1976. And in St. Ann, in one instance, the Anglican church was forced to lease some of its idle land.

(Kaufman 1985, p. 100)

D. K. Duncan, a government minister in the PNP leftwing, went so far as to describe the capture of a large estate as *repatriation*: “the PNPYO help[ed] to repatriate [land] to the Jamaican people” (Stephens & Stephens 1986, p. 180). While this rhetoric connotes the anti-imperialist orientation of the administration, the comment contradicted official attitudes towards what were criminal acts of trespass. Though numbers are hard to ascertain, Kaufman (1985) estimates that there were at least several thousand people involved in capture, and that they joined tens of thousands island-wide who were already squatting.

Capture land became central to the controversies that played out in the headlines of newspapers hostile to the government as well as in the clashes between and within political parties. The research referenced in the earlier discussion of capture draws on this archive of mainstream news media and interviews with PNP members. But I argue that these sources obscure capture land of a “minor key” (Katz 1996, 2017): the quiet appropriation of underutilized land to—as Ivan said, “plant it up” and “put up a house.” Acts of daily defiance and negotiating the grudging acquiescence of a landowner or a state agent are minor acts that resonate with longstanding traditions of anticolonial land claims. I here suggest that it is the minor key of anticolonial land claims that informed the major key of official and unofficial state policy. In other words, as with the 1972 campaign’s appropriation of Africa

and Africanist movements, the anti-imperialist state amplified the quieter side of existing radical traditions.

One such practice is stretching the customary tenure granted by an employer-landowner into a belonging to place that spans generations. For example, when those living at Tulloch were served with eviction notices under current anti-squatting policy, they refused to move. The descendants of the former landowner-employer, who had not owned the plantation in 30 years—and by whom some of the would-be evictees’ families had been exploited for generations, were asked by the state to verify whether they had authorized the evictees’ possession. In response, the landowning family reportedly said, “We gave those people the land to live out their lives on” (Author’s interviews, 2014). In other words, their claims to land had been authorized, but for only for so long as they lived.<sup>11</sup> And yet, in accordance with their own epistemologies, those who lived at Tulloch stretched the authority granted for a mere lifetime into a belonging to place that has spanned generations, and over generations, has grown to encompass more of the estate’s vast, idle acreage.

Formal politics regularly cited (and appropriates) African-informed cultural traditions whose vilification was an ongoing legacy of colonialism (Bryan 2009, Chevannes 1976). The PNP hoped to channel these critical traditions towards “a socialist transformation” (Beckford 1985). Distributed grassroots party organizational structure was designed to understand how the party might articulate its platforms to engage with popular concerns (Senior 1972, p. 57). Local “People’s Forums” were held to gather suggestions about how to marshal productive capacity towards transformation. Without necessarily holding an ideological affinity, but acting out of their own epistemological critique, attendees pointed out parcels of idle land amongst their copious suggestions (Beckford 1985). The experience of idle plantation land in their midst underscored a liberal property regime that valued excluding them from land for which no one appeared to have any use.

And so, when Ivan and his family were the first to capture land on the Tulloch estate, they followed in a longstanding popular tradition that was temporarily aligned with formal political discourse. They joined others living on the estate who had long had customary tenure to house and grounds. In truth, the popularity of land reform and housing programmes of either party is that they connect to these traditions borne out of a long-term conflict over land and to whose vision it should be put to use (see Woods 2017).

Though excluded from property, Jamaicans have always made claims to land by other means. Capture land in the 1970s joined other forms of extra-legal land claims, forming a significant portion of the population who might aptly be called “ownershipless” (Goffe 2022) rather than landless; though durable, their tenure is vulnerable to dispossession, as more of ownershipless Jamaica is finding out.

In a remix of earlier conjunctures, land policy over successive administrations in the past 20 years has moved towards a new articulation of “what the society wants to see.” The vision to unite all those acres of idle land with idle hands (as patronizing as that statement was) has been replaced by state boosterism. Rather than the key to nonaligned development, those without legal rights to the land they sustain themselves through are seen as barriers to needed capitalist investment, if not criminally suspect.

### **Remix: Squatting as Crime, as Corruption**

A political consensus sustained since the 1930s held that the state had some role to play in alleviating the housing shortage. That was undermined amid a global neoliberal trend in

housing policy towards self-help, consistent with the return to the racial capitalist norm of social abandonment (Klak & Smith 2012).

As with many other postcolonial countries, the anti-imperialist state has been gradually dismantled<sup>12</sup> over the past 40 years, and the state project of nonaligned economic development has been abandoned. The vision for economic development has shifted—initially imposed by global economic powers—towards attracting foreign capital by paving the way for extractive industries that do more harm than good for the majority of Jamaicans, devastating sustenance, security, and the environment. The resulting social crises are met by an increasingly carceral state (Gilmore 2007, Thomas 2019).

Exemplary of this trend, anti-squatting policy has a carceral logic: increased land surveillance, the production of statistics on extra-legal land tenure that enumerate and categorize the displaceable, and discourses that implicate “squatters” in national crises. Although extra-legal tenure represents claims to land that are cultural and economic, anti-squatting policy is narrowly framed as a housing issue. This narrowing of the postcolonial land question mirrors the abandonment of land reform as a means of improving livelihood, let alone reckoning with the alternate epistemologies that capture land partially represents.

Now, amid a global trend in capital investment in property, increasing land pressure is brought by: largescale infrastructural projects like highways; a boom in construction that mainly services tourism and higher income homebuyers; and renewed takings by the mining industry. This brings longstanding informal settlements into conflict with the desire for economic growth, underscoring the inconvenience to racial capitalism of forgotten people on forgotten land (Gilmore 2008). Further, as I learned from interviews with civil servants, existing agencies that had worked towards social welfare were redeployed to support the goal of land market efficiency. Additionally, state investment in spatial data aids land management and property registry systems that make land transactions easier.

Given this context, it is clear that the 21st century resurgence of policy to curtail squatting, defined as the “illegal or unauthorized occupation of land or housing” (GoJ 2008, p. 12), sets the conditions for grabbing land to further reinvigorate the market. Government-commissioned research has worked to concretize the magnitude of this undertaking by defining squatting, counting and mapping it. Definitions and accompanying statistics show that the tenure status of up to 30% of the population may be targeted by this project (GoJ 2004, 2008). The potential sea change would delegitimize longstanding tenure practices that are varied and complex.

Contemporary discourse represents squatters as ungovernable, lazy and addicted to handouts from patrons—both state and non-state, unsanitary, and criminal—or harbouring criminals. The language of policy development has moved between criminalizing discourses that label extra-legal land tenure as “illegal squatting” (e.g. Dunkley 2009), and human development discourses that instead focus on the unplanned morphology of “informal settlements” (Tindigarukayo 2004). The latter tends to highlight the plight of residents and the ostensibly deleterious impact that settlements—lacking sanitation and other infrastructure—have on residents and on the environment (cf Doshi 2018), while the former is preoccupied with settlements as an example of rampant indiscipline and criminality (GoJ n.d.).<sup>13</sup> Though these articulations appear divergent, both imagine a future radically different from the status quo.

Despite the slow pace of policy development, finding solutions to what one newspaper headline called the “squatting siege” (Manning 2007) is laced with urgency. The interim *Guidelines for Dealing with Informal Settlers* indicate criteria that trigger state intervention,

including: protecting the environment, protecting residents from environmental hazards, and protecting the public from settlements, posed as harbouring criminals (GoJ n.d.). These criteria implicate the squatter at the intersection of several crises: rising insecurity attributed to gang violence and political tribalism (Thomas 2019), climate crisis-generated flooding and erosion (Perry 2020) with deaths skewed to the ownershipless (Goffe 2021), a national housing shortage amid the failure of subsidies to produce housing that is affordable to those below middle income and the ongoing collapse of livelihoods on the island (Mullings 2009).

Urgency pools around “squattling,” fed by its material and discursive entwinement with these multiple overlapping crises, heightened by the intensifying construction boom that increasingly brings “squatters” into conflict with the desire for development and economic growth. The growth of settlements reinforces this urgency, though it is hard to know how much growth: as policymakers have discovered, counting those who live in settlements is difficult (Lee, McHardy & K’nIfe 2007).

Bolstering delegitimizing discourses but with a softer tone, a 2021 speech by the prime minister articulated the latest iteration of the policy to curtail squatting saying, “No Jamaican *should have to* live in an unstructured and unplanned community” (Holness 2021, emphasis added). The speech posed his administration’s “New Social Housing Programme” as a solution. Obscured by the name “social housing,” participation is based on mortgages at prices that although subsidized, are still exclusionary. Announced in 2020 as an election promise, the programme promises to build 70,000 new affordable homes across Jamaica over five years. But in 2008, the number of “squatters” was estimated at ten times that, or about one-third, of the island’s 2.9 million population. That number is debatable, with estimates ranging as low as 10 percent (Lee, McHardy & K’nIfe 2007). Even so, as the residents of unplanned settlements are not the only potential beneficiaries amid a widespread housing shortage, the road to formalized housing is long, even if targets are met.

The veiled manoeuvre of this speech casts extra-legal tenure as the “politics of poverty,” suggesting that local elected officials lack the political will to displace their constituents. This assumption, popular in Jamaica today, is that capture land is *synonymous* with clientelism, or the partisan distribution of government resources to secure and manipulate the loyalty of constituents (Stone 1980). The speech implicitly marks “unstructured and unplanned community” as clientelism, including (but perhaps not only) the PNP involvement in capture land (Eyre 1997, cf Besson 2000). The most volatile expression of clientelism in Jamaica is territorial, known as garrison communities. Initially, the designation referred to communities established by displacing adherents of the opposing party, with resources channeled through a community-based figure called an area leader (Mullings 2019, Stone 1980, see also Thomas 2019). Since the 1980s, income stagnation and increased transnational drug trade shifted the balance of power between the state and area leaders, the latter becoming more powerful patrons than either political party’s governments (Sives 2002). This shift also marked the increasing violence—state and non-state—through which the territories are controlled. However, while there is some overlap between clientelism and informal settlements, the speech performs a synonymy that is discursively useful to the project of freeing land from extra-legal tenure of all forms.

Reducing capture to corrupt patronage discredits the grassroots oppositional traditions that informed the anti-imperialist state—like those held by the Jamaicans who showed up to People’s Forums to point out parcels of underutilized land in their communities to the government. In the words of one capturer in my research—uttered in disbelief at their eviction from an estate hundreds of acres in size that for decades no one save for “squatters”



had used, “But the land is *so* big!” For sure, there is one resident for every acre of Tulloch land. What is the logic of displacing them? Or another, who based the justness of his capture on the fact that he, his mother and grandmother—indeed a history of forbears—had been exploited on that very parcel, saying, “them rob we, we forebears.” Have they not earned a share in the land? Or, as a respondent in Sheere Brooks’s research in an Ocho Rios settlement who said, “How can I be a squatter in my own country?” (2008, p. 163). Indeed, Tulloch residents also articulated their belonging to place at various scales as an inalienable stake in land, whether that meant their belonging to the district, or to the country. At an even broader scale, another Tulloch resident said “Everyone has a right to live,” staking a claim to land via a claim to humanity. These statements demonstrate myriad versions of the epistemologies that refuse the naturalization of the property regime through which the ownershipless are deemed displaceable.

Whereas New Social Housing is presented as countering political violence and corruption, its moral grounds shift the focus away from the replacement of social welfare with the use of state violence to discipline the poor. With the exhaustion of the vision for economic and cultural sovereignty, or any bulwark against the violence of racial capitalism, the criminalization of extra-legal tenure does not attempt to dismantle the “politics of poverty.” It merely asserts that the state’s role is guarantor of property rather than of life, as it had been before.

### Conclusion

Reinsertion into a long history from conquest to the persistent realities of life in the “underdeveloped” world (Rodney 1982) complicates the narratives that delegitimize extra-legal tenure by representing the Black poor as a threat to the nation, and their spatial practices as nurturing existential crises, crises that originate elsewhere (Mullings 2020). In the present day, the unfulfilled hope for independence has turned bitter, shaping a discursive return from “capture land” back to “squatting,” eclipsing radical critique of the historically present plantation. By tracing a history of the present through capture land, I have argued for reconnecting to their epistemological roots, land tenure practices that today appear as mere crime, indiscipline, or corruption (see Thame 2014).

Currently, the road land takes to alienability is risky, even fatal. The friction of this conjuncture underscores the value to capital of creating the conditions of possibility for processual land grabbing—now and in the future. For the owners of land, mediatized failures to repossess land from “squatters,” some of them fatal failures, are repeated again and again in the news (e.g. RJR 2022), reductively painting the broad spectrum of widespread extra-legal tenure as an untenable capitulation to the ungovernable. For the ownershipless, the trajectory to eviction or formalization is also vulnerable to suspension. For them, premature death comes more frequently—sometimes fast, and sometimes slow. The often durable liminality of being not-yet liberal marks them as simultaneously dangerous and disposable.

The discourses through which the category squatter is materialized have implicated others (and still do) who moved towards freedom in the plantation’s afterlives. These include peasant (Besson 2002), Rasta (Besson 2002, Chevannes 1976), higgler (Brown-Glaude 2011, Sweeney 2019, Ulysse 2007), Maroon (Besson 2002, Moulton 2022), taxi-driver (Meeks 2000, Thame 2014), and others who unsettle dominant epistemes of space. And yet, as Jean Besson (2000) has shown, the lands of law have always been vulnerable to expropriation towards experiments that imagine the future otherwise.

## Notes

- 1 The provision grounds are typically represented as granted by planters out of their paternalism, or of their self-interest, since the practice relieved the plantation of its burden to provide food for enslaved people. However, the grounds might also be read as evidence of enslaved people's struggle to maintain their claims to land. Tenure to the grounds were the basis of the internal marketing system, in which enslaved people carried surplus to sell in markets far away, exceeding the needs of the plantation (Mintz & Hall 1960).
- 2 A government-commissioned census suggests that 76 percent of informal settlements occupy land owned by the government, appearing to corroborate the charge of corruption (GoJ 2008). However, my research shows that "unauthorized" possession is sometimes rooted in relations that precede government ownership. Beyond the scope of this chapter, the reasons for the correlation are more complex than the popular explanation of clientelism and political corruption that is exemplified by the prime minister's speech, discussed later in the chapter.
- 3 There are several hundred settlements—754 per a 2008 census (GoJ 2008); the reasons for prioritizing intervention in any one site over another are often unclear but seem to result from complaints by existing or potential owners of land occupied by "squatters" or adjacent parcels.
- 4 Group differentiation is drawn from Ruth Wilson Gilmore's definition of racism (Gilmore 2007, p. 28).
- 5 Difficult to render in English, the repetition of "tief" in Jamaican Patwa serves as emphasis; here to mark the statement as a correction of a falsehood. For a fuller engagement with Chronixx's song, see Cummings (2021).
- 6 These treaties did not mark the end of conflict but transformed its terms, as well as made it law that Maroons play a role in policing ongoing rebellions and marronage of enslaved people.
- 7 This does not mean their tenure was unauthorized; customary tenure has often been connected to employment.
- 8 My translation from Jamaican Patwa is "Better must come." However, mere word for word translation doesn't do justice to the meaning of this lyric. Beginning in lamentation of how long he had been kept down, Wilson's refrain actually expresses a *tempered* anticipation; the only certainty is his repeated recommitment to persevere because "they can't conquer me." By adopting the song as an election theme, the PNP suggested its government would turn this hope for a better future into a reality. See Lewis (2020) for a discussion of how hope affectively secures the ontology of poverty in Jamaican popular discourse.
- 9 The dualism of prime and marginal land is of course not epistemologically neutral. This distinction has nevertheless structured the livelihood capacity of small farming. Crucially, the way marginal land hampers livelihoods sometimes results from policy that appears neutral, but in fact weaponizes extant uneven development or lack of land titles.
- 10 "You know that what the society wanted to see."
- 11 This is exemplary of the relation I call ownershipless, defined below.
- 12 The explanation of the neoliberal state that underlies this section—that it did not shrink, but instead lost the political legitimacy to support social welfare, instead redeploying its developmentalist capacities towards law and order as a catch-all solution to social problems—is drawn from Gilmore (2007, 23).
- 13 Politicians and mainstream news media frequently refer to these practices erroneously and reductively as "illegal squatting." In fact, it is only the first year of unauthorized occupation that is illegal under Jamaican law. Additionally, some of those who exercise extra-legal tenure come to occupy land through relations that are authorized though undocumented. Meanwhile, newspapers repeatedly recite the value of promised investment that squatter settlements threaten.

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# 6

## THE RULE OF TECHNOCRATS? Historical Conditions for a Land Grab in Northern Guatemala

*Kevin A. Gould*

### **Introduction**

Although the first studies of land grabs rightly emphasized the scope and dynamics of recent instances of dispossession (GRAIN 2008), scholars increasingly turn to historical analysis to understand the meaning and causes of land grabs. Pointing to earlier moments of dispossession is one contribution of such an analysis, but considerably more is possible (Edelman, Oya & Borras 2013). An attention to agrarian history and class conflict reveals connections between recent land grabs and ongoing sociopolitical processes (Edelman & Leon 2013; Hajdu & Visser 2017). A historical focus also shows the agency of those who resist the land grab (Grandia 2012). Studies of “long land grabs” emphasize the complexity of market and governance processes underlying seemingly sudden displacement dynamics (Dwyer et al. 2019; Oskarsson et al. 2019). Historical perspectives can clarify who is responsible for dispossession by revealing conditions that make land grabs possible. The increasing attention that scholars have placed on historical explanation since the first studies of land grabs at the end of the 2000s represents the mainstreaming of political ecology and agrarian studies approaches to the study of land grabs (e.g., Peluso & Lund 2011; Peluso et al. 2013; Mollett 2016).

This study contributes to ongoing work on the history of land grabs by focusing on the practices of understudied actors. Specifically, I examine how the embodied work of technocrats helped to create the conditions for a land grab in the years and decades before it took place. While many studies of land grabs reference technocrats or technocratic forms of governance (e.g., Borras et al. 2011; Wolford et al. 2013; McMichael 2022), this chapter represents one of very few that centers the work of technocrats (Hausermann & Ferring 2018; Finau, Jacobs & Chand 2019). I use the label “technocrat” loosely to refer to subjects whose participation and authority in processes of governance is based on their knowledge of science, technology, the economy, the population, and so on. Technocrats are situated within “public, private or third sector organizations” and may include government officials, development experts, planners, accountants, academics, consultants, engineers, and more (Larner & Laurie 2010: 219; Centeno & Silva 2016). Like other political ecologists and development studies researchers, I am interested in technocrats because of how they frame influential development discourses and carry out the everyday work of making agrarian

policies (Mitchell 2002; Li 2007). To understand the importance of technocrats in the making of a land grab, we must ask questions about their power and influence. How do they mobilize resources and knowledge to accomplish their framing and implementing work? How and to what extent does the work of technocrats articulate with structural constraints, contingencies, and ongoing historical and social processes? And what of violence? While technocrats themselves are rarely armed, how is their work made possible by ongoing or historic forms of structural violence?

In this chapter, I “follow” the work of technocrats as they operate across regional, national, and institutional boundaries (Larner & Laurie 2010). This approach reveals precisely how systems of governance within and beyond the state create conditions for land grabs (Wolford et al. 2013). Taking the point of view of technocrats also exposes their everyday, often laborious technical practices, including setbacks and failures, as well as the institutional contexts, which both facilitate and constrain their work. Such contradictory trajectories remind us that land grabs are not inevitable and that other outcomes are possible. As well, following technocrats reveals how their ostensibly apolitical narratives and practices articulate with racialized, gendered, and class-based exclusions. Finally, following technocrats invites us to think more expansively about the formation of land grabs, and by extension, about who could and should be held accountable.

This chapter examines the work of technocrats that helped to produce the conditions for a land grab that was taking shape in northern Guatemala in the late 2000s. Carried out by domestic agroindustry and through myriad relatively small deals, this grab is characteristic of the kinds of racialized dispossession that sometimes go under the radar in the mainstream literature on land grabs (Mollett 2016). Owners of cattle ranches and oil palm plantations displaced Indigenous and *campesino* farm families, many of whom had recently participated in a World Bank–sponsored land regularization (land titling) project (Ybarra 2009; Alonso-Fradejas 2012; Grunberg et al. 2012).

In this chapter, I focus on two key moments when technocrats produced conditions for this land grab. First, I examine a military-led development effort to create the first system of private property rights in land in northern Guatemala during the 1960s and 1970s. This highly exclusionary arrangement would become the basis for all subsequent efforts to create state-sanctioned property rights in land in the region. Second, I document the work of Guatemalan government and World Bank technocrats who promoted the Bank’s land market policy and eventually succeeded in making the Peace Agreements that ended the Guatemalan civil war (1960–1996) into a Trojan horse for this policy. Methodologically, this text departs from historical studies of land grabs cited earlier because I take a genealogical approach. This means that I am interested in marking the emergence of key discursive and material phenomena—in this case, a system of property rights and a land market policy—rather than telling a detailed agrarian history.

This chapter draws on archival research and interviews carried out between 2004 and 2006. I trace the activities of Cold War–era military-development experts through documents archived in the municipal library in Flores, Petén. I also collected documents from the Academy of Geography and History in Guatemala City, from the library of a government agency known as National Cadastre: Technical and Juridical Unit, and from the employees of the latter institution. The story of the World Bank consultants unfolded in a series of interviews with the technocrats themselves at the World Bank offices in Washington, DC and at various locations in Guatemala. The chapter also benefits from a close reading of two knapsack-loads of discarded reports found at the World Bank office in

Washington, which describe how, beginning in the 1980s, Bank employees and their government counterparts promoted neoliberal agricultural policies in Central America.

The chapter is organized into four sections after this introduction. First, I draw on scholarly and gray literature to describe the land grab. The bulk of the chapter is divided into two sections which explore the two historical moments described earlier: the making of a property rights system and a land market. The chapter concludes with a brief discussion of the powers of technocrats and the importance of taking seriously their role in creating the conditions for land grabs in Guatemala and beyond.

### **Land Administration as Precursor to Land Grab in Northern Guatemala**

The land grab that this chapter seeks to historicize emerged in the context of a World Bank-funded Land Administration project, also known as market-assisted land reform. Land Administration is implemented through two interrelated sets of activities. First, regularization or the creation of state-sanctioned private property rights (land titles) is carried out through an intricate process of registration and land survey. Second, a land fund is established so that landless people can acquire loans and participate in the land market, which the policy is supposed to set in motion. Land Administration projects also attempt to modernize national land agencies in ways that facilitate regularization and the allocation of loans for land purchases (Ybarra 2009). In the case of Petén, the rural regularization work took place between 2003 and 2007 and aimed to title 9083 parcels measuring nearly 600,000 hectares, or 45% of the regularizable land in Petén (Grunberg et al. 2012). According to advocates, Land Administration creates the conditions for the land market to increase economic productivity and equity in the agricultural sector. However, in Petén, as in other parts of the world (Rossett 2006), regularization created conditions for widespread land sales by smallholders to the owners of cattle ranches and oil palm plantations.

Other scholars have documented the land grab that occurred in Petén. An extensive review of land sale data indicates that approximately 50% of the “beneficiaries” of regularization sold their land within five years of the project (Grunberg et al. 2012). In some cases, whole communities disappeared after all landowners sold out to agro-industrialists (Zander & Dürr 2011). While there were many documented cases of coerced land sales, the extreme poverty in the region meant that so-called voluntary sales are overdetermined by historical and ongoing processes of racialized violence and by agricultural policies, which amount to class warfare, since agroindustry receives government subsidies and peasants virtually nothing (Alonso-Fradejas, 2012; Grandia 2012). It is important to mention as well that rural regularization was unsuccessful on its own terms. Only 7% of landowners completed the project and received a title (World Bank 2007). Nevertheless, the land grab developed when owners of agroindustry bought up land parcels that had been partially regularized through the Bank-sponsored project.

A historical focus on the work of technocrats opens a space to ask additional questions about the dynamics of this land grab. What was the origin of the system of property rights in land that Land Administration was designed to formalize through land registration? How and why did Land Administration and land markets become the solution for resolving socioeconomic inequalities in Guatemala and in Petén in particular? By examining the work of technocrats who built the property rights system and created the land market policy, this chapter responds to these questions and, in the process, helps to illuminate how technocrats exercise power.



### Making Property Rights, Erasing Land Claims

Petén's first state-sanctioned system of private property rights in land was created by a military-led development agency of the Guatemalan government called the National Enterprise for the Promotion and Economic Development of Petén, *Empresa Nacional de Fomento y Desarrollo Económico del Petén* (hereafter FYDEP), which governed Petén from 1958 until 1989. FYDEP's mission was to integrate Petén into the rest of the country by creating conditions for capitalist industrialization and natural resource extraction (Hurtado 2019). FYDEP described the process as colonization, but it was in fact a *recolonization*. In 1695, a small Spanish army invaded what would become northern Guatemala, and with spectacular violence established a prison garrison and small settlement in the heart of Maya Itza territory (Jones 1998). The Maya population declined sharply after the invasion and survivors relocated to forest refuges or into Spanish “*reducciones*” in the central Petén. The colony never prospered, but nor did it disappear, and the region remained very sparsely populated through Guatemalan independence and well until the mid-20th century.

In the early 1960s, the US government promoted national counterinsurgency strategies in countries throughout Latin America. In this context, the Guatemalan president re-assigned FYDEP from the Ministry of the Economy to the Ministry of Defense in 1962, and appointed Coronel Oliverio Casasola as its new director. With military training as a road-builder and decades of experience, Casasola led FYDEP to build infrastructure, including hospitals, schools, border posts, government buildings, and roads. The infrastructure was designed with two objectives in mind. First, it was meant to facilitate the movement of settlers, whom the leaders of FYDEP hoped would dedicate their labor to the industrialization of natural resources, principally land for agroindustry and forests for lumber. FYDEP officials were especially interested in attracting middle-class *ladinos* whom they believed were best suited to lead the hoped for industrial transformation.<sup>1</sup> Second, the Guatemalan civil war had just begun (1960–1996), and as in other parts of Latin America, frontier colonization in Petén was designed to reduce incentives for insurgency by providing land to the landless, building trust between the army and the civilian population, and preventing insurgents from establishing forest refuges (Gould 2018).

The leaders of FYDEP understood their work as creating the conditions for private enterprise and cooperative organizations to develop the region (Casasola 1968). In this context, they worried that the colonization effort was doomed because private property in land was virtually non-existent in Petén. While in FYDEP's time, farmers did buy and sell plots of land based on the value of improvements or *mejoras* through a de facto land market, virtually no one had state-sanctioned private property. The only private holdings in Petén, which covered some 1% of the territory, were the result of direct endowments made to elites by the Guatemalan president at the turn of the 20th century. In a bound volume of FYDEP correspondence from the 1960s housed in the Flores municipal library, one can read over a dozen letters in which FYDEP leaders wrote to the highest government authorities in the country begging for permission to create a system of private property rights in land for the Petén.

In a letter to the members of the Guatemalan congress, FYDEP advisors emphasize that without private property, they could not fulfill their mission to “deliver to the private initiative and to cooperative organizations the evolution and the systematic incorporation of Petén into Guatemala.” They go on to explain that

numerous initiatives of the private sector having once introduced their human and economic capital in Petén, demand [in exchange] for their risk and spirit of progress, a minimum level of security, and this is none other than a title to the land that they will occupy, transform, and value with their labor ... [which is a] legitimate demand of free enterprise [and] is supported by the Constitution of the Republic. (emphasis in original)

The authors are also blunt about what is at stake, stating that to the extent that FYDEP is unable “to deliver (adjudicate) the land ... this creates, knowingly or not, a time bomb of anarchy and dissent in El Petén.”<sup>2</sup>

This quote reflects the technocratic thinking of the leaders of FYDEP. First, based on capitalist logic, they understand secure property rights to land as the foundation of economic development. Second, they frame their demands in terms of laws, which institutionalize FYDEP and the state, and lawlessness (anarchy) which they understand as a threat to the security required for industry and colonization. The emphasis on juridical security of land ownership is emblematic of FYDEP’s agrarian policies. In fact, the property rights system that FYDEP would eventually implement forbade landowners from selling their land for twenty years after receiving an initial land title or *escritura* to prevent land speculation. Finally, the FYDEP leaders clearly identify with the business class who they imagine to be the drivers of economic development. Signatories of the letter include Casasola’s close advisors: Julio Molina, an agronomist and FYDEP’s director (minister) of colonization, and Oscar Farchetti, an Italian consultant who was seconded to FYDEP from the United Nations Food and Agricultural Organization.

Once the Guatemalan government granted FYDEP legal permission to adjudicate the land, Casasola and his colleagues mobilized legal and cartographic practices to secure FYDEP’s authority over the territory. They inscribed three national farms or *fincas matriz* in the national land registry, and these served as the underlying title of the land (Milian, Grunberg & Cho 2002). In Spanish, *fincas* means farm and *matriz* refers to either a matrix or a uterus. Thus, these national farms constitute the territory as a national body—blank of any property claims—from which private claims can be separated, or in Spanish, *dismembrado*, dismembered. FYDEP had created for the first time in Guatemalan history a system for allocating private property rights in rural land in Petén. The system permitted settlers who were in possession of land—either because they had claimed unoccupied land or bought usufruct rights on the market of land improvements—to adjudicate the land in the form of state sanctioned private property (Schwartz 1987). To be clear, this was not a state sanctioned land redistribution, which FYDEP opposed (Casasola 1968).

FYDEP technocrats sought to legitimize this new system of underlying title through precise land surveys that mobilized ongoing US military cartographic operations. Consultants working with FYDEP calculated the area of one of the national farms as 606,945 ha, including 19,444 ha of private property—the 1% mentioned above—and 587,501 ha available for colonization.<sup>3</sup> The exactitude of the measurement was made possible by georeferencing the limits of the national farm with a geodetic grid, which had been created through a collaboration between the *Instituto Geográfico Nacional*, the Guatemalan National Geographical Institute, and the US Army Map Service. This grid, which was used to create the first 1:50,000 topographic maps of the Petén, was part of a hemispheric program designed to provide data for firing ballistic missiles to defend against a feared Soviet invasion (Burkard 1959). The geodetic coordinates of the national farm were also communicated to the “Army Map Service in Washington with the objective of making

adjustments [in the cartographic depiction] of the Americas.”<sup>4</sup> Thus, the making of FYDEP’s property rights system and its authority over the territory were anchored in the technopolitical networks of the United States military.

The system for adjudicating private property in rural land, including the *fincas matriz*, became an important resource for FYDEP’s authority, and the institution employed the system to promote its vision of colonization. At the departmental (state) level, the *fincas matriz* discursively emptied the landscape, which had been marked by pre-existing forms of territorialisation. The national farms did not take into account many of the municipal lands available for rent and communal use nor the collective and individual lands worked by Indigenous people and *campesinos* (Schwartz 1995: 223). Thus, the national farms naturalized a massive erasure of communal land and private property, and empowered FYDEP in the process. As well, access to FYDEP’s property rights system was decidedly inequitable. Middle-class *ladinos*, who FYDEP hoped would create cattle farms, were permitted to adjudicate large expanses of land in special colonization zones while peasants were entitled to much smaller parcels (Schwartz 1987: 167). Peasants struggled to complete the requirements, pay fees, and engage with FYDEP employees in the Department of Colonization. In contrast, wealthy landowners, particularly ranchers, were favored by FYDEP and were more agile in navigating FYDEP’s property rights system. There are many stories of *ladino* ranchers using bureaucratic means to usurp land claims of peasants and Indigenous people. Finally, the most egregious inequities resulted when the leaders of FYDEP arranged for military officers, politicians, and other allies to receive land parcels even though they had never set foot in Petén.

Described as “a state within a state,” FYDEP had the power to straighten out some of the inequitable land policies, unfair bureaucratic practices, and corruption, and yet this did not happen (Schwartz 1987). Certainly, greed played a role, but there were also deeper issues related to the anxieties of technocrats about the colonization process in which the property rights system was embedded. Casasola and other FYDEP leaders understood colonization as immigration. Drawing on the ideas of Juan Bautista Alberdi, an important figure of early 20th century Latin American eugenics, Casasola believed that *poblar es gobernar*, to populate is to govern (Casasola 1968). Specifically, he understood the success of colonization as depending on “ethnic selection” of hard-working *ladinos* and the exclusion of Indigenous people (Q’eqchi’ Maya), Spanish people (Creoles), and those of mixed European and African ancestry. FYDEP’s project of ethnic selection continued into the 1970s under other FYDEP leadership who sought to socially engineer the colony by selecting (injecting) the best combinations of settlers from different parts of the country (Posocco 2014). Thus, the ways in which the property rights system discriminated against peasants and Indigenous people was consistent with FYDEP’s “immigration” policy, which was based on essentialist understandings of superior *ladinos* and inferior Indigenous and racialized settler groups.

This section reveals the versatility and power of “technopolitics” in the hands of FYDEP to produce and implement a new system of private property rights in land (Mitchell 2002). FYDEP leaders articulated legal and cartographic techniques with the results of ongoing US military mapping technologies to discursively erase an extensive and functioning system of land tenure. In design and application, the new property rights system discriminated against peasants and Indigenous people and favored middle-class *ladinos* and elites. Such discrimination was anchored not only in the personal prejudice of technocrats but in racist social scientific understandings of immigration and the (in)capacities of racialized settler

populations. Thus, the formation and implementation of the new system of private property rights was naturalized by diverse forms of expertise mobilized by technocrats. While in many ways FYDEP failed to enact its vision of Petén, it produced an unmistakable legacy, nevertheless. The property rights system and the *fincas matriz* would live on in all subsequent land regularization programs until the present day. As well, the patterns of natural resource extraction, labor exploitation, and inequity that were organized during Casasola's tenure would proliferate and intensify as agroindustry, led by *ladino* elites, increased its hold throughout the region. In the next section, I turn to arguably the most important effort to elaborate FYDEP's property rights system when technocrats from the Guatemalan government and World Bank sought to create a new and more efficient land market in Petén.

### **When a Land Market Became the Answer to Guatemala's Agrarian Problem**

In 1998, the World Bank loaned the Guatemala government more than forty million dollars to fund a Land Administration project, which was supposed to harness the power of the rural real estate market to resolve the inequity and inefficiency of the rural sector. In Petén, the project was to regularize (title) precisely the lands that FYDEP had sought to adjudicate decades before. In the fall of 2005, I spent two months in Washington, DC, interviewing World Bank consultants to try to understand how the Bank and its vision of land markets came to play such an outsized role in defining and managing Guatemala's agrarian problem. During one of the interviews, a former leader of the Guatemalan project made a remarkable statement. He said that because of the work of his colleagues and their Guatemala counterparts, the Peace Agreements that officially ended the Guatemalan civil war contained a blueprint for the World Bank's market assisted land reform policy:

This is the reason why in the Peace Accords it is amazing how precise and how technical [land policy] is described . . . . [In the Accords] you also have a vision . . . for the next twenty years in terms of land administration.

In fact, the Peace Agreements served as the blueprint for three World Bank-funded loans for Land Administration totaling approximately 100 million dollars between 1998 and 2016 (World Bank 2010; Grandia 2012). As described in the introduction, Land Administration projects are designed to improve economic growth in the agricultural sector by providing owners with state sanctioned property rights in land and by modernizing agrarian institutions such as land registries and cadasters. How was the World Bank's neoliberal and technocratic vision of land policy delivered into the heart of a document that was ostensibly the plan for a new democratic Guatemala? What role did technocrats play in this work? Given the importance of this policy for the creation of the conditions for the land grab in northern Guatemala, these questions are important ones to better understand what happened and who was responsible.

Although the World Bank and other international organizations exerted tremendous pressure on development policy in Latin America during the late 1980s and early 1990s, the Bank was poorly positioned to promote its land policies in Guatemala during this period for two main reasons. First, at the time, the World Bank was only beginning to develop its land sector, and aside from an extensive titling project in Thailand, did not have a great deal of experience or expertise in Land Administration (Jorge Muñoz, Bank land expert and task team leader for the Guatemala project, interview 2005). Secondly, there was a civil war in

Guatemala (1960–1996), and access to land was a key demand of the revolutionaries. The Guatemalan military was extremely repressive, and elected officials and members of civil society understood that to discuss agrarian issues was to risk their own safety. During the war, over 200,000 Guatemalans were killed. The army was responsible for 93% of the killings as well as massive human rights violations including enforced disappearance, torture, and widespread sexual violence. A UN commissioned study determined that the Guatemalan army, which disproportionately targeted Indigenous people, was guilty of genocide for its actions during the war (Oglesby & Ross 2009). In this context, Ramiro de Leon Carpio, who was president of Guatemala during the final years of the war (1993–1996) told revolutionaries leaders, “You know very well that I have limits, and in some points of the negotiation I cannot go any further, otherwise they [the military] are going to kill me” (Bonini 2007). Thus, in the early 1990s, a handful of World Bank technocrats and their Guatemalan counterparts had little hope of winning government support for a new national land policy. Nevertheless, they tried.

Resource economist Elizabeth Katz led the first effort to develop a Bank-funded land policy in Guatemala. Lacking supportive Guatemalan government counterparts, she promoted the policy through international networks, specifically a group founded in Costa Rica in 1980 called the Regional Unit for Technical Assistance in Agriculture (hereafter RUTA). This organization had qualities of a nongovernmental organization (NGO), a think tank, and a Central American satellite office of the World Bank. RUTA organized neoliberal agricultural policies and programs in the region, including trade liberalization, privatization, decentralization, economic integration through regional free trade agreements, and reduction in tariffs and trade protection. A consultant who had worked for years on land policies with the Inter-American Development Bank described RUTA as a “one-stop shop” where government officials could find everything they needed to design and finance agricultural projects at a time when the connections between Central American governments and multilateral agencies were weak:

The reason that the World Bank and the IDB [Inter-American Development Bank] got involved in this [created RUTA] was exactly that we need projects to come from the countries. So, what we do is we put some people down there in this RUTA and their job is to foment projects . . . . Not design projects, but get the conceptual idea for projects and to sell it in the country, and then [the country representatives] come to the Bank and say, “Hey, we need this project” and [together we] get it into the pipeline and get it started.

*(Interview, 2005)*

RUTA was successful. Between 1980 and 2000, it contributed to the creation of loan projects worth 750 million on a 15-million budget. Although RUTA’s programs were not particularly innovative since they reflected the neoliberal status quo of the era, nonetheless the organization developed a remarkably effective organizational structure. Beginning in 1989, RUTA placed its experts within the agricultural ministries of Central American countries in what it called National Technical Units. As a result, RUTA employees had access to the highest-ranking government officials in the Central American agricultural sector.

When Elizabeth Katz began her work in Guatemala in the early 1990s, her key in-country interlocutor was the director of the Guatemalan technical unit of RUTA, an economist named Carlos Cabrera. In 1994, Cabrera left RUTA and began working full

time with Katz, and together they sought to create conditions that would favor the adoption of Land Administration in Guatemala. In 1994, they commissioned a series of reports, which analyzed and critiqued Guatemalan agrarian institutions. Cabrera and his colleagues, wrote ten legal studies of state land agencies and their functions including the land register, the cadaster (to the extent that it existed at the time), land titling procedures in Petén, and the legislation governing individual, communal and municipal property (Anonymous 1996: Annex 3). The reports argued that these agrarian institutions badly needed modernization so that they could unlock rural development by providing individuals and projects with legal tenure security. Likewise, Katz commissioned studies that also focused on legal tenure security and landownership, but from the perspective of small farmers, large landowners (cattle ranchers), and timber merchants in Petén, for example, Kaimowitz 1995. In an article based on the reports, Katz (2000) discusses the important role of land tenure security for sustainable economic development, and then argues that Petén is ideally suited for a land titling project because it lacks social capital compared to other parts of the country.

From the perspective of expertise and power, what is interesting about these reports is how they frame the problem of rural economic development as a lack of land tenure security, and specifically, a lack of private property rights in land. Such a framing has two important discursive effects. First, it opens a space for precisely the kinds of land policies that the Bank was promoting at the time, which focused on providing state-sanctioned private property rights to individuals, modernizing state land agencies, and promoting supposedly efficient land markets. Secondly, the narrow framing on property rights invites policy makers and others to disregard root causes of poverty and inequity in the form of historical and ongoing state violence, brutal and unregulated forms of agrarian capitalism, and anti-democratic imperial interventions including so called free trade policies. In any case, Katz, Cabrera, and their allies mobilized this narrow framing of the agrarian problem to lobby leaders of the Agricultural Ministry and other government agencies. Ultimately, the decision to move forward or not was in the hands of The National Commission for the Reform of the Land Registry, and this agency rejected the Bank's policy vision. While the decision not to support was undoubtedly complex, the setback for the consultants was certainly related to the influence of the military, which refused to support any policy that could have been construed as a concession to the revolutionaries.

Less than two years after Katz and Cabrera abandoned their work, a new opportunity emerged to promote the World Bank's land policy in the form of the Guatemalan Peace Agreements. By January 1996, the international community was offering almost US\$2 billion in aid conditional on the government and revolutionaries signing a comprehensive peace agreement. The newly elected civilian president, Alvaro Arzu, had campaigned as the "peace president" and had defeated the candidate of a party closely linked to the army, which had opposed negotiations with the revolutionaries. After government and revolutionaries declared a ceasefire, the final hurdle for the peace process was the development of a national socioeconomic vision, which would address a root cause of the war, the inequitable land distribution (Spence et al. 1998: 46). The neoliberal Arzu administration, which had close ties with the Guatemalan business sector, had much in common with the World Bank's program at the time. As one top-level government official explained, "what Arzu promoted during his campaign was foremost [to create] a plan for peace ... and there was not going to be any competition between the resources for peace and the economic development, because they were one in the same thing" (Ricardo Stein in Rojas 2006: 102).

The peace process opened political spaces and World Bank consultants returned to Guatemala. An economist named Cora Shaw, flush with success from designing the Bank's post-war land policy in El Salvador, became the Bank's point person on the land issue in Guatemala. As Katz had done, she teamed up with Carlos Cabrera, and they began once again to promote Land Administration. According to Cabrera, Shaw's advocacy work stretched the outermost bounds of what might count as technical. As soon as she arrived in the country, she met with the President's inner circle and "spoke of reviving the theme of cadaster ... working tenaciously with the people in the government" (Cabrera interview, 2005). There was great interest not only in Guatemala but also at the Bank because, if successful, a Land Administration project would be implemented in multiple phases and would require years and perhaps decades of loan funding. As a result, there was frequent and enthusiastic communication between Cabrera and Bank representatives in Washington, which he remembered with evident pleasure years later.

After several months of coalition building and lobbying, Cabrera and Shaw traveled to Mexico where the revolutionaries and the Guatemalan government were at the negotiating table. The two consultants were well-positioned to intervene there. Cabrera worked for the Arzu government, and the Bank had a permanent seat at the negotiating table and paid an in-country economist to advise the negotiating teams. More broadly, the negotiation of the Socioeconomic Agreements was characterized by the participation of technocrats of various sorts. According to one government negotiator:

[The negotiations contained] difficult periods, very lengthy, and here is where the input from the international community, in terms of technical assistance ... [was so important]. Many technocrats came to the table, very experienced documented individuals, no one with an ideological position, but really presenting the technical aspects. Hence, that year the Socioeconomic and Agrarian Situation [agreement] was signed.

*(Rojas 2006: 169)*

The political influence of the Bank was rendered technical through discourses of projects' finance-ability. As Cabrera recalled, "one of the central axes of the negotiation was that we don't commit to what we can't finance" (Cabrera 2005, interview). Eventually, Cabrera and Shaw exchanged texts with the Jean Arnault, the UN moderator of the talks, and in fact, as the quote at the beginning of this section indicates, a vision of the World Bank's land policy was inserted directly into the Socioeconomic Accords of the Guatemalan Peace Agreements. While there were elements of the revolutionary camp that wanted to see an analysis of the social function of property reflected in the Accords, they were marginalized within their own organization and did not have the power to enforce such demands (Reyes Illescas 2013). Furthermore, it is widely believed that the revolutionary leadership made concessions on the land issue to shorten the peace negotiations and insure their "future participation in a legal political framework" (Murga 1997: 78).

After the Peace Agreements were signed, Cabrera formed the National Cadaster: Technical and Juridical Unit (hereafter National Cadaster), which initially functioned within the Ministry of Agriculture, precisely as RUTA's Guatemalan National Technical Unit had operated under Cabrera's direction. During this early stage, Cabrera worked with a small team and in close collaboration with Cora Shaw, then based in Washington, to develop funding proposals and to communicate the World Bank's Land Administration

policy to government officials as well as civil society and peasant organizations. In 2005, Cabrera reflected nostalgically, “If I tell you that I gave 3000 talks, perhaps, I am telling you too few, [and] Louise gave the same number of talks, the same for Toleque; Galindo gave the same number, as well as Fernando and Joel—we gave thousands of talks, thousands.” By 1998, the work of technocrats from the World Bank and the National Cadaster was bearing fruit, and the Guatemalan government signed off on two World Bank loans, one for regularization and the other for a land bank.

Guatemala’s new national agrarian policy was in theory based on the Socioeconomic Agreement of the Peace Accords, which promised a wide array of benefits to different sectors and for different purposes. However, the government allocated funding unevenly and in ways that would not threaten the interests of agroindustry (Granovsky-Larsen 2019). National Cadaster maintained close connections with the Bank and received by far the largest flows of funding. Cabrera mobilized this funding to carry out the most extensive (and most expensive) and least contentious aspect of Land Administration: the cadastral mapping and legalization of existing property claims. Proclaiming that National Cadastre was “chemically pure,” he promised that after the land was surveyed, it would be possible to ascertain the actual distribution of land, and the needs of the population, and to ground sustainable development in the security of state sanctioned property rights (Cabrera 2002). With this technical mandate, National Cadaster rapidly grew in size and influence. By the time I carried out fieldwork on rural regularization efforts in 2004/5, National Cadaster had hundreds of employees in offices around the country, including well over 200 employees in Petén.

In 2003, a Spanish engineering firm won the contract to carry out land regularization in rural Petén. With the help of three Guatemalan engineering companies, the Spanish firm surveyed nearly 10,000 land parcels and hundreds of thousands of hectares in zones that FYDEP had begun regularizing decades before (Gould 2014). As mentioned above, only 7% of the titles were completed (World Bank 2007), but landowners were nevertheless able to sell their partially titled lands in what others have described as a land grab.

While in theory, the World Bank provides loans and expertise at the request of governments, this section documents how Bank consultants and their allies lobbied hard to promote a neoliberal vision of land policy to the Guatemalan government. The timing and execution of their interventions turned the Guatemalan Peace Agreements into a vehicle for the Bank’s land market policy. The same technocrats that installed the policy in the Agreements went on to build post-Peace Accords agrarian institutions that enacted the Bank’s vision of land and economic development in the countryside and particularly in Petén. The technical and flexible language of efficiency, modernization, finance-ability permitted technocrats to work on a very political project—the inequitable distribution of farmland—while maintaining a neutral, apolitical stance. Nevertheless, as others have shown, it was this policy—and particularly the rural land regularization—that catalyzed a land grab in which cattle ranchers and the owners of oil palm plantations displaced small farmers.

### **Powers of the Technical**

This chapter examines the historical conditions for a land grab, focusing on the making of institutions of agrarian capitalism at the margins of the Guatemalan territory. In the name of social and economic development, technocrats in the 1960s created a new system of



private property rights in land, and later in the 1990s and 2000s, other technocrats sought to modernize that system and create a state-sanctioned land market. These properties and markets ultimately created the conditions for what others have documented, a land grab in which owners of cattle ranches and oil palm plantations rapidly expanded their land-holdings at the expense of small-scale farmers. In this short conclusion, I briefly reflect on what a history of this technical work offers for understanding the powers of technocrats in agrarian contexts in Guatemala and beyond.

First, the two historical moments reveal technocrats taking on similar challenges to redefine land use over a large expanse of national territory. In both cases, this work is accomplished not through repressive means, but through the creation of systems that mobilize land users and land in new configurations. In the case of FYDEP, technocrats rationalized the system of property rights that they implemented by drawing on diverse forms of technical knowledge, including cartography/geomatics, economics, and racist strains of sociology. The success of the work, to the extent that it succeeded, was due to the strong influence of technocrats who directed FYDEP. In contrast, the technocrats working for the World Bank never held comparable institutional authority. However, they influenced post-Peace Accords Guatemalan agrarian arrangements by positioning themselves strategically in a key policy process. In the context of the Peace process, the Bank consultants achieved their objectives by mobilizing a focused, yet flexible collection of economic discourses around efficiency, modernity, and finance-ability. Juxtaposing these two efforts shows that technocrats and their discourses of authority operate effectively in quite different institutional contexts.

Secondly, as powerful and strategic as the technocrats and their organizations were, their expertise did not permit them to rule (Mitchell 2002). Geopolitical and local contexts constrained their authority, and technocrats were often forced to “make do” under challenging circumstances. Casasola’s authority was anchored in the re-assignment of FYDEP to the Ministry of Defense, which took place because of United States military involvement in Guatemala (Gould 2018). As well, FYDEP’s leaders had considerable authority in Petén, but they had to beg for legal authorization from the central government to establish a new property rights system. Likewise, Bank consultants advanced their work by relying on long-established connections with high-ranking colleagues in Washington and Costa Rica (RUTA) and with Guatemalan technocrats. However, even with the support of such networks, the Bank’s efforts amounted to very little until changes occurred in the Guatemalan government, including an opening to negotiate the end of the Guatemalan civil war. In sum, the power of technocrats is expressed and constrained through articulations with other programs and processes within and beyond the state.

Thirdly, although the technocrats were rarely armed, their work was made possible by violence. The leaders of FYDEP were empowered by logics and practices of counter-insurgency at the national and regional level. As well, the processes through which FYDEP employees created a system of private property rights was violently exclusionary in that it erased both individual and collective claims to the land. The racialized and classed exclusions, which were normalized by the new landscape of property rights, were further entrenched by the everyday dynamics of land adjudication administered by FYDEP employees. In the case of the Bank’s interventions, violence also played a powerful role. The genocidal violence of the military throughout the civil war created conditions for the most conservative agrarian policies to take shape in Guatemala with little opposition from progressive sectors. However, the absence of certain kinds of violence mattered too. The end

of formal hostilities embodied in the signed Guatemalan Peace Agreements opened a space for consultants to promote the Bank's market-assisted land policy.

Over decades and across transnational geographies, technocrats described in this chapter employed a wide variety of practices and knowledges to achieve diverse objectives. This range of technical approaches should remind us that the technical is an orientation and a mode of government, which is versatile enough to be appropriated by a range of political programs (Li 2007). Thus, the understudied world of technocrats is necessarily a site for political intervention in struggles for social and environmental justice and against land grabs. Further research that illuminates the ways in which technocrats are implicated in the making of land grabs can help to sharpen such interventions. Scholars can further document the roles of technocrats in neoliberal programs linked to land grabs such as Land Administration, but we should also be thinking about other contrasting ways that land grabs are articulated with technocratic forms of power. For example, the work of extractive industries in Guatemala and elsewhere rely on direct state-sponsored violence to dispossess Indigenous and *campesino* populations (Granovsky-Larsen 2019), and in that sense are producing land grabs through different mechanisms than what I have described in this chapter. Scholars could explore how technocrats operate in these militarized contexts in public, private, and third sector institutions. Likewise, scholars may also wish to examine how technocrats have supported struggles for communal territories and socio-environmental relations that protect against land grabs (e.g., Hetherington 2011).

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### Notes

- 1 The word *ladino* refers to Guatemalans with mixed Indigenous and Spanish heritage but who do not identify as Indigenous.
- 2 22.02.1968. Cable directed to the Members of the Comision de Agricultura del Congreso, from Guatemala City office of the Empresa Nacional de fomento y desarrollo economico del Peten, and signed Lic. Hiram Ordoñez, Julio Molina Barillas, and Oscar Falchetti, in *Recopilacion expositiva para asuntos tierras en Peten* (1970).
- 3 This farm is inscribed in the National Land Register as finca 253, folio 168 and libro 2.
- 4 Providencia # 264. Letter from director of Instituto Geográfico Nacional, Ing. Alfredo Obiols G. to Secretaria General del Gobierno de la Republica, Lic. Ramiro Alfonso Alvon Rarneond, Primer Viceministro de Comunicaciones y Obras Publicas, on September 29, 1964.

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# GOVERNING LAND CONCESSIONS IN LAOS

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## Introduction

The Lao People’s Democratic Republic (Lao PDR or Laos) is often characterized as a hotspot of land grabbing in Southeast Asia, along with Cambodia, Myanmar, Indonesia, and the Philippines (Schoenberger et al. 2017). The Lao state has granted land leases and concessions to domestic and foreign investors for various purposes: agricultural and tree plantations, mineral extraction, logging, hydropower, tourism, special economic zones (SEZs), real estate developments, and transportation infrastructure. As of 2017, one million hectares of land had been granted via 1,521 land deals for plantation, mining, and hydropower projects alone, equivalent to 4 percent of the national territory and directly impacting nearly a quarter of all villages in the country (Hett et al. 2020).

Although the Lao government grants “state land” to investors, the reality is that such land has often been used and customarily tenured by local communities. As a result, such investments often lead to land dispossession, which produces significant social problems, including resource deprivation, impoverishment, exacerbated inequality, and increased food insecurity (Baird 2010, Kenney-Lazar 2012, Suhardiman et al. 2015, Baird & Barney 2017, Keovilignavong & Suhardiman 2018, Hett et al. 2020, Nanhthavong et al. 2020). Land concessions also cause deforestation, environmental pollution, and destructive landscape transformation (Ingalls et al. 2018, Hett et al. 2020). Furthermore, they have led to indirect deforestation as farmers displaced from their lands are driven to seek and clear land in forested areas (Nanhthavong et al. 2020, 8, RFA 2022). Therefore, many of these projects are described as a form of land grabbing, understood as the “unjust and coercive dispossession of the land and livelihoods of the marginalized and rural poor, depriving them of their means of production and social reproduction” (Kenney-Lazar 2018, 682).

Land grabbing in Laos, however, is not a frictionless process. There are myriad ways in which the drive to expropriate land is questioned, contested, or regulated, generating uneven landscapes of dispossession and project development. Only 56 percent of the plantation and mining concessions granted have been developed (Hett et al. 2020). This partly reflects common political-economic dilemmas as many projects failed due to a lack of financing or corporate mismanagement, and there has been a global slowdown in land investments since

2013 due to decreasing commodity prices (Lay et al. 2021). However, it also reflects the increasingly contentious politics of land in Laos and their effect on concessions governance. Many projects have run into conflicts with local communities that refuse or resist the expropriation of their agricultural lands or covertly sabotage projects (McAllister 2015, Baird 2017, 2020, Kenney-Lazar, Suhardiman, Dwyer 2018). Additionally, the Lao government and the ruling Lao People's Revolutionary Party (LPRP) have increasingly recognized how controversial land issues are amongst the population and have sought to manage land investments better to protect their political legitimacy. Thus, the government has repeatedly established moratoria on certain types of land concessions and has reformed investment, forestry, and land laws and regulations to limit what projects are approved and how they are developed, ultimately moderating the country's investment climate (LIWG & MRLG 2021).

The changes that have taken place reflect the dynamic politics of land in Laos. These politics are not as visible in other Southeast Asian countries, such as Cambodia, Myanmar, and Indonesia, where people have protested and demonstrated against land grabs (Thul 2010, Macisaac 2014, Gokkon & Jong 2019). Such open and direct forms of contentious politics are never seen in Laos. Protests would be interpreted as anti-government and swiftly quashed, potentially landing demonstrators in jail and making the problem worse. Prohibition of opposition parties, restrictions on the operations of civil society groups, and government control over the press all mean that the avenues for land politics in Laos are considerably limited. Nonetheless, land users have expressed their frustrations in other ways, through complaints to local government agencies and the National Assembly and attempts to block clearance of their land at sites of land concessions (Friis 2013, 61, McAllister 2015, Baird 2017, Kenney-Lazar, Suhardiman, Dwyer 2018). While the Lao peasantry largely acquiesced when concessions were first granted, they have become increasingly suspicious, resistant, and savvy in their response as they have gained more experience with this mode of investment. This shifting political landscape has changed how land is governed, prompting the state and LPRP to address these concerns through legislation, policy, and political prioritization. Additionally, the *de facto* process of governing land has shifted as there is greater competition over available land, and investors' influence over the state and local communities has diminished (Messerli et al. 2016).

This chapter analyses the changing governance of land concessions in relation to land's complex political, economic, and social dynamics. A significant portion of the literature on land governance is focused on the formal rules, regulations, and mechanisms by which land is managed, such as laws and policies or international guidelines, standards, and codes of conduct. However, we take a broader, political, and relational stance on land governance. Building from critical approaches to environmental governance, we examine the complex set of formal and informal political, social, and economic relationships amongst heterogeneous actors that shape the decisions made and actions taken towards the use, management, ownership, and transformation of land. Thus, we consider changing governmental policies and regulations *and* the political relationships between central and local governments, the interactions between development donors, civil society groups, the Lao state, and the geopolitical influences from investing countries. Ultimately, we present a much more holistic picture of how land governance changes in relation to dynamic forms of land-based investments.

This chapter is based on the literature on land concessions in Laos and land grabbing governance more generally. However, it also builds upon the research experience and specialization of the authors, all of whom have been directly involved in research on land

concessions in Laos for over a decade. All authors have played a role in interventions to improve land governance in Laos through increased transparency in the land sector, primarily via a multi-ministerial land concessions database (see Schönweger 2012, Hett et al. 2020). Reflecting the authors' research focus, the chapter primarily addresses foreign investments in the agricultural and tree plantation sectors, while other types of concessions, such as mining and hydropower projects and domestic Lao investments, are only tangentially covered.

### **Governing Land Grabbing**

The global land rush, in which there was an intensified interest in land from 2008 to 2013 (Li 2014, Lay et al. 2021), has prompted concern about governing the social-ecological impacts of investments that are characteristic of land grabbing. A range of private, governmental, and civil society actors have sought to devise rules and regulations to facilitate and monitor land deals, minimize their adverse impacts, or roll them back, depending on their political perspectives and interests (Borras et al. 2013). Various voluntary codes of conduct, principles, and standards have been devised globally, most notably the United Nations Food and Agriculture Organization's (FAO) *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests In The Context of National Food Security* (FAO 2012). Nationally, many governments across the Global South have devised and passed new policies, regulations, and legislation restricting and regulating foreign land investment (Perrone 2013). At sites of investments, communities of land users have contested the dis-possession of their land (Sändig 2021), demonstrating that land investment is not a frictionless process.

However, concerns with land governance have a much longer history across the Global South. After World War II, postcolonial movements for redistributive land reform were concerned with how to govern land in more equitable and just ways (Cousins 2019). Land reforms slowed in the 1980s with the ascendance of neoliberal, market-oriented development reforms. In the early 2000s, the resurgent focus on market-led land reforms, driven by land registration and titling, generated a renewed emphasis on land governance, oriented towards economic growth and poverty reduction (Borras & Franco 2010). As a result, much of the mainstream literature and thinking on land governance, particularly by multilateral development institutions, has been concerned with issues of efficiency in land administration, which they argue should be responsive, transparent, consistent, accountable, equitable, and participatory (FAO 2007). This is typical of managerial and instrumental approaches to environmental governance that do not address politics, power relations, and political economy (Bridge & Perreault 2009).

This chapter takes a much broader, relational approach to land governance, which is concerned with the multi-scalar political and social relationships amongst actors and institutions that shape how decisions about land use, management, and ownership are made, implemented, and practised. A critical approach considers how "land governance is about power and the political economy of land" (Palmer et al. 2009). It must account for how power operates in determining how rule and authority are produced vis-a-vis land. As Borras and Franco (2010, 9) write,

Governance is about political relations between (groups of) people and the institutions (rules and regulations, both formal and informal) that "govern" them. It is linked to

how, and how well, decision-making power is aggregated and (re)distributed in a polity over time, and how decisions become authoritative, or not, in society.

Governance thinking is also about moving beyond government and addressing the roles and interactions amongst the private sector, civil society, and supranational organizations (Lemos & Agrawal 2006). Similarly, Sikor et al. (2013) have called for the expansion of analyses of land governance beyond territory to consider how flows of goods and resources related to land are governed, such as in the certification of agricultural and wood commodities.

In the following sections, we employ a relational approach to examine how Laos's land rush has been governed. We start with an overview of some of the most evident and official governance changes that have been devised by the government, the typical remit of mainstream "good governance" frameworks. In later sections, we examine the de facto politics and power relations that shape how governmental reforms take place and how land concessions are governed in practice. These include state-society relations, internal state power relations, and transnational relations between foreign investors, neighbouring countries, international donors and nongovernmental organizations (NGOs), and the Lao state. Together, this account of the relational dynamics of land governance provides a more comprehensive picture of how attempts are made to address the challenges that land concessions pose.

### **Governmental Reforms**

It is important to describe the official governmental reforms that have taken place to facilitate *and* regulate land concessions before addressing their associated politics and power relations. The Lao People's Democratic Republic (Lao PDR) was established at the end of the Second Indochina War (1959–1975). As a socialist country aligned with Vietnam and the Soviet Union, it restricted private business and investment, seeking to advance social and economic development via the efforts of agricultural collectives and state-owned enterprises (SOEs) (Evans 2002). The government and the LPRP quickly realized that a complete restriction of market activity was devastating for the economy and began discussing what steps could be taken towards so-called market socialism as early as 1979 (Yamada 2018). In 1986, the government officially framed these sentiments of moderate and incremental economic liberalization as *Chintanakan Mai* or New Thinking. They were later formalized in the policy known as the New Economic Mechanism (NEM), which abolished price controls, lifted internal barriers to trade, and began the privatization of many SOEs while requiring those still owned by the state to be efficient, accountable, and profitable. In the late 1980s and early 1990s, a logging boom took off in which SOEs were given the rights to extract timber across large territories (Anonymous 2000, Dwyer 2011), presaging the later development of the land concessions model.

Economic liberalization proceeded throughout the 1980s and 1990s, advanced by developing a legal framework that would facilitate the formation of a market economy. A national constitution was first adopted in 1991, which stipulated that the economy would be a fusion of state management and market mechanisms, oriented towards the long-term goal of constructing a socialist society (Yamada 2018). Since then, the government has consistently passed and amended laws that facilitate and regulate market forces. In 1992, a ministerial decree was passed that allowed granting state land concessions to domestic and



foreign investors for commercial use, followed by a law on promoting and managing foreign investment (St John 2006). The first concession was granted to a Thai pulpwood plantations company in 1991 (Lang 2002), but there were few other land investments in the 1990s. In the early 2000s, though, the number of land investments began increasing, partly in response to new land laws that provided more explicit mechanisms for granting and managing concessions that could provide investors with a degree of assurance. The steepest increase in concession approvals was between 2005 and 2009, when global commodities prices were at an all-time high, while the pace of granting has decreased since 2009 (Hett et al. 2020).

However, soon following this boom in granting land concessions, the government recognized the need to limit, reform, and ultimately govern how land concessions operate. In 2006, a policy of “Turning Land into Capital” (TLIC) was devised, which was focused on increasing the economic value of the country’s lands to enable infrastructural development, economic growth, and increased governmental revenue (Dwyer 2007, Kenney-Lazar, Dwyer, Hett 2018, Kenney-Lazar 2021). However, the policy was also concerned with reforming *how* land is turned into capital to ensure that projects generate the most value from land and in ways that benefit Lao people, businesses, and the government. And in 2007, the government placed a moratorium on certain types of land concessions, seeking to pause what was becoming a chaotic process of granting concessions. In subsequent years, the moratorium was revoked, re-imposed, and revised (new moratoria were put in place in 2009, 2012, and 2018), becoming narrower in scope and thus less restrictive, eventually only concerning rubber and eucalyptus plantations and mining projects.

It is questionable how effective each moratorium was as concessions continued to be granted and developed while they were in place (Hett et al. 2020). However, they did demonstrate frustration within the government concerning the effects and governance of land concessions. Additionally, the amount of land awarded slowed down around 2009, after which only 14 percent of the total land area had been granted, and the average size of land concessions decreased significantly (Hett et al. 2020). This reflects the more restrictive investment climate in Laos and a global slowdown in land-based investments since 2013 associated with the end of a commodity supercycle and falling commodity prices (Lay et al. 2021).

One aim of the moratoria was to provide the government with time and space to evaluate how much land had been granted. Eventually, a centralized database of concessions and leases was created with support from external donors (see Schönweger 2012, Hett et al. 2020). A second round of updating the database also included evaluating the “quality” of land investments to assess their varied economic, social, and environmental impacts. Although the topic of land concessions in Laos is sensitive, Laos is one of the few countries where a national database on land investments has been developed. In and of itself, the inventory had an immediate effect on government policy. In 2018, based on its results that showed 438 concessions to be inactive, the government ordered some projects to be canceled and others to speed up their implementation at the risk of cancellation (CDE et al. 2020).

The government has also progressively made policy changes that have restricted the amount of land that can be granted and the process for developing concessions. Key reforms were established by a 2009 Prime Ministerial Decree (No. 135/PM) on state land leases and concessions. The decree raised concession fees collected by the government, stated that concessions could be canceled if the land was left idle for three years, required land surveys and land use maps before project development, and prohibited the clearing of private land within concession areas (unless completely unavoidable). In 2016, an amended Law on Investment Promotion reduced the maximum duration of concessions to 50 years

(albeit with extensions possible). The 2019 amended Land Law has created a more rigorous legal framework for land administration, surveying, and registration. It further restricted land expropriation to “state investment projects,” although these could be interpreted to include concessions to private companies.

Ultimately, the reforms put in place do not represent a radical transformation of the system of land concessions. However, combined with the moratoria, they have put a damper on concessions investments and made it more challenging for companies to acquire large amounts of land, which reduces pressures of expropriation on the rural peasantry and can decrease poverty rates (Nanhthavong et al. 2020). In recent years, this has also created tension for the government as the country’s economic growth has slowed, and its debt burden has increased to potentially unsustainable levels (Barney & Souksakoun 2021). The economy has been hit particularly hard by the COVID-19 pandemic, which has exacerbated economic troubles, such as the drainage of the country’s foreign currency reserves, a rapid depreciation of the Lao Kip, and an inability to import the required amount of petroleum, thus leading to a fuel crisis (Hutt 2022).

In response to the economic pressures the country is facing, the government has loosened the restrictions that have been in place on concessions since 2007 and may continue along this path to re-ignite economic growth and recover from the current crisis. In 2019, the government passed a decree (Government Office Decree No. 247) that opened production forests for plantation concession investments, as there is little other land available, and concessions in production forests would not lead to conflict with landowners. Additionally, the government has allowed mining investments in certain areas, like Xayxomboun Province, and allowed iron mining nationwide (Prime Ministerial Decision No. 61). And in 2021, the National Assembly (NA) has included land concessions as a potential measure for addressing the country’s financial difficulties (NA Resolution No. 03).

### **State-Society Relations**

Reviewing governmental reforms shows a dynamic change in official policy but says little about the political dynamics and social relationships underlying such changes and operating beyond them. One essential dynamic of land governance reform concerns state-society power relations and internal contestations within the state, or the country’s “fragmented sovereignty” (Lund 2011). Administrative power in Laos has long been decentralized, and there has historically been a power struggle between the provinces and the central government. As Stuart-Fox (1997) has written, Laos’s rugged mountainous geography combined with poor infrastructure, decades of war, and a minuscule national budget meant that provincial governments were often left on their own to finance administrative costs. Many provincial governments turned towards granting logging concessions, especially to Vietnamese enterprises in the South, sometimes in exchange for road construction, which foreshadowed an element of the TLIC policy – exchanging land for infrastructure (Kenney-Lazar, Dwyer, Hett 2018). As land concession investments increased in the early 2000s, many provincial governments began granting significant amounts of land without sharing the revenue with the central government (Schumann et al. 2006). Thus, the moratoria, concessions inventory, and regulatory changes since 2007 were partly an attempt by the central government to centralize power over the concession-granting process (Lu & Schönweger 2019).

Power struggles and imbalances between different levels of government also affect the de facto process by which land concessions are granted and allocated. Not surprisingly, land is often granted in ways that ignore many of the regulations set out by the central government. Hett et al. (2020) have shown that concessions holders have poor legal compliance – only 47 percent have a concession agreement, a major legal requirement, while only 2 percent have conducted an Environmental and Social Impact Assessment (ESIA). Local government officials often complain about how central government agencies concede large land areas and delineate approximate boundaries on topographic maps without a clear sense of the actual availability and suitability of land at the local level (Lu & Schönweger 2019, Kenney-Lazar 2020). As Lu and Schönweger (2019) have pointed out, local officials understand the idea of “empty” land to be a myth. District officials are responsible for allocating land to the company following the concession map (Kenney-Lazar 2020), so they try to find land that is not forested, not under current use by villages, and in areas preferred by the company. The immense challenge of this task partly explains why many companies have not been able to acquire significant amounts of the land granted to them (Schönweger & Messerli 2015, Messerli et al. 2016, Lu & Schönweger 2019, Baird 2020, Kenney-Lazar 2020).

Official governance reform is also a reflection of changing political relations between society and state in Laos and the dynamic politics of land. After the Second Indochina War, the LPRP and government held considerable legitimacy due to their ability to liberate the country from 15 years of war and an American bombing campaign. Governmental legitimacy was matched by the fear of speaking out against the government, which could be framed as anti-government activity and land villagers in jail or re-education camps in the far northeast near the Vietnamese border, where many of those associated with the Royal Lao government were sent after 1975. Thus, when land concessions were first granted in the 1990s and early 2000s, it is not surprising that many villagers were convinced at first by government narratives that they would bring economic development and prosperity to their village, or they did not dare to contest the project (Kenney-Lazar 2012).

As the amount of land conceded to investors has expanded and expropriated more people of their land, there is increasing dissatisfaction amongst rural Lao people, distrust that the government always has their interests at heart, and a will to raise land conflicts with the government (Kenney-Lazar, Suhardiman, Dwyer 2018). It is hard to track these sentiments because the government has significant control over media, and there are limits on political expression. However, it is evident in certain ways. For example, when the National Assembly (NA) opened a hotline during legislative sessions, to which citizens could call in for free, one of the most common complaints was about land conflicts (Vientiane Times 2012). It can also be seen in research showing increasing cases of resistance across the country (McAllister 2015, Messerli et al. 2016, Baird 2017, Kenney-Lazar, Suhardiman, Dwyer 2018).

While Laos is not a democratic country in many ways – there is only one political party allowed, and the press is severely restricted – there is room for discontent to be communicated upwards. The LPRP, for example, is run on Leninist principles of democratic centralism, in which the concerns and ideas of lower-level officials and citizens are allowed to filter up and be used as a basis for making and imposing top-down decisions (Creak & Barney 2018, High 2021). Therefore, land policy reforms initiated since 2007 are partly a response to discontent with land dispossession. The LPRP and the state’s legitimacy is primarily built upon their ability to serve the interests of the country’s working people,

especially the peasantry. Thus, land concessions that expropriate peasant land directly threaten such legitimacy.

Civil society can also play a role in shaping perceptions of legitimacy. Local civil society in Laos has long been heavily restricted, and as a result, its development, activity, and presence are limited (Kunze 2018). Additionally, the government views domestic civil society groups suspiciously because they are linked to and often receive funding from international donors and organizations. Comprising active and engaged Lao citizens, however, civil society groups have effectively raised concerns about land issues. Most notably, land issues were raised prominently by Lao civil society groups in 2012 at the Asia-Europe People's Forum (AEPF) in Vientiane, a civil society event held in conjunction with a diplomatic meeting between European and Asian governments. At the event, several Lao civil society practitioners raised land issues related to foreign investment, which led to contentious debates, often instigated by government officials planted in the audience. Several presenters were verbally harassed during the event, and government officials investigated them and their families afterwards (FORUM-ASIA and AEPF-IOC 2014). Furthermore, the main organizer of the event, Sombath Somphone, a well-known Lao development practitioner, was forcibly disappeared several months later and has not been seen since (Sims 2021). While the event ultimately led to severe repression, it also raised the importance of land issues on a national scale.

Over time, the LPRP has recognized that its legitimacy is receding in various ways and needs to be restored. In 2016, the LPRP elected new leaders to head the party, run the government, and address what they perceived to be significant problems questioning their legitimacy, especially corruption, drug trafficking, illegal logging, and land conflicts (Gunn 2017). In 2017, the LPRP issued a Resolution on "The Enhancement of Land Management and Development in the New Period," which recognized the severe consequences of land conflicts. For example, it is written that "land expropriation to serve development projects is not only a heavy burden but also a sensitive issue, affecting public order." The Resolution was intended to demonstrate how seriously the LPRP took this issue. It also kicked off the revision of the Land Law, which was completed in 2019 (see Kenney-Lazar et al. 2022).

Collectively, these changes have affected the *de facto* processes of allocating and developing land. As competition for available land increases and villages gain more experience with plantation concessions, the balance of power is tipping. District officials are becoming more willing to listen to village concerns and negotiate a compromising position. It is becoming much more difficult for companies to gain control over land, and they can no longer acquire the large concessions doled out earlier on. The government has decided to grant land concessions in production forests in part because such spaces are less likely to overlap with village land claims and spark conflicts. Outside of production forests, more companies seek to consult with villages to determine what lands can be acquired (Messerli et al. 2016) or move towards a model of leasing land and doing contract farming (Friis & Nielsen 2016).

Despite the increasing power over land that the rural peasantry is claiming from the state, it is vital to recognize the unevenness of such power. Concessions have historically targeted the lands of ethnic minorities, partly because they have less political capacity to resist and refuse land dispossession (Friis 2013, 61, Kenney-Lazar 2018, 689). Lao villages often have social and political connections that they can mobilize to their advantage. Additionally, they are more likely to live in lowland areas and practice paddy rice cultivation, a land use that the government seeks to protect compared to the upland swidden

landscapes in many ethnic minority villages (Vandergeest 2003). Finally, while villagers have contested or negotiated the boundaries of concessions for plantations, the same cannot be said for mining, hydropower, SEZ, and other infrastructure projects. Such large-scale, high-priority investments are much more challenging for villagers to counter, and thus they often focus on negotiating the compensation packages for their land.

### **Transnational Governance**

Land governance in Laos is critically shaped by transnational power relations, especially between the Lao state and bilateral and multilateral donors, neighboring countries, and foreign investors.<sup>1</sup> Such relationships have played a critical role in opening the country to foreign land investment and facilitating an appropriate legal regime. They have also influenced efforts to rein in and regulate the land investment process. As importantly, foreign actors shape the de facto modes of governing the establishment and development of concessions.

Economic liberalization in Laos was a reaction to domestic economic problems and the broader geopolitical economy that Laos was enmeshed within. The decreased provision of economic aid from the Eastern Bloc in the 1980s was one crucial deciding factor, requiring the Lao government to find other sources of revenue. Additionally, the Lao government was influenced by liberalization policies in China in 1979, and especially by Vietnam, its closest ally, in 1986 (Stuart-Fox 1980, 2009). Vietnam and Laos have been closely allied since their collective communist struggles during the Second Indochina War. In 1977, a “Treaty of Friendship and Cooperation” was signed between Laos and Vietnam, which provided the legal basis to station Vietnamese troops in Laos and solidified the special relationship between the two countries (Stuart-Fox 1997). Vietnam has had a significant influence over Lao policy and politics, placing advisors in the Lao government and sending LPRP members to Vietnam for political study.

More generally, a range of foreign actors has influenced the land concessions model and the TLIC policy. They are a fusion of neoliberal models of land titling from Thailand and development donors, on the one hand, and socialist market models of state-driven land development from China and Vietnam, on the other. In the 1980s, Thailand pursued a massive land titling program that by the 1990s was seen as highly successful and a model for other countries of the region and across the Global South (Hall et al. 2011, 37). From 1997 to 2009, the World Bank and the Australian Agency for International Development (AusAID) funded two major land titling projects, mainly in urban and peri-urban areas. Like the Thai land titling model, they were intended to facilitate land market development and increase land values. At the same time, the Lao government was highly influenced by land development models in China and Vietnam, especially their cities, in which the state asserted control over land and then transferred it to private companies for economic development and to generate state revenue (Friedmann 2011). The variety of these influences helps to explain why the TLIC policy is not clearly defined, nor is it linked to only one model, but can be applied to land concessions and land titling, among other schemes (Kenney-Lazar, Dwyer, Hett 2018, Kenney-Lazar 2021).

External influences have also shaped how land is granted and allocated to companies, especially those from China and Vietnam, which comprise 30% and 14% of the land area granted, respectively (Hett et al. 2020). The power of the Lao-Vietnamese alliance helps to explain, in part, why Vietnamese investments, especially in plantations, have been

established rapidly and without the constraints that plantations from other companies have faced. Zurflueh (2013) writes of a “Vietnamese pattern” of investment, in which Vietnamese plantation investments are more smoothly and quickly developed than those of others because of the close connections between Vietnam and Laos. A range of case studies has supported these findings (Messerli et al. 2016, Kenney-Lazar 2020).

China has been influential in land governance in Laos but in different ways. Historically, the relationship between the two countries has been problematic. Initially, there was a socialist fraternity between the two nations. After Vietnam invaded Cambodia at the end of 1978 to overthrow the Chinese-backed Khmer Rouge, relations between China and Laos deteriorated. The two countries began restoring their relations in the late 1980s. They were substantially improved in 1999 when China started providing significant development aid to Laos, including a sizeable loan to help the country weather the Asian financial crisis. Since then, China has provided considerable assistance to Laos in infrastructure projects, cash grants, and low- or no-interest loans. However, due to the lack of deep political connections, investments have not always been smooth for Chinese plantation companies (see Lu & Schönweger 2019, Kenney-Lazar 2020). The same can be said for other plantation companies. The similarity is that they do not have the high levels of state support at multiple administrative levels as the Vietnamese companies, which has created problems for them (Messerli et al. 2016, Baird 2020).

Transnational actors have not only influenced the development of systems of land investment. They have also played a role in shaping governmental attempts to rein in and regulate the problems of land concessions. Critical NGOs have exposed the issues of land grabbing in Laos to a national and international audience, which has increased pressure upon the Lao government. Global Witness’s (2013) report on land grabbing by Vietnamese companies, titled *Rubber Barons*, had a significant international media presence. The companies involved responded defensively and then later created various mechanisms to resolve some of the problems detailed in the report. NGOs in Laos have also worked with villagers to educate them about their legal land rights and have supported them in making complaints to government agencies and the National Assembly, although they have been more careful in doing so since the events of 2012. Additionally, NGOs and development donors have been involved in advocacy work on national land policies and legislation. Their formal influence on the changes in the law has been minimal (LIWG and MRLG 2021). However, they have directly influenced policy statements from the government, including the LPRP Resolution on Land (Kenney-Lazar, Dwyer, Hett 2018).

## **Conclusion**

The global land rush has touched down in Laos, driving a land-grabbing crisis that has created a loss of land and livelihoods, deforestation, pollution, and impoverishment for those directly experiencing dispossession. A commodity supercycle has intersected with the Lao government’s economic liberalization, especially its increasing openness to foreign land investments and the legal infrastructure that facilitates them.

However, land grabbing is not occurring in the absence of governance but in its presence due to the operation of decision-making authority and power over land. Land grabbing is governed in various ways, both to facilitate and regulate and limit it. Decisions and rules guide how much land investors can purchase or lease, who can lease land for what purposes,

and where that land is located. They also prevent other types of land from being acquired or give land users the right to refuse the acquisition of their lands or negotiate compensation.

In this chapter, though, we take a relational approach to land governance that considers more-than-formal governmental decision-making processes, rules and regulations, and mechanisms. It addresses the wide range of relations between different actors and processes that shape how authority and power over land are produced. These go beyond the government and include the roles and influences of private market actors, civil society groups, and land-using communities, among others. In the Lao context, the chapter has shown how governance reforms are shaped by power relations at multiple governmental levels and by villages, neighbouring states, foreign companies, and multilateral and bilateral development donors. They shape government policy changes and how land investments materialize and operate on the ground.

Laos now finds itself at somewhat of a crossroads regarding land grabbing. Land concessions have slowed due to a global slowdown and governmental restrictions. Investors have also found it increasingly difficult to find land on the ground, at least in the plantation sector. As a result, the government is considering ways of easing the restrictions on plantation and mining concessions without reproducing the severe social-environmental problems of the past. Additionally, other projects, like hydropower dams and special economic and industrial zones, continue to be approved. The recent completion of the Laos-China Railway from Vientiane to the border with China at Boten is seen as a new economic lifeline for the country, especially considering the financial costs of the COVID-19 pandemic. These projects also lead to land grabbing and have similar problems as agro-industrial plantations. Thus, questions remain regarding what path of development will be pursued: one that is obsessed with breakneck economic growth built on widespread dispossession or alternative and inclusive strategies that minimize threats to statutory and customary land rights. Whatever approach is taken will be driven by the dynamic power relations of governance amongst government officials and institutions, domestic and foreign resource investors, civil society groups, and millions of people across cities and countryside dependent on land for their livelihoods.

### Note

- 1 Many land concessions are granted to Lao investors, who are often political-economic elites with close connections to the government and Party. However, we focus here on foreign investments as they tend to be larger in size and generate more significant social and environmental problems. Additionally, there is little research on domestic investments to draw from.

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## **PART 3**

# **Large-Scale Land Acquisitions for Food, Feed and Biofuels**



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# SUGAR AGRO-EXTRACTIVISM

## Land Enclosures, Contract Farming and the Sugar Frontier in Africa

*Giuliano Martiniello*

### **Introduction**

Large-land acquisitions that promoters have considered as ‘development opportunities’ and critics labelled as ‘land grabs’ escalated in the last couple of decades as a result of converging and mutually reinforcing financial, food and energy crises (Borras & Franco 2012). Their resurgence, which presents historical continuity and changes with previous waves of colonial land dispossession, especially in settler colonies (Martiniello 2017), emanated from broader dynamics of restructuring of the neoliberal corporate food regime dominated by the agro-industrial system (McMichael, 2013; Kay 2017), contributing to alter existing pattern of land tenure and use: from food for national markets to cash crops for international markets, and from forest land to farmland and/or intensive cattle rearing, and mining. Ostensibly, Africa has been the epicentre of ‘a new scramble for land’ (White et al. 2012; Moyo, Yeros & Jha 2012), with countries such as Madagascar, Ethiopia, Ghana, Tanzania, Liberia, Uganda, Sudan and the Democratic Republic of Congo (DRC), being among those most affected. According to the Land Matrix, nearly 203 million ha of land were appropriated between 2000 and 2010; 134 million ha of which are situated in Africa, equaling 66% of the appropriated land globally. East Africa is among the most targeted regions in the world, with one-third of the reported projects and area affected. Yet despite several deals emerged from the impetus of finance capital to ensure a secure outlet to store (and eventually increase) value as a result of growing expectations of rising land prices, the majority of large-scale land deals involved actual agro-industrial production around key crops such as maize, soya, cotton, cassava and sugarcane, considered suitable to African agro-environment (World Bank 2009). Further research has shown that the majority of these land deals revolved around crops with diverse fungibility and multiple ends use, that is, food, feed and fuel (Richardson 2015; Borras et al. 2015). The chapter explores the significance of sugarcane cultivation in driving land enclosures and contract farming schemes in Africa, with particular attention to the making of state-capital politico-economic assemblages. It analyses the patterns of expansion of sugarcane cultivation in Africa through the concepts of commodity frontier, flexi-crops and agro-extractivism. Drawing from several case studies in Uganda (Kakira Sugar Works in Busoga, Hoima Sugar Limited

in Hoima and Amuru Sugar Works in Acholi) and Tanzania (Kilombero Sugar Limited in Morogoro), it argues that advancing the sugar frontier has been instrumental in driving land enclosures, generating widespread dispossession and social conflict, on the one hand, and adverse incorporation of poor farmers, on the other, while simultaneously jeopardizing agrarian livelihoods and existing agroscares and eco-systems. In what follows, the chapter first explores the key debates in the literature on large-scale land acquisitions with a specific reference to the sugarcane frontier as a flex-crops. It then deals with the specificities of contract farming schemes – the nucleus estate plus outgrower model – as a peculiar modality of organization of sugarcane cultivation, focusing on the socio-ecological implications – changing land tenure and use dynamics, patterns of labour mobilizations and nature appropriation/degradation.<sup>5</sup>

### **Land Grabbing or Development Opportunity?**

The wave of large-scale land acquisitions in Africa initiated in the late 2000s, which international development and financial institutions see as a vector for promoting responsible agricultural investments (FAO et al. 2010) and critics as ‘land grabbing’ (GRAIN 2008), has given renewed vigour to debates over land, food and agricultural issues. The term ‘land grabbing’ generally refers to large-scale, cross-border commercial land deals carried out by transnational corporations or initiated by food-insecure foreign governments (Zoomers 2010). Yet, as the ‘literature rush’ (Oya 2013) proceeded, others pointed to the emergence of more complex political and economic assemblages involving the role of the state, national elites and investors, and local chiefs, and the significance of small- and medium-scale land dispossession (Peters 2013). This consolidated an already-existing trend in which questions of control, access, use and governance of land (and its associated resources) had returned to the core of development discourses among international development institutions (Amanor & Moyo 2008).

Yet large-scale land deals are not epiphenomenal if seen from the perspective of countries in the Global South, entailing both historical continuities and discontinuities with colonial and post-colonial patterns of land dispossession. Land expropriation is not new; rather, it is a reinvigoration and expansion of the long historical phenomenon of capitalist concentration of farmlands under settler colonialism. The newness lies in the trends, processes and justifications, and the political premise according to which land dispossession is currently being framed and legitimated. The World Bank (2009) estimated that 45 million hectares of land have been involved in commercial deals in Africa between 2008 and 2009. This is in part due to the perception that its land is underutilized (Matondi et al. 2011) and thus could be acquired easily with minimal or no payment (Anseeuw et al. 2012). The re-emergence of large-scale land deals brings to the fore the question of renewed competition for natural resources, not simply within the traditional north/south dichotomy, but within a wider geographical spectrum that this time includes BRICS (Brazil, Russia, India, China, South Africa) (Borras & Franco 2012), which have become new hubs of production, circulation and consumption of agricultural commodities (Cousins et al. 2018).

The transformation of agricultural land into other uses has important implications for the livelihood of smallholder farmers (Anseeuw et al. 2012). Proponents of a critical agrarian political economy perspective argue that land dispossession in Africa is a re-invented form of colonization that has been spearheaded by the World Bank and other international organizations to acquire land in the Global South through a neoliberal lens

(Alden Wily 2012) driven by food and biofuel production, mineral extraction, carbon markets and government incentives (Aha & Ayitey 2017; Cotula et al. 2014). The series of criticisms by critical agrarian scholars, civil society organizations and transnational agrarian movements, and the social struggles which emerged around contested lands have contributed to portray land acquisitions as forms of land enclosures, often involving human rights abuses, extra-judicial evictions, social conflicts, environmental devastations and commons' appropriations (Martiniello 2021).

Marx's notions of primitive accumulation (Marx 1976) and David Harvey's 'accumulation by dispossession' (Harvey 2003) have been useful to analyse the matrix of violence necessary in triggering new forms of capitalist development. The former highlights the role of 'extra-economic' coercion in the forced separation of peasants from their land, the formation of capitalist landed property and agrarian capital, as well as classes of labour. The latter offers a line of argument drawn from Rosa Luxemburg (1913), according to whom, even in a phase of advanced capitalism, capital needs ongoing primitive accumulation to reproduce itself. In other words, capital does not just reproduce itself through the dull compulsion of economic forces. It needs the constant deployment of coercion to create the preconditions for the expansion of capitalist frontiers. Although Marx's view of primitive accumulation was meant to be transitional, the persistent socio-economic marginalization and the use of violent means to expropriate and displace smallholder farmers are still ravaging many agrarian economies (Bush & Martiniello 2017) making existing land regimes and agrarian social structures increasingly fragmented and fragilized.

Due to its coercive nature and lack of consultations, land expropriation in Africa is usually met with fierce resistance from the affected communities, a phenomenon called 'reactions from below' (Borras & Franco 2013). Such communities often organize against oppression and displacement (Martiniello 2015) or for improved compensation and contracts or employment packages (Hall et al. 2015). Borras and Franco (2013) classify such political struggles into three types: (1) contestation between poor people and the corporate players (resistance against exploitation); (2) contestation between smallholder farmers and the state (resistance against dispossession); and (3) contestation among smallholder farmers (inter- and intra-class contestations). This frame of questions allows researchers to grapple with a multiplicity of social struggles triggered by land deals at different but interconnected levels, and involving a plethora of diverse social subjects, political actors and economic players. It also allows us to understand the ways in which socially differentiated groups and classes negotiate different paths of inclusion and exclusion from these deals.

These reactions from below are often complex and differentiated, highlighting a plethora of responses from below to processes of land dispossession, which range from everyday resistance to demands for better terms of incorporation into land deals or acquiescence. This is important because the initial phase of research and debate on land grab neglected or ignored the political agency of agrarian subjects in shaping trajectories of agrarian change (Martiniello 2015).

Findings from our case studies show that land appropriation represented the precondition for the establishment of large-scale plantations, whether land was conceded during the colonial period by the British Crown to Indian capital to constitute Kakira Sugar Works as in Busoga (Uganda) in the 1930s, or to a partnership of international financial interest and Dutch capital to establish the Kilombero Sugar Company as in Kilombero in 1960 (Tanzania), or in the contemporary neoliberal phase by the Ugandan government such as in Hoima in 2016 (western Uganda). These forms of land appropriation contributed



engendering changes in land property regimes away from customary land tenure systems towards more formalized system of freehold property. Moreover, this would not have occurred without some form of cooptation of traditional land authorities, who materially benefitted from their incorporation in the land deals, and without the manipulation of customary land tenure systems.

In one case, such as in Hoima, dispossession was selectively orchestrated to target women-headed households and less affluent households perceived to be weaker, and therefore more malleable, than other households (Martiniello et al. 2022). In this sense, we find the usefulness of Shahra Razavi's notion of double exploitation to highlight how capital's and patriarchy's combined efforts subordinate women to dual forms of exploitation (Razavi 2009); this is evident in both the selective forms of dispossession and the uneven compensation. In other cases, such as in the case of Amuru Sugar Works in northern Uganda, the establishment of the sugar estate and milling plant on 10,000 ha (24,710 acres) has been resisted by local communities, especially women, for more than a decade starting in 2011 (Martiniello 2015).

Empirical evidence also shows that land enclosure is intimately tight to processes of displacement, de-agrarianization and a shift in the modes of livelihood. In Hoima, for example, 390 evicted families from 1,200 acres (485 ha) turned to internally displaced people camps for lack of housing alternatives or adequate compensation, witnessing a massive deterioration in their living conditions. In northern Uganda, the Atiak Sugar Works state-supported project on 10,000 ha (24,710 acres) has become the fulcrum of massive land contestation, land disputes between families, evictions, arrests and community tensions in 2018.

### **Enclosures and the Sugar Frontier**

Crops such as maize, soya, cotton, cassava and sugar were identified as high-potential cash crops by the World Bank (2009), which has represented a global call for investors to exploit the emerging economic opportunities in global agricultural value chains. Further research showed that 58% of the land acquisitions concentrated around a selected number of crops which could produce simultaneously multiple end uses such as food, feed and fuel (Richardson 2015), therefore offering opportunities of portfolio diversification and offsetting the risks associated with monocropping. Sugarcane is one of the paramount crops at the heart of this process of land appropriation and agricultural restructuring in Africa driven by the growing sugar and ethanol demand and consumption in the world. It has been estimated that in southern Africa alone, six million ha are available and suitable for sugarcane cultivation, an amount significantly larger than 1.5 million ha cultivated across the African continent in 2012 (Watson & Purchase 2012). At present, Sub-Saharan Africa contributes about 5.7% of global sugarcane production (FAOSTAT 2021), although this proportion is said to be rapidly growing (Watson & Purchase 2012, see also Hessa et al. 2016).

Much of this growth is occurring especially in Southern Africa where sugarcane production covers more than half a million hectares and the quantity of total harvested cane increased by 80% in the last 20 years (Dubb et al. 2017, p. 2). Countries including Mozambique, Zimbabwe, Malawi and Tanzania are often seen as offering the best potential in terms of land availability, whereas Cameroon, Equatorial Guinea, the DRC and Uganda are seen to offer optimal agro-ecological conditions and production potential (Martiniello 2021). The boom in sugarcane cultivation is also part and parcel of a broader interest on the part of the International Financial Institutions and others in promoting the spread of global

agricultural value chains in Africa, based on the assumption that Africa is home to some of the largest tracts of ‘underused agricultural land reserves in the world’ (World Bank 2009).

The new interest in sugarcane cultivation in locations throughout the continent stems also from its role as a ‘flex-crop’ with numerous end-use possibilities, including ethanol, ‘green electricity’ and bioplastics (Borras et al. 2015). Such flex-crops allow agribusiness companies to diversify their products portfolio, reducing risks against the price oscillations connected with production and marketing of a single crop and maximizing returns from every single cane (McKay et al. 2016; Martiniello 2015; 2016). The boom in sugarcane cultivation is also connected to expanding domestic and regional markets, new access to land and water, sugar’s suitability to tropical and subtropical climates, and low costs of production.

South African sugar giants and the associated modes of production, discipline of labour, coordination with contracted farmers, and capture of resources, have been playing a major role in spreading sugarcane cultivation in Southern and Eastern Africa (Richardson 2010; Hall 2011), further contributing to the consolidation of global agro-food value chains and the role of South Africa as a hub of production and circulation of agri-commodities (Cousins et al. 2018). In 2013, Illovo Group’s ownership structure included: 100% of Illovo Sugar SA; 76% of Illovo Sugar in Malawi; 90% of Maragra Acucar in Mozambique; 60% of Ubombo Sugar in Swaziland (now eSwatini); 82% of Zambia Sugar; and 55% of Kilombero Sugar in Tanzania. In doing so, Illovo progressively acquired quasi-monopolistic control of significant shares of sugar industry production: 100% in Malawi; 93% in Zambia; 40% in Tanzania; 35% in Swaziland; 30% in South Africa; and 21% in Mozambique (Martiniello 2015). Changes in the pattern of commercialization and marketing underpin the current expansion and location of agribusiness in the continent as Illovo’s marketing strategy is in fact increasingly based on growing domestic markets, which represent 63% of total sugar sales (Illovo 2013).

Interestingly, the countries where Illovo is expanding its operations are also ranked as those with the highest per capita consumption rates at a global level: South Africa (6th); Swaziland (10th); Malawi (11th); Tanzania (13th); Zambia (14th); and Mozambique (15th). Another driving factor may have been the growth of domestic retail sugar prices. In 2012–2013, the SADC domestic retail prices were among the highest when compared with global standards: Zambia (4th); Mozambique (7th); Tanzania (10th); Malawi (12th); Swaziland (14th); and South Africa (15th). Though domestic prices, and global levels of consumption, explain to a significant extent the boom of sugar in the region, growing ethanol markets and the development of biomass economy have played an important role too. In a context of growing socio-ecological concerns about climate change and search for renewable sources of energy, the versatility of selected crops and commodity use allows companies to diversify their products portfolio, reduce risks associated with price oscillations and volatility and exploit the conjunctural market opportunities (Borras et al. 2015). The combined effect of improved production methods, the sustained application of science into technological innovations that suit agribusiness’ exigencies in exploring potential new terrains of accumulation and the changing commercial and marketing strategies severely restructured the agricultural sector simultaneously expanding the fungibility of certain crops and widening the spectrum of opportunities that the agricultural sector presents in the region.

In southern Africa, the politics of flex crops is still in its infancy as only 7% came from downstream production and energy co-generation (McKay et al. 2016). Yet the dynamics of investment in the sugarcane bioeconomy are shaping the current possibilities for companies

to combine the production of refined sugar with other non-food products. The downstream operations are concentrated in South Africa – namely, at the Sezela complex and the Merebank plant in Durban, and the Glendale Ethanol Distillery on the KwaZulu-Natal north coast, though new plants have also been developed in Malawi where molasses is supplied for fuel and potable alcohol (Illovo Sugar Limited 2013); in Swaziland in projects of co-generation of electricity; in Zambia in an ethanol plant to serve the domestic fuel market (Mckay et al. 2016); and in Tanzania where a new ethanol distillery has been operating since October 2013 in the production of extra neutral alcohol (Martiniello 2015). By further investing in value addition to its core products of fibre, sugar and molasses, Illovo is simultaneously expanding sugar production and differentiating its arrays of downstream products, which now include ethanol, flavouring products, syrups, furfural alcohol, agribusiness products, extra neutral alcohol and power co-generation. Yet the fact that the majority of the company's revenues come from sugar sales is both an indicator of high-margin profitability within the sugar sector, especially in countries which present optimal agro-ecological conditions such as Tanzania where sugarcane yields are among the highest in the world (Nkonya & Barrero-Hurle 2012).

Yet African farmland suitable for sugarcane is at the centre of major inter-capitalist rivalries in accessing natural and human resources (land, labour, water) and capturing local markets – as showed in the case of dumped Brazilian sugar and chicken imports in southern Africa, or the development of the 6 million ha ProSavanna mega-project (Borras et al. 2011), developed as a result of Japan-Mozambique-Brazil cooperation, but resisted by local communities and rural social movements in Mozambique (Shankland & Goncalves 2016). Indian investments in sugar plantations are essentially based on private capital, and their significance especially in eastern Africa is the result of political and economic ties forged by Indian capital during colonialism and re-energized in the late neoliberalism. The Brazilian public-private partnership in sugar production, experimented in the Cerrado and, currently, exported to Mozambique, is characterized by large-scale mechanization projects, and increased reliance on migrant workers (Sauer & Pietrafesa 2012). Other investments in sugarcane cultivation, mainly driven by South African capital, opted for a business model based on the integration of large-scale nucleus estates with outgrowers and contract farming schemes (Hall 2011). It is to the latter that we move our attention in the next section.

### **The Socio-ecological Implications of Contracting Sugarcane Farming**

The dispossessing and/or displacing effects of one-off mega-deals have been a key concern and focus of research for critical scholars and activists. A significant amount of scholarly work concentrated their analysis to *una tantum* large-scale land deals, which often culminated in outright forced evictions. The unintended effect of this research trajectory has been to detract attention from small-scale, every day and long-term dynamics of land dispossession, for the epiphenomenal focus of much of the scholarship on land grabbing limited the analysis of the social structures of accumulation and dispossession already at work. An alternative trajectory to the primitive accumulation mode of agrarian transformation is represented by a bifurcated agrarian structure in which export-oriented corporate driven industrial agriculture sits side by side with a peasant subsector within a social configuration in which 'production is undertaken by peasants, not for peasants' (Akram-Lodhi et al. 2009, p. 228). Contract farming has been framed as an alternative to land grabbing (Cotula and Leonard 2010) and as a vehicle of collaborative business models and a catalyst of inclusive development (FAO 2013), finding

increased political legitimization among governments, donors and transnational corporations, as claims of inclusivity allow them to repeal allegations of land grabbing by advocacy and civil society groups (Martiniello 2017, p. 12).

And yet critics have cautioned against the widespread assumptions that outgrower models are generally better than upright land acquisitions in terms of dispossession or impact on livelihoods (Vicol 2017). Studies of outgrower schemes based on sugarcane cultivation in Africa have questioned win-win assumptions showing a more complex set of dynamics, including: the creation of new dependencies and power relationships particularly in relation to land access in Malawi (Adams et al. 2019b), the shift from broad-based to narrow-based livelihoods on the Zambian sugar belts (Manda et al. 2020), the differential and adverse incorporation of petty commodity producers in vertically structured value chains in the Kilombero valley in Tanzania (Martiniello 2017); the gendered nature of the process in Malawi and the health and work implications in Mozambique (Adams et al. 2019a; O’Laughlin 2017).

To avoid dichotomous and Manichean characterization of land enclosures and contract farming, I analyse them as an expression of the expansion of the sugar commodity frontier (Patel & Moore 2017) and the corporate interest in ‘value-chain agriculture’ (McMichael 2013), entailing a process of re-territorialization of a new land use and division of labour that selectively incorporates farmers and workers, resources and geographical spaces into the capitalist metabolism. Through outgrower schemes, in fact, agri-business companies can bypass the limitations over land ownership, indirectly controlling huge portions of land (see Adams et al. 2019b) and turning contract farmers into ‘little more than propertied labourers’ (Watts 1994, p. 33). As ‘factories in the fields’, sugarcane agro-industrial complexes impose a re-organization of social relations over lands and spaces through a unique ‘military’ discipline in terms of agricultural calendar, times of harvest, flows of commodities, and associated rhythms and times of labour (Richardson 2015). In this sense, contract farming schemes act as a transmission belt of the productivist and (agro)extractivist (eco)-logic characterizing the operation of agri-business capital, contributing to the maximization of value extraction from nature at a cheap cost.

Contrary to economic discourses that interpret contract farming through institutionalist and technicist lenses that depoliticize it by isolating them from the socio-economic and ecological structures and power dynamics in which they are embedded, I link the rising significance of contract farming to processes of global restructuring of industrial agriculture, interpreting it as an instrument that deepens the division of labour external to the firm and cheapens the production costs that would occur under direct production. More specifically, I link the social dynamics of contract farming to the operation of the booms and busts of the sugar commodity frontier in Patel and Moore’s sense of ‘encounter zones between capital and all kinds of nature – humans included’ (2017, p. 18). These frontiers expand through the constant mechanism of cheapening, that is, reducing costs of doing business. But frontiers are also the place where political power is exercised (and contested) to produce nature at low cost, transforming socio-ecological relations and producing more kinds of goods and services that circulate through a growing series of exchanges (Patel & Moore 2017).

Empirical findings from several case studies in Uganda and Tanzania allow us to maintain that the proliferation of outgrower schemes contributed to produce a dramatic shift in the agrarian geography, eco-system, labour relations and livelihoods of the region, a process which I term ‘sugarification’ (Martiniello 2021). This descriptive notion does not simply capture the exponential expansion of land acreage under sugarcane, or the

expanding numbers of sugarcane outgrowers. It rather places an emphasis on the political, economic, ecological and discursive processes that are advancing the sugar frontier on the continent. The expansion of acreage under sugarcane has in fact been substantially fuelled by governments politics of licence granting to new entrants (millers) in the sugar market with the declared objective of decreasing sugar consumer prices and expand the state's fiscal basis. New investors were lured into the sugar business, attracted by the expectations to find petty commodity producers used to specialized sugarcane cultivation and by the economic opportunities of the growing regional demand. The prism of sugarification allows us to link contract farming to the imperative of extracting as much as possible of high-demand resources (be it land, water, forests, agricultural products, cheap and disciplined labour or others) at lowest cost within shortest period. As a mode of accumulation and appropriation, it helps us understand the ways in which it encroaches upon existing resources, which have been provided by nature or by the work of previous generations, until it exhausts them and moves to more attractive locations.

In the last decade, Uganda and Tanzania have become the promoters of neoliberal agricultural policies. By promoting export-oriented agricultural policies, both countries are at the forefront of a socio-economic and political battle to transform prevalently subsistence-oriented peasants into petty-capitalist entrepreneurs. The cause of their poverty is associated with the lack of entrepreneurial skills and the distance from markets. Given this diagnosis, the proposed solution is to link them in corporate-driven global agricultural value chains, where they can learn the appropriate business skills and benefit from market opportunities. The recent Manifesto for Peace and Prosperity in Uganda and Kilimo Kwanza (Agriculture First) in Tanzania magnify the virtues of large-scale, capital-intensive agricultural production by portraying corporate agribusiness and large-scale farmers as the key actors to advance agricultural transformation. Anchored in a modernist and productivist paradigm, these narratives tend to celebrate uncritically the successes in terms of yields and quantities of sugar produced and traded on the national and international markets, yet concealing the social and ecological implications of these schemes.

Contract farming is often depicted as an alternative to large-scale land enclosures, as it leaves, on paper, farmers in control of their land. However, fieldwork undertaken in various areas where these schemes have taken areas reveals significant processes of dispossession and expulsion of less productive farmers from agro-industrial sugar complexes. Given the industrial nature of sugar production, outgrowers engaged in these schemes face enormous and rising monetary demands which tend to trap them into economies of debt. In the face of rising price-cost squeeze, the smallholders unable to repay loans are obliged to sell their (mortgaged) land to the bank. The bank will then sell it to the most affluent farmers, who benefit from the crises of the majority by accumulating land at the expense of poor farmers who get expelled from the agro-poles (Martiniello & Azambuja 2019, p. 223). Amanor (2012) refers to this as a process of dispossession from below, in which land change hands not through the violence of the state but through sanitized market coercion. In other cases, large-scale farmers and sugar tycoons rent portions of land from less productive smallholders who do not have the start-up capital to join the scheme. These market imperatives and pressures shape the agrarian social structures in the sugar agro-poles, paving the way for processes of selective incorporation which contribute to rising inequalities, enhanced social differentiation and polarization.

The adverse incorporation of smallholders into vertically structured, and increasingly financialized, value chains can be read from the prism of the technological treadmill (Amanor

2019), which, by virtue of the multiplicity of technological requirements involved in these schemes, subjects farmers to growing and diversified monetary demands especially for fuel, fertilizers, credit and pesticides. Accordingly, as shown by Harriss (1987, p. 321) in the case of Indian peasants adopting green revolution technologies, those who are endowed with more resources were in a much better condition to cope with risks associated with higher cash-intensity technology. Moreover, the monopsonistic power of the company and the poor representativeness and leverage of smallholders within outgrower associations allow the company to establish the producer price at will.

Another central feature of sugarification is the appropriation and super-exploitation of labour, whether formal or informal, migrant or local, wage or family labour, through its devaluation. Labour at the factory, in the fields and surrounding compounds is organized by the sugar companies through multiple arrangements (permanent, seasonal, casual) and around a gendered division of labour. It combines more specialized, stable (and remunerative) wage labour in the factory with unskilled casual migrant labour for the seasonal work of cane cutting. Sugarcane cutting, the hardest among the labour tasks in the sugarcane complex, is performed by young migrant workers whose work gets remunerated on a piece-work basis.

Devaluating labour is the precondition to extract and appropriate value. Yet, it is not only through super-exploitation of wage labour alone that cheapening occurs and capital reproduces, it is also and perhaps most importantly through the non-monetary, care, domestic and family women labour (Patel & Moore 2017; Razavi 2009). By performing a whole set of unpaid labour tasks such as weeding and maintenance on sugarcane fields in addition to daily activities of food production, water provision and the care of children and elders, unremunerated women labour represents a fundamental element in the social reproduction of outgrower schemes.

The production and reproduction of cheap nature is a major component of the sugarcane frontier's uneven geographical expansion. As suggested by Moore, the accumulation of capital and the production of nature work as an organic whole; capital does not produce externalities on the environment, it works through it (2015). In this sense, the accumulation of capital via sugarcane cultivation is grounded instead upon the co-production of capital, power and nature. In several regions where these schemes have taken place, a number of serious environmental concerns have been raised. The most obvious is related to deforestation as in order to make space for the increasing demand of land, forests have been cut, further contributing to the change in rainfall patterns with grave consequences for smallholders who rely on rainfall for farming. Deforestation in this context is not only caused by the expansion of company estates, but it is also driven by the attempt of large and medium-scale farmers to carve out space for sugarcane plantations, thus contributing to the devastation of the environment.

Yet capital does not simply devastate nature, it also harnesses its forces to its own advantages and uses (Moore 2015). This is striking in the case of water usage, as sugarcane requires significant amounts of water for irrigation and in the process to extract sucrose from sugarcane. In the case of Kakira Sugar Works in Busoga, the company has the right to access 459,000 cubic metres of water per month at no cost. There is wider evidence of excessive concentration of nitrogen and phosphorous in the waters of Victoria Lake and the Nile ensuing from the use and unloading of agro-chemicals (Munabi, Kansime, & Amel 2009). In the case of Kilombero, there have been serious concerns among the residents about the lowering of the level of the Ruaha river, which provides water to almost a million smallholders in Tanzania, thus jeopardizing agrarian livelihoods beyond sugarcane cultivation itself. In the

former, inhabitants of the area have often protested against what they believe is an incremental process of declining water levels of the river (Mwakalila 2011). In both cases, the landscape was dramatically transformed through sugarcane mono-cropping at the expenses of forests and pre-existing livelihood activities. In this sense, the expansion of the sugarcane frontier (re-)produces an artificialized nature, which suits the conditions necessary for value extraction and capital accumulation.

Another key drawback of contract farming schemes is the growth of food insecurity among rural households. As a result of changing landscapes, environments and eco-systems, a worrying state of food insecurity is gradually emerging in the agro-industrial areas as farmers are tempted to maximize land devoted to sugarcane cultivation at the expense of food crops. In the Kilombero valley, this has pushed smallholders to travel long distances in order to produce the needed food, as gardens alone are insufficient to satisfy the consumption needs of rural households. In Busoga, a region previously known as the food basket of the country where surplus maize production was used to tackle food emergencies in Somalia and Sudan, has been turned into a sugar belt. Such food crisis has been turned into an opportunity for the few large-scale producers who can exploit the market demand for food crops reinvesting the revenues of sugarcane cultivation in rice, maize and other food crops production far away from the sugar agro-industrial complex. Diminishing food production has produced severe implications for households' nutritional security. The sugarcane districts around Jinja in particular but Busoga more generally have become notorious for the highest rates of malnutrition in the country (Waluube 2013). Worsening nutritional intake has been registered, especially for women and children of rural households. In other cases, members of rural households are obliged to commute to distant lands, where the land prices and rents are lower than the highly attractive sugar belts, for their household's food production.

### **Resistance and Contentious Politics**

This social, economic and political diversity accompanying the expansion of sugarcane out-grower schemes is being charted in detailed studies throughout Africa. Indeed, research, including my own, is revealing the ways that sugarcane contract farming provokes a set of linked, multi-scalar transformations through a range of sometimes unexpected routes, rearranging individuals and alliances, driving historically contingent and unpredictable micro- and macro-level reorganizations of power, authority, wealth, and status. This multiplicity, and often unpredictability, is a result of the way that sugarcane contract farming draws together into its orbit so many aspects of social, political and ecological life, incorporating labour, paid and unpaid, formal and informal, subsistence and waged. It insinuates itself into public and private authority, formal and informal, statutory and customary, in particular over land but also over the mobilization of resources, labour and power, leading to the emergence of complex and multilayered arrangements of coercion and consent. Sugarcane contract farming is integrated into and drives further complex economies of debt and accumulation, and it has dramatic impacts upon environments and ecologies, which can rebound into economic or social realms. It ties the most intimate aspects of life, human and non-human, into national and global socio-technical structures, introducing sometimes radical, sometimes subtle, transformations throughout the social, political and economic realms.

As sugarcane frontiers expand on the continent, those establishing these schemes face a series of questions as to how to bring in the components of the production system – land, labour and natural resources, particularly irrigation water – as cheaply as possible (Patel &

Moore 2017). Yet, for this to occur, substantial political articulation is needed by the state, agribusiness companies, donors and development agencies to minimize socio-ecological conflicts and align economic interests behind commonly shared narratives and visions of progress and development. This answers that different schemes arrive at vary as they respond to different social and ecological contexts and also reflect the specific decisions made and strategies employed by different actors, whether states, investors, farmers or workers. But these strategies are also dynamic and evolving, as actors learn from the successes or failures of other contract farming schemes and adjust their implementation strategy – or mode of resistance – accordingly. It is in this matrix of shifting strategies, modes of organization, deployments of force and conflicting narratives that we must also look for the politics of sugarcane contract farming.

Yet, these processes of value creation, which necessitate bringing together simultaneously land, labour and nature, cannot be read as purely economic. They are simultaneously eminently political and ecological processes (Peluso & Watts 2001), which signal the contentious nature of, and resistance to, changes in land-based social relations (Borras & Franco 2013; Hall et al. 2015). Uncovering their political and ecological articulation allows delineating the links between the mutually constitutive nature of political, economic, ecological and social processes. This makes clear the importance of placing land questions of control, tenure and access (see Mafeje 2003), and dispossession (see Moyo 2003), environmental transformation (see Patel & Moore 2017) and social conflict (see Martiniello 2019) at the centre of the analysis of the re-organization of farming relations under contract farming. In this way, space is made beyond economic interpretations of the phenomenon for the analysis of contract farming as a set of power assemblages that spatially, ecologically and socially restructures land and agrarian relations.

This shift to more intensive forms of involving farmers in sugarcane production must also be made sense of as part an effort to avoid the high cost or unsustainability of the alternative, that is, commercial plantation agriculture. Contract farming represents an effort to avoid depending on the excessive force needed to dispossess people of their land, with the intense resistance it provokes; to avoid having to secure or create a disciplined wage work force; and to escape the financial risks of poor harvests or falling prices, as well as the ecological impacts of irrigation and land overuse. It is this ‘participatory’ nature of contract farming that makes it attractive to capitalist investors and development agencies alike; in the name of empowerment and agency, contract farming promises to make farmers willing partners in bringing their labour and land into the production process, in taking on the burden of extracting a subsidy from nature and the ecological costs of that extraction, and in sharing the risk faced by producers in globalized commodity chains.

It is therefore relevant to re-politicize the debate around contract farming by looking at the often-silenced power relations within which these schemes are embedded. I argue that what is seen in Uganda’s and Tanzania’s expansion is a political dynamic derived both from the major dislocations and dispossessions required to establish the plantation estate and its work force, as well as from the effort to bring many smallholders using unimproved methods on land with sometimes unclear tenure arrangements into contracted arrangements for supplying sugarcane. The result has been highly contentious politics around sugar’s expansion, where struggles over land dispossession merge with those around exploitative wage labour, around the loss and transformation of livelihoods, and around debt, power inequalities and environmental harm, a matrix in which state violence and co-optation are ever-present.



By using a comparative lens, I have sought to explore a set of commonalities and differences across the case studies. Within the broad framework of political contestation and fragmentation, I would call attention to a series of issues that arise in all case studies.

- 1 Land contention can take on various forms in contract farming. Establishing nucleus estates plus outgrower schemes requires the acquisition of land by assemblages of state and capital often through forceful means or through ‘consensual’ negotiations, which can involve new alliances and sometimes the co-optation of customary land authorities. The result is a contentious politics around land dispossession and contestation, which can manifest in a sequence of land-related conflicts between the state and companies, on the one hand, and existing land users and food producers, on the other, as well as within communities themselves.
- 2 Building upon this matrix of violence and dispossession, and despite differences across cases due to the diverse temporalities of gestation of contract farming schemes, the dynamics of value creation, appropriation and circulation generated by each scheme have been an important force behind patterns of social differentiation, selective incorporation and widening inequalities.
- 3 Confirming what has been argued extensively by other critical studies (Gyapong 2020), our cases show that these schemes do not become vehicles of job creation or rural labour absorption. This is often because specialized labour within the plants and on the plantations is undertaken by skilled personnel brought in from outside, while the hard work of cane cutting and planting is often performed by migrant workers often recruited from geographically remote and marginal areas. Labour relations are therefore socially re-organized around the functioning of the plantation and refining plant, extracting labour especially from family members in the form of non-monetary, non-remunerated labour. Because this labour is fundamental to the reproduction of contract farmers, it becomes a cost which capital externalize onto farmers.
- 4 Alongside the new labour discipline, the spread of sugarcane contract farming schemes have contributed to changes in land use, moving away from cultivation of food crops and forestry products for local and national markets and towards cash crops for national, regional and international markets. This has contributed to food insecurity and changes in the modes of livelihood.
- 5 Ecological transformations imposed by these schemes, especially in terms of deforestation, soil deterioration, landscape homogenization, biodiversity reduction and water appropriation, can jeopardize the livelihoods of those who depend on access to natural resources for their social reproduction. Sugarcane contract farming thus also poses further questions about the simultaneous role of nature as reservoir of resources and as a sink of capitalist agro-industry, playing a crucial role in the overall reproduction of the scheme.

### **Conclusion**

The chapter explored the relationships between land enclosures, contract farming and the proliferation of sugarcane cultivation in Africa. Drawing from political economy, political ecology and political sociology, and revisiting and building upon Little and Watts’s analysis of contract farming in Africa, the chapter has argued that it represents a cheapening mechanism that allows production of agricultural commodities to be undertaken at cheaper costs, externalizing the risks to outgrowers and expanding the geographical reach of agro-industrial

value frontiers. Rather than seeing contract farming as the antithesis to land enclosures, I interpreted it as an instrument that facilitates the incorporation of land, labour and nature within the capitalist metabolism. In doing so, I offered a preliminary analysis of the social and environmental implications of contract farming seen as a transmission belt of the agro-extractive logic of industrial capitalist agriculture. The chapter thus explored the significance of the contentious politics underpinning contract farming, giving centrality to the neglected questions of land and agrarian struggles in shaping contract farming dynamics and outcomes.

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# 9

## CONCEPTUALIZING CONTRACT FARMING IN THE GLOBAL LAND GRABBING DEBATE

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### **Introduction**

This chapter aims to conceptualize and clarify the phenomenon of contract farming as it relates to the renewed debate on global land grabbing, particularly in the developing world. Contract farming is a system of vertical coordination between a grower and a buyer, where the buyer can specify or control the conditions of production through contractual obligations (Little & Watts, 1994). It is an intermediate form of agricultural organization by agribusiness, falling between procurement of commodities on open spot markets and fully vertically integrated production such as plantation agriculture. Farms at all scales and in all regions can produce under contract. In specific commodity chains, estates and plantations predominantly use production contracts to reduce market-related uncertainty. However, in the decades following structural adjustment, across the board liberalization of agriculture and the rolling back of state intervention in agricultural marketing, the number of private-led contract farming schemes that incorporate smallholder farmers are decisively on the rise in developing countries. Mentions to ‘contract farming’ in this chapter thus refer to this more recent and specific development. Although not a new form of organizing agricultural production or marketing, policy and scholarly interest in contract farming has increased rapidly in the last few decades in accordance with the expansion of contract farming schemes in the global south (Pérez Niño & Oya, 2021; Vicol et al., 2022).

Beyond its basic definition, contract farming is a heterogeneous set of arrangements that can embrace “a great variety of experiences, organizational arrangements, ownership structures, and agricultural practices” (Isager et al., 2022: 36). Contract farming features in diverse settings across different crops, including parastatal or private-led outgrower schemes attached to nucleus estates, to written supply contracts between farmers or co-operatives and private agribusiness firms, to more informal verbal arrangements between farmers and procurers/traders. This makes, as Little and Watts (1994) and Oya (2012) point out, a general theory of contract farming problematic and ultimately unproductive. As Oya (2012; see also Vicol, 2019) also argues, contract farming has often been the site of ideological contestation, crudely between those that conceptualize it as a wholly ‘win-win’ institutional solution to the market failures facing both smallholders and agribusiness in the

developing world, and those that conceptualize contract farming wholly through the lens of peasant exploitation.

Given this definitional and conceptual heterogeneity, it is no surprise that contract farming has maintained an ambivalent position in the renewed debate on global land grabbing. In the earlier literature on land grabbing, contract farming appears as itself a form of land grabbing, often conflated with processes of land acquisition. Conversely, contract farming has also been promoted as a more inclusive alternative to land grabbing that avoids dispossessing local people of their land. Contract farming also appears in the land grabbing debate as a way to organize production *after* a land grab or process of acquisition has taken place. What is common to all of these takes, however, is the tendency to ‘assume’ a certain definition or conceptualization of contract farming, without much further interrogation of the political, economic, and social dynamics of the institution of contract farming itself. In other words, in the global land grabbing debate, contract farming tends to appear without reference to its extensive historical body of scholarship, particularly work from a critical perspective. For example, those that promote contract farming as an inclusive alternative to land grabbing support their arguments with case-based studies that suggest that in some contexts smallholder farmers can experience welfare gains from contract farming participation. Often ignored, however, is the extensive literature on how contract farming can have unintended or spillover effects for communities, non-participating farmers (Moyo, 2022) as well as for intra-household and intra-group relations for those participating (Carney, 1988; Pérez Niño, 2016). The political economy literature has charted how contract farming shapes processes of agrarian change and socio-economic dynamics, and how contract farming schemes interact with long-term processes of agrarian change. The lack of engagement with this literature means that global land grabbing debates have not always asked some key questions about the relationship between contract farming and land, such as how does land work in contract farming? What effect does contract farming have on tenure and property relations? Is contract farming a form of land grabbing? Does land grabbing reinforce the spread of contract farming (Oya, 2012)? What are the political, economic and social dynamics at play in contract farming schemes vis-a-vis large-scale land acquisitions?

In this chapter, we aim to address some of these questions, in order to strengthen the conceptualization of contract farming within the global land grabbing literature. We develop four theses of the relationship between contract farming and land. First, we review the literature that deals with contract farming *and* land grabbing, focusing on the three approaches identified earlier: contract farming as a form of land grabbing; contract farming as an inclusive alternative; and contract farming as a post-land grab production system. Departing from these three themes, we then sketch a more in-depth conceptualization of land and contract farming, centered on the question of ownership of land, that positions contract farming instead as a form of land *control*. We conclude with some observations on the interconnections between contract farming, land and broader processes of accumulation and social differentiation. Our aim is to provide a firm ground for future research on the dynamics of contract farming in the land grabbing literature.

## **Contract Farming in the Land Grab Literature**

### ***Contract Farming as a Form of Land Grabbing***

As Borrás et al. (2011) point out, many of the accounts of renewed investor interest in land that emerged in the first decade of the 2000s used the term ‘global land grab’ as a catch-all

phrase to describe what in reality were highly differentiated processes of changes in land control unfolding in different institutional and political economic contexts. These earlier accounts of a renewed land grabbing phenomenon tended to paint a uniform picture of foreign actors grabbing large tracts of land in poor countries, driven by a confluence of food and energy crises (Oya, 2013). Hall (2011: 195) described this narrative of land grabbing as being “unidirectional ... rapid and massive”, while Edelman (2013: 488) noted that the “fetishization of the hectare”<sup>1</sup> that characterized this literature ignored other issues such as scale of capital investment and changes in production and labor relations “brought into being on those hectares”.

In this earlier literature, contract farming, when mentioned, was likewise frequently conflated as a form of land grabbing or land acquisition. As Oya (2012: 23) argued at the time, given that much of the earlier literature on land grabbing focused on ‘form over substance’, contract farming was viewed as “one of the options of the ‘form’ a land deal can take”. For example, the World Bank’s 2011 flagship report *Rising Global Interest in Farmland* situated contract farming as an ‘institutional arrangement’ through which large-scale investment in land and agriculture could take place, without any attempt to conceptualize how land and contract farming might be entangled (Deininger & Byerlee, 2011). From a more critical perspective, Boche and Anseuw (2013) position contract farming (what they call the ‘contracting model’) on a large spectrum of ‘large-scale land acquisition’ models. The authors do describe contract farming as a ‘hybrid’ model, however, there is little attempt to conceptually distinguish the role and meaning of land in contract farming, nor is it clear why contract farming should be considered under the banner of ‘land acquisition’.

In some of the more recent literature this conflation of contract farming and land grabbing is maintained. For example, Ata et al. (2019: 331, emphasis added), in their account of what they call transnational land acquisitions in Pakistan, position the phenomenon as “land in developing countries ... being granted (on long as well as short term basis) to the governments and private investors of developed countries through leases, land purchase and *contract farming*”. Yet, contract farming is not further conceptualized by the authors, nor is it clear how or why we should consider contract farming as land grabbing. Adams et al. (2019), in an otherwise nuanced account of the dependencies created by outgrower schemes, suggest that contract farming could be considered as land grabbing depending on the precise model implemented. The authors explain the mechanism of dispossession as “much slower than direct grabbing” (what they label ‘slow land grabbing’), but the overall process is nonetheless conceptualized under the umbrella of land grabbing.

There are two core characteristics of contract farming that challenge the case for it as land grabbing: First, that it is an agreement between direct producers that own or rent farmland and buyers looking to source agricultural commodities. The arrangement itself depends on the access of producers to land. Second, that in contrast with plantations and estates, contract farmers are not engaged as workers and are not paid wages, but instead farm on their own account and are paid for the volume of commodities contracted that they themselves produce or that are produced by a nucleus estate in the contract farmer’s plot. Contract farming is predicated on a division of labor where buyers pay farmers to produce agricultural commodities or pay them for the output obtained from the land that farmers bring into the deal. Contract farmers do not receive wages or rental fees from the buyers, they receive a payment for commodities delivered. The existing evidence is unable to demonstrate that contract farming is used, at least deliberately, as a method for the dispossession of smallholder farmers.

***Contract Farming as an Inclusive Alternative***

A second major theme in the land grabbing literature is that of contract farming as an *inclusive alternative* to land grabbing. In recent years, in response to the perceived ills of land grabs involving dispossession, there has been an upsurge of interest in identifying ‘inclusive business models’ of agricultural investment in developing countries as alternatives to land grabs or large-scale land acquisitions. The key idea is that agricultural investment models should avoid dispossessing local people of their land or land rights (De Schutter, 2011). This has driven a renewed interest in contract farming, where it has been conceptualized as one such alternative business model that can allegedly balance the need for investment in agriculture whilst protecting the rights and autonomy of rural people (Adams et al., 2019; Vicol, 2017). In this guise, contract farming is positioned as “less harmful and more inclusive ... than outright land acquisitions” (Martiniello, 2021: 355; see for example Cotula & Leonard, 2010; FAO, 2013; Chamberlain & Anseeuw, 2019; Williams et al., 2021).

This positioning of contract farming in the land grab literature is influenced by the development of codes of conduct for agricultural investment in the years following the 2007/2008 food price crisis. These codes of conduct seek to ameliorate the worst examples of dispossession and displacement of local people by encouraging corporate social responsibility in agricultural investments (Borras & Franco, 2010). As Borras and Franco (2010: 509) argue, such codes of conduct also serve to reframe land grabs (rephrased as *land deals*) from threat to opportunity for rural development, so long as these investments “can be harnessed properly so as to minimize or avoid possible negative social and environmental effects”. The most prominent codes of conduct are the so-called *Principles for Responsible Investment in Agriculture and Food Systems* (RAI) endorsed by the Committee on World Food Security in 2014 (FAO, 2014). The RAI guidelines encourage agricultural investments that “strengthen and secure smallholders’ own investments” (p. 4) and state that responsible investment “should safeguard against dispossession of legitimate tenure rights” (p. 10). Principle 5 of the RAI<sup>2</sup> refers to the FAO’s Voluntary Guidelines on the Responsible Governance of Tenure, which states that while private investment in agriculture is necessary for development, in order to protect tenure rights, states should promote investment models that “do not result in the large-scale transfer of tenure rights to investors, and should encourage partnerships with local tenure right holders” (FAO, 2014: 21). From a rights-based perspective, the former UN Special Rapporteur of the right to food, Olivier de Schutter, developed another set of principles for protecting the human rights of local land users involved in land deals. In contrast to codes of conduct for responsible investment, which de Schutter critiques as working to justify the continuation of large-scale foreign investment in land, the Minimum Human Rights Principles aim to set a much higher bar for evaluating the merits of corporate investment in agriculture. Under these minimum principles, agricultural investments that “lead to changes being made to rights over land will only be a last resort, where no other investment model can be better conducive of human rights” (de Schutter, 2011: 256; Claeys & Vanloqueren, 2013).

Both these approaches position contract farming as a better alternative to land deals involving acquisition just for the fact that smallholder farmers or local land users usually retain ownership rights over their land in contract farming schemes. For example, de Schutter (2011: 262, emphasis added) argues:



The benefits of the investment (in terms of creation of infrastructure, marketing opportunities, and access to credit) could be achieved—and work for the benefit of both the investor and the producer—by the use of other business models *such as contract farming*, without any change being made to the rights over the land. Such alternatives should be explored prior to any shift in rights over the land.

In a similar vein, writing from the perspective of a codes of conduct approach, von Braun and Meinzen-Dick (2009: 3) argue that “contract farming or outgrower schemes are even better [than lease or purchase of land] because they leave smallholders in control of their land.” Importantly, as Vicol (2017) and Martiniello (2021) note, in this literature, the re-framing of contract farming goes beyond its positioning as ‘less harmful’ compared with outright acquisition to its *promotion* as an inclusive and beneficial alternative. In this view, contract farming is an institutional arrangement that can contribute to rural development by integrating or including smallholders into commercial agriculture and global value chains. As Oliveira et al. (2021: 324–325) note, development agencies and governments now promote contract farming as an alternative model that can “expand agricultural investments by integrating the rural poor, rather than displacing them ... [and] without facing judicial complication related to the history of land”. This narrative leans heavily on the notion of contract farming as a ‘win-win’ arrangement for smallholders and agribusiness, one which not only avoids displacement of farmers, but also delivers the output to the investor *and* delivers improved welfare outcomes to farmers (see Oya, 2012). Any imbalance between contractor and company can be addressed by ‘getting the institutions right’. For example, Williams et al. (2021) claim that ‘re-orienting’ land acquisitions to contract farming schemes will increase farmer autonomy and improve land rights and food security for local people, particularly if participation is voluntary. The FAO and World Bank promote contract farming as a ‘collaborative business model’ or ‘mutually advantageous partnership’ that can provide opportunities to smallholder farmers and make agricultural investments more ‘pro-poor’ (Cotula & Leonard, 2010; Deininger & Byerlee, 2011; FAO, 2013). Deininger (2011) argues that contract farming can help combine the assets of investors and smallholders in mutually beneficial relationships, where the only limiting factors are ensuring that well-defined property rights and a proper regulatory framework are in place. The economics literature goes as far as positioning contract farming as a “non-extractive agrarian institution” that can “facilitate the transition to modern agriculture, and thus a broader structural transformation of the economy” (Bellemare & Lim, 2018: 383). The win-win narrative is supported by microeconomic studies that argue contract farming is associated with increases in farmer income and other welfare gains (e.g., Bellemare & Novak, 2017; Bellemare, 2012; Barrett et al., 2012), although the internal and external validity of such studies has recently been called into question (Bellemare & Bloem, 2018; Meemken & Bellemare, 2020).<sup>3</sup>

The land grab literature that takes a more critical political economy approach has also positioned contract farming as a potential alternative. This literature does offer a more critical view of contract farming itself, noting for example that while it may provide a more politically palatable<sup>4</sup> form of commercial farming that allows capital to “achieve similar objectives through a different institutional form”, contract farmers are at risk of *adverse incorporation* into agricultural value chains (Hall, 2011: 202; Oliveira et al., 2021). In other words, ‘win-win’ outcomes are not guaranteed. At the same time, this literature typically argues that contract farming is a more desirable form of investment than land acquisition

simply because farmers can retain ownership of their land. For example, White et al. (2012: 635) argue that if “the penetration of corporate capital into agri-commodity chains may be inevitable”, then we must explore how alternative agricultural investments can be facilitated without change in land ownership. For White et al., contract farming may be a better alternative just for the fact that contract farming schemes do involve local actors and are not permanent arrangements. Similarly, de Schutter (2011: 262), while acknowledging that contract farming can create its own risks and dependencies for farmers, argues that “if properly managed, however, certain forms of contract farming can provide important benefits to the farmers, allowing them to be supported by investments without depriving them of access to their land”. Others have argued that contract farming, unlike land acquisition, does provide opportunities for accumulation to smallholders, even if the terms of incorporation (more or less advantageous to smallholders) may differ depending on context (Hall et al., 2017). In a similar vein, Cramb et al. (2017) argue that compared to plantation agriculture (facilitated by land grabs), contract farming at least provides the *opportunity* for smallholder inclusion and therefore the continuation of smallholder production. Baglioni and Gibbon (2013) suggest that despite doubts about its development outcomes, contract farming, as a ‘middle-ground solution’, warrants support over blanket positions that promote ‘generic prescriptions’ based on what the authors view as a false dichotomy between large-scale plantation agriculture (facilitated by land grabs) and utopian visions of small-scale peasant agriculture.

### ***Contract Farming as a Post-grab Production System***

The positioning of contract farming as an inclusive alternative to land grabbing dovetails with a renewed interest in the land grab literature in *outgrower* schemes as a way to organize production post-land acquisition in such a way that includes smallholders. Outgrower farming can be defined as a particular model of contract farming, where smallholders are linked via contractual arrangements to a core (“nucleus”) estate and/or processing facility (Hall et al., 2017). Like contract farming, outgrowers generally enter a marketing agreement for their produce with the estate, and often also an input supply agreement. The supply from surrounding smallholders is used to augment the supply from the core estate. Outgrower schemes typically focus on plantation-style crops that require timely processing, such as sugarcane, rice, palm oil, coffee, tobacco, cocoa, and tea. Geographically, the literature on outgrower schemes focuses overwhelmingly on examples from Africa (in particular, sugarcane and biofuel crops like *jatropha*), and also Southeast Asia (in particular, palm oil). Beyond these generalizations, like contract farming in general, outgrower arrangements and contracts are highly diverse, ranging from tight contracts that bound smallholders to future harvests, to looser arrangements where smallholders “move in and out of supply agreements, and can choose to sell into local markets” (Smalley, 2013; Hall et al., 2017: 519). In some cases, the contract may in effect cede the control of the outgrower’s land to the estate in return for a dividend as landowner, in an arrangement Matenga and Hichaambwa (2017) describe as ‘shareholder outgrowing’.

Importantly, the land upon which the core estate and processing facility is established is often land that was acquired by the investor via outright purchase or via a land concession. This may include schemes where local farmers are forced to give up some of their land to the core estate in return for enrollment in the outgrower scheme, or where large tracts of land are acquired or dispossessed from local landowners (typically with direct involvement of the state)

and then redistributed to create smallholder outgrower plots and a nucleus estate. Despite these ‘blurred boundaries’ (Suhardiman et al., 2015) between land grabbing and outgrower schemes, outgrowing has attracted support from policy makers and development agencies as a concrete way to make land investments more inclusive of local farmers. As Huggins (2014) argues, encouraging outgrower schemes is viewed as a way to make large-scale land acquisitions and agricultural commercialization more politically palatable because states can point to the incorporation, rather than exclusion, of smallholders. Outgrower schemes are then framed as a pathway to a modern, viable small-scale farming sector existing alongside commercially developed plantations, where smallholders benefit from capital, knowledge and technology transfers (e.g., Herrmann, 2017; Herrmann & Grote, 2015; on small vs large-scale farming in Africa, see Baglioni & Gibbon, 2013; Hall et al., 2017).

Outgrowing is therefore generally positioned in the literature as more desirable than other forms of smallholder articulation to commodity production because it reduces or avoids land dispossession. Outgrowing schemes also potentially provide more spillover benefits for labor, for example wage employment in processing facilities or on the core estate (Hall et al., 2017). Several studies have attempted to disentangle the development impacts of outgrower schemes vis-a-vis other forms of commercial farming (e.g., plantations) that involve land acquisitions. Some studies do find improved outcomes for outgrower participants. For example, Yaro et al. (2017) assessed different commercialization models in Ghana, arguing that the outgrower scheme in the study was not as disruptive to local land tenure institutions, produced broader opportunities for local livelihoods, and had a less dramatic effect on inequality compared to plantation agriculture and medium-scale commercial farming. The authors describe outgrower farmers as ‘semi-proletarianized’ workers who combine outgrowing with seasonal wage work and own production of food crops, affording them better livelihood security than plantation workers, for example. Herrmann (2017) and Herrmann and Grote (2015) use a propensity score matching approach to compare household welfare (income) outcomes between participant and non-participant households in outgrower schemes in Malawi (sugarcane) and Tanzania (rice and sugarcane). In both cases, non-participant households were typically focused on other less commercial crops and farming predominantly for their own consumption. Their analysis finds that outgrower participants show overall positive welfare gains compared to non-participants. This leads the authors to argue that large-scale agricultural investments that implement outgrower schemes have the potential to be poverty-reducing.

Other studies have documented how local people face loss of land as a result of outgrower schemes. McCarthy (2011) and Semedi and Bakker (2014) show how in oil palm outgrower schemes in Indonesia, smallholders can be forced or coerced to handover their land to plantation companies. In Sumatra, McCarthy (2011) documents an oil palm scheme where, facilitated by the Indonesian state, villages surrendered their land as a whole to the estate company. The company then retained 30% of this land and returned 70% to the village as oil palm outgrower plots. This division and allocation of land is controlled by village elites, through processes that are often non-transparent. In one example, one farmer provided 12 hectares to the scheme, then received only a 2-hectare oil palm plot in return. The author therefore argues that the distribution of benefits from the scheme depends on pre-existing social and political structures, often exacerbating local patterns of inequality, inclusion and exclusion. Semedi and Bakker (2014) documented a similar process of state-facilitated land ‘handovers’ in an oil palm outgrower scheme in Kalimantan. Here, farmers that held land in areas designated by the state were required to give up 7.5 hectares in exchange for “2 hectares

of oil palm field, 0.5 hectare of housing land, a timber house and living rations for two years”. The remaining land was split between a similar package for transmigrant farmers (5 hectares) and 2.5 hectares for the company. As a result of the capital-intensive requirements of the oil palm crop, the authors documented that in one area, 78 out of 282 farmers were forced to sell their outgrower plots entirely and were reduced to casual labor in the nucleus estate. In a study of sugarcane in Malawi, Adams et al. (2019) argue that outgrower schemes reconfigure customary or traditional institutions that previously governed land access, leading to “irreversible shifts in the social fabric of local communities” (p. 1437). The authors identified several moments of what they call ‘alienation’, where first customary land is reallocated to village elites with support from the state, who then redistribute the land as private property to participating farmers. Baglioni (2018) found that contracting allowed buyers to discipline the workforce in horticultural production in Senegal, not least because it amounted to transferring costs to direct producers and bypassed hefty regulations applicable to direct employers.

As the aforementioned examples show, outgrower schemes themselves can alter property relations. But outgrower schemes can also institute new forms of dependency and reinforce or reconfigure patterns of winners and losers in agrarian spaces *without* changing property relations. Several studies of outgrower schemes therefore emphasize the importance of analyzing the *terms of incorporation* (Du Toit, 2004) of labor, people, nature and land, even where changes in property relations do not take place. While the narrative of inclusion is used to foster political acceptance of outgrower schemes and investments, the terms of incorporation (or inclusion) can be more or less adverse for smallholders depending on the context (Hall et al., 2017). For example, in an in-depth study of outgrower sugarcane production in Uganda, Martiniello (2021: 357) argues that while outgrowing does not involve *prima facie* displacement of smallholders, it has resulted in “widening patterns of social differentiation and land concentration, through the expulsion of less-competitive farmers from agricultural enclaves”. The author therefore positions outgrowing in this context as a *continuity* of large-scale agricultural investments, enabling capital to expand commodity frontiers more cheaply than would be possible under corporate farming. In a comparison of different investment models in Zambia, Matenga and Hichaambwa (2017: 574) argue that while outgrowing attracts political approval, the sugarcane outgrowing scheme in their study reproduced existing patterns of differentiation and led to “accumulation for a few [and] land scarcity and fragile livelihoods for others”. Other studies of outgrower schemes have documented accelerated processes of land accumulation and unequal power relations (Hervas, 2019), new forms of exploitation of farmers by agribusiness (Huggins, 2014), and unequal burden of production risks passed on to outgrowers (Edelman & Leon, 2013). In other words, while outgrowing schemes may not result in the outright dispossession of land (although sometimes this is the case), through this model, capital can come to *control* land and other resources (including labor) through different means (e.g., the outgrowing arrangement) with just as important implications for agrarian change. This requires a different set of conceptual tools to understand outgrowing (and contract farming more generally) as a form of *land control*.

### **Beyond Grabbing: Contract Farming as a Form of Land Control**

Our fourth thesis—the argument that contract farming can be conceptualized as a form of land control (Peluso & Lund, 2011)—draws from ideas that have been rehearsed in other theses of our typology. However, in contrast with the others, this perspective on contract

farming is anchored more prominently around the question of property over land in contract farming. This thesis is put forward by scholars and activists in different traditions but, owing to its materialist focus on relations of property, seems to be more developed in political economy approaches (Ochieng, 2009; Baglioni, 2018). It is argued that contract farming schemes grant considerable *indirect* control over land use to buyers, aggregators and processors of agricultural commodities, in detriment to the autonomy and independence of direct producers, in most cases smallholder farmers.

Regardless of whether they are formal or informal, contract farming arrangements are predominantly constituted between two parties: on the one hand, the buyers—and this can include traders, processors, core estates and aggregators—and, on the other hand, direct producers or landowners who have access to farmland via ownership or lease. But contracts typically stipulate much more than merely the quantities produced and the schedule of delivery. Particularly in the case of commodities that require considerable labor inputs, monitoring and quality controls, the contract tends to specify the conditions of production, the required characteristics of the delivered product and the conditions in which production is to take place. Conditions relating to agricultural techniques, sourcing of raw materials and tools and labor hiring are common (Little & Watts, 1994; Pérez Niño & Oya, 2021).

Moreover, contract farming arrangements in some cases involve substantial advances in cash, inputs or extension services that are paid for by producers upon the delivery of the contracted product. In this context, farmers are saddled with a range of conditions and are normally indebted to their contracting buyers during the agricultural cycle. Furthermore, contract farming arrangements can also involve the absorption of production costs and risks by direct producers, as they are paid for the commodity produced regardless of the costs incurred. Climatic shocks, labor shortages, and other such disturbances can result in farmers becoming severely indebted. From the perspective of contract farmers, agreeing to produce under such arrangements translates into being required to fulfill this range of conditions; absorbing possible productive shocks; risking becoming indebted, all in return for the security of having a guaranteed outlet for production. In contexts with limited finance available for farming and with few buyers, participating in contract farming schemes, rather than the result of a voluntary decision, becomes the only possible means of sustaining a farming livelihood. Farmers are forced into participation in regions and segments of the market in which there are few available alternatives in farming (Pérez Niño, 2016).

In this perspective, the buyers and processors that source commodities using contract farming arrangements are very different from the groups of investors found in the land grabbing literature. Buyers in contract farming are not interested in acquiring equity over the land, but instead in securing volumes for purchase or in increasing their profit margins by squeezing direct producers. Conversely, contract farmers are not inherently threatened by the prospect of losing their land to investors, but instead disciplined by the very contract arrangement, which can involve increasingly stringent stipulations regarding the methods and timings of farming, strict quality controls and the pricing-setting power exerted by buyers. In this way, contract farmers progressively tend to lose control over the production process and the use of their farmland, even though nominally they retain ownership or access to the land. Alternatively, this can be understood as a form of capital accumulation without dispossession (Shrimali, 2016). This has two implications: First, analytically, it suggests that contract farming can be a mechanism for the subordination of smallholder farmers and their land to the power of merchant capital and commodity markets more broadly, but a form of subordination that is not predicated on land evictions, stress sales or

other forms of land expropriation. Second, evidence from case studies suggests that cycles of indebtedness linked to contract farming can in some instances result in the inability of the contract farmer to retain access to land and indeed in stress sales of land (Vicol et al., 2022). In the more extreme cases of outgrower schemes in which core estates tend to intervene much more in production, at times even limiting the role of contract farmers to that of wage workers or mere recipients of land lease fees, the erosion of the productive autonomy of landowners and the increasing control of core estates is even more stark. Hence, it is argued that contract farming, although not depending directly on the dispossession of smallholder producers, can nonetheless result in forms of exploitation and impoverishment.

From the perspective of agricultural traders, contract farming is an advantageous method to source agricultural commodities without requiring their direct involvement in production (Baglioni, 2018). Here, the contrast with large-scale estates and plantations is useful, especially when considering operations that take place in areas with communal ownership over land or mis-specified property rights over land or operations where the workforce is organized or restless. Contracting, as opposed to buying in spot markets or involving themselves directly in production, allows buyers to bypass the risks associated with acquiring and operating farms, including the costs (political and otherwise) of getting communities to surrender land they own or occupy, as well as the expenses associated with the legal recognition and enforcement of property rights over land, particularly in jurisdictions where property rights are disputed, and land conflicts are rife.

### **Contract Farming and Land: Recentering Agrarian Questions**

This chapter proposes a typology that helps conceptualize the way two contemporary processes—the recent expansion of agricultural production in contract farming schemes and a global crisis of pressures over agricultural land—may interact. The land grabbing and contract farming literatures propose different ways to conceptualize such interactions and the typology presented here summarizes the most salient characteristics in four theses. Moreover, there is evidence from case studies to support the interaction as presented in each of these theses (although the authors of this chapter find one of these accounts more useful for analysis):

The first thesis proposes that contract farming is one of the manifestations of recent processes of land grabbing, corporate land deals and ‘land rushes’.

The second thesis argues that contract farming offers a viable and potentially desirable alternative to outright land grabbing and other forms of adverse incorporation of farmers into commodity production as workers in large-scale plantations and estates. Contract farming could prevent the loss of their land-based livelihoods and their migration to urban centers.

The third thesis sees contract farming as a form of production adopted in the wake of processes of land grabbing, as one possible avenue to reincorporate labor into the appropriated land or more broadly to bring land into production, particularly where large-scale mechanized agriculture is not commercially viable.

The fourth thesis emphasizes that contract farming is, in a certain way, the antithesis of land grabbing, in that the contracting parties do not intend to evict farmers or purchase their land, but on the contrary are interested in farmers retaining their land and producing under contract. Contract farming is a land-based form of indirect labor

control. Moreover, shifting the costs and risks of production onto direct producers - a characteristic of contract farming - results in increasing income insecurity, self-exploitation and indebtedness for producers. This can also result in some farmers losing autonomy and control over all aspects of production and ultimately over the management of their land. In the long run, land ownership is retained at the expense of losing productive control.

Incidentally, this process of impoverishment suggested in the fourth thesis as a possible outcome at least for some contract farmers is captured in the idea of a tendency in capitalist agriculture toward ‘social differentiation’, a central tenet of the agrarian political economy approach. That is, the process whereby expanding commodification results in the segmentations of households that manage to accumulate and reinvest, at times moving into other sectors or hiring workers on their farms; other households that merely manage to continue farming on their own account; and yet others that fail to reproduce themselves as farmers and either become dependent on wage work or are forced to sell off their land (Hart et al., 1989; Cousins, 2022; Martiniello et al., 2022).

As noted earlier, these four accounts of contract farming and land are not mutually exclusive and together chart the different forms and functions contract farming can adopt vis-à-vis corporate pressures over farmland. There is no single effect of contract farming on land relations, since contract farming schemes comprise a varied range of practices and conditions. These range from contract farming schemes in which the landowners do not farm themselves or have very limited participation but receive payments for the production taking place in their plots by nucleus estates, to schemes in which contracted farmers are not the owners of the land, but coordinate the production process (see Table 9.1).

By centering the question of property in relation to the roles of farmers in production in our analysis (‘who owns what’, ‘who does what’ in Bernstein’s (2010) widely cited heuristic device), we gain coordinates that help us organize, analytically, the variations in contract farming schemes and discern in which instances contract farming accelerates or exacerbates land conflicts.

Finally, analysis of the interaction between land grabbing and contract farming that is grounded around the question of property also allows us to distinguish between outright dispossession of smallholder farmers and communities and cases in which farmers retain land property but lose control over the production process. Scholars and activists can debate whether such erosion entails a surreptitious form of land grabbing but would be

Table 9.1 Land and control vectors in contract farming

<i>From the farmers’ perspective ↓</i>	<i>‘Leasing out’ contract farming*</i>	<i>Traditional contract farming and outgrower model</i>	<i>Contract farming with sharecropping characteristics</i>
Property of land	Yes	Yes	No
Participation in production and control over the production process	No	Yes	Yes

\* Characteristic in sugar outgrower schemes operated by core estates and where landowners are only in some cases employed as farmworkers (Dubb et al., 2017).

remiss to disregard that these processes of subordination of direct producers rarely involve outright dispossession. Interventions in the land grabbing literature looking at contract farming schemes will benefit from a more nuanced understanding of this form of production and marketing and attending to the specific characteristics of concrete contract farming schemes.

### Notes

- 1 That is, the overwhelming focus on the quantity of land changing hands as the defining feature of land grabbing, and therefore an overwhelming focus on land deals that involved large tracts of land.
- 2 Principle 5 of the RAI is ‘Respect Tenure of Land, Fisheries, and Forests, and Access to Water’.
- 3 Contract farming proponents have also developed guidelines for ‘responsible contract farming’ that if applied would contribute to creating enabling conditions for producers and contractors to benefit (see da Silva & Pultrone, 2012; UNIDROIT et al., 2015; Viinikainen & Caro, 2018). A problem with such normative formulations is their limited ability to demonstrate that regulatory interventions alone can redress the power differentials that undergird production contracts. Contract farming is less susceptible to regulatory intervention in real world contexts with informal contract farming schemes; communal or customary land tenure; or weak rule of law and regulation enforcement.
- 4 As Oya (2012: 10) argues, “states and donor agencies may maintain their support to contract farming as long as this institution is seen as an acceptable compromise between the requirements of agricultural modernization and capitalist development and the political clout of (organized) smallholder farmers in developing countries, particularly at a time when advocacy against ‘land grabbing’ has gained substantial momentum”.

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# 10

## GMOS, THE LAND GRAB, AND EPISTEMOLOGICAL ENCLOSURES

*Lindsay Naylor*

### **Introduction**

Global industrial agriculture is undergoing a contemporary moment, whereby largely corporate interests have come to dominate the conversation about hunger and land resources. As part of this conversation, genetically modified organisms (GMOs) are taking center stage as the most promising solution (cf. Osiemo 2018; Potrykus 2017; Roberts 2018). Despite evidence that the vast majority of GMOs are not staple foods consumed directly by humans, they are often erroneously touted as the solution to global hunger or as the way to feed a growing global population (Moseley 2017; Naylor 2017). Simultaneously, the amount of acreage planted with GMO crops is on the rise (Paull & Hennig 2019). Corporate interests have captured near-exclusive control over seeds, technical packages, and land as a resource and with it, are attempting to stake claim to a universal mode of agricultural production.

As part of the increase in consolidation over resources and agricultural knowledge, new sites of production are being accessed through leasing land outside of the state where the tenants maintain headquarters. This practice is referred to in this volume as land grabbing. In many cases, the contemporary land grab resembles colonial era claims to land outside of Europe. As decolonial scholars argue, while the colonial period may have reached a legal end, colonial/imperial relations remain in the form of the coloniality of power (cf. Escobar 2007; Mignolo 2002; Mignolo & Walsh 2018; Naylor 2019; Quijano 1997). I have noted elsewhere that “the coloniality of power (Quijano 1997) is a global model of power (Escobar 2007) that details the construction of knowledge, identity, and place through hegemonic structures” (Naylor 2019: 38). As part of these relations, the practice of occupying land through lease is an extension of colonial relations—a neocolonialism that is corporate, rather than state-led. Indeed, Mollett argues, “land grabbing is not simply an economic project,” but a broader extension of the coloniality of power (2016: 427). The neocolonial land grab in progress facilitates the spread of corporate interests and creates a compounding impact on farmers and farmland (Davis et al. 2014; 2020; Dell’Angelo et al. 2017; Mollett 2021).

In this chapter, I examine the layered forms of enclosure that the adoption of GMOs represents. I argue that GMOs both facilitate existing enclosures via large land acquisitions in the form of land grabbing and new enclosures of knowledge production. GMO seed

production in combination with neocolonial land grabbing are sites of corporate consolidation of profit and resources. Drawing on decolonial theory, here I address the dangers of universals and the enclosure of land and knowledge, ultimately suggesting that as scholars, we must multiply the way we think about these sites of enclosure to more effectively dismantle them. To better understand GMOs as a site of multiple enclosures, the following section addresses what they are, where they are, who maintains ownership, and how they are distributed and protected. In the following section, I make the case that GMOs are at home in the universalizing tendencies of capitalist industrial agriculture, which disrupts agricultural knowledges and polycultural practices. Following this foundation, I turn to a consideration of enclosure, discussing the disruption of the commons, enclosure in its multiplicity and the depoliticization of enclosure via the discourses of agricultural development. Recognizing the tendencies of the land grab and GMO crop production, I present a new avenue for analyzing these phenomena through decolonial theory, which opens up our thinking by seeing and explaining the geopolitics of knowledge production and pluriversal thinking. Finally, I discuss how we can re-read GMOs as a form of enclosure that is multiple, with a focus on the production of knowledge.

### **Genetically Modified Organisms**

In this chapter, I reference GMOs with specific attention to genetically engineered crops, farmed on land. GMOs are lab-based technologies that are designed to address common problems inherent in monocultural (single-crop, single variety) agriculture or aquaculture and fisheries, be more productive in yield, withstand herbicides, or maintain a protective genetic trait (Jenkins 2017; Kaplan & Winkler-Prins 2017). I use the language of GMO in tandem with genetically engineered to maintain a focus on the lab-based character of the seeds produced (rather than in-field selection, grafting, or other forms of selecting genetic traits that are accomplished in-situ).

The vast majority of GMO seed production is owned and patented by for-profit organizations and sold in the neoliberal marketplace.<sup>1</sup> GMO technology is designed as a fix for the problems of contemporary agriculture that stem largely from the technical package prescribed by capitalist-industrial methods that were developed mostly in the U.S. and distributed earlier as part of the Green Revolution and maintained through the corporate consolidation of agriculture and the character of contract farming (cf. Little & Watts 1994). As of 2019, the total area planted in GMO crops was close to 200 million hectares and four crops account for roughly 99% of GMO farming: soy (50%), corn (31%), cotton (13%), and canola (5%) (Paull & Hennig 2019: 59). These crops are primarily grown as animal feed, sugar substitutes, fiber, and biofuels (see: Imhoff & Badaracoo 2019; Moseley 2017).

Proponents of GMO crops claim increased productivity of crops, resistance to pests and nutritional benefits, as well as decreased chemical use and potential cost savings. Opponents likewise make strong arguments, including disturbance of human-environmental biomes, displacement of smallholder farmers, corporate greed, ethical concerns, and more. Jenkins (2017) dives into such debates examining how we talk about GMOs and notes that a longstanding debate centers on the question of whether GMOs are safe to consume. Proponents enter this debate by arguing that lab-based genetic modification is only the latest step in plant breeding and that GMOs are among the most tested plants in history, thus making them safe and as commonplace as any genetically altered crop. Opponents point to increased chemical exposure—as some GMOs are engineered to resist the effects,

question if genetic material that has been manipulated will impact our own genetic make-up when consumed, and potential allergen exposure. Such debates have played out over the last twenty years as GMO crop production continues to increase, while consumer groups and non-profit organizations cry out for labelling, moratoriums, GMO-free products and food sovereignty. These debates are largely dichotomous and stagnated, with some exception, such as those advocating for including GMOs in polycultural systems, which include, for example, organic production (see: Ronald 2017; Ronald & Adamchak 2018). I do not seek here to rehash these debates, but instead move beyond them.

GMO seed technology ownership is consolidated, patented, and protected through litigation (Ferrari et al. 2021). Four entities control over 50% of the global seed market, including—at the time of writing—Bayer (owner of Monsanto), Corteva (a spin-off of the DowDupont merger), ChemChina (owner of Syngenta), and Limagrain (an international cooperative) (Howard 2016). With the exception of Limagrain, each of these are corporate, for-profit companies that also specialize in agricultural chemicals. At present, the integration of GMO seeds and chemical inputs is seamless. Bayer and Corteva, for example, impose limitations on production practices with patented seeds, and producers must sign contracts restricting the use of their purchased seeds.

GMOs are produced on a global scale, simultaneously they comprise a significant component of the global land grab underway since the late 2000s, especially in the realm of biofuel production (cf. Baka 2017; Garvey et al. 2019; Gill 2016; Guzmán 2017; Leguizamón 2016). As authors in this volume demonstrate, the global land grab, which constitutes both international and domestic, as well as state and non-state actors, is an opportunistic endeavor that allows groups to acquire farmland to guard against market instability, invest capital, and even gain access to land for non-farming purposes (see also: Sommerville et al. 2014). The U.S., Brazil, Argentina, and Canada represent 40% of all GMO production in the world and 85% of all production happens in the Americas (Paull & Hennig 2019: 59). This phenomenon maps onto corporate control of land through the land grab and also through contract farming.

Not unlike the debates referenced earlier related to GMOs, the land grab has similar dichotomies wherein proponents utilize global food security arguments and modernization-style development tropes to justify large-scale land acquisitions (Brondo 2013; Mollett 2016; Oliveira et al. 2021; Sommerville et al. 2014), whereas opponents point to dispossession of land, livelihood, and food security, as well as strong possibilities of increases in export-oriented agriculture (Borras et al. 2010 in Sommerville et al. 2014). Modeling of crop yield gaps and large-scale land acquisitions illuminates that, if planted in food crops, these large parcels could feed as many as half a billion people if allocated and distributed in equitable ways (Rulli & D’Odorico 2014). However, narratives of feeding the world largely fall flat as the vast majority of production is for biofuels, demonstrating as Sommerville et al. note, a consolidation of economic and political power where “industrial and transportation energy demands are privileged over global food needs” (2014: 252). Moreover, any benefits of expansion or changes in agricultural production through these processes are not realized at the local scale. The simultaneous loss of access leads to, as Davis et al. argue, “significant dietary, social, cultural and economic consequences for rural communities in the targeted areas” (2014: 181). Land dispossession and restricted access to resources is a long-standing form of enclosure. Indeed, many scholars write about the land grab as a form of accumulation by dispossession (cf. Baka 2017; Gill 2016; Hall 2013; Leguizamón 2016; Li & Pan 2021; Mollett 2016; Wolford et al. 2012), which is at the heart of enclosure, which I now turn to.

### Enclosures and the Geopolitics of Knowledge

A significant narrative that drives land grabbing has at its foundation, the invisibilization of smallholder and Indigenous agricultural and agroforestry cultivation and harvesting practices. This universalizing tendency relies on a single narrative of what agricultural production looks like and views areas that become consolidated into large land acquisitions as ‘un-used,’ ‘poorly managed,’ or ‘unproductive,’ and as ‘frontiers’ to dispossess smallholders and Indigenous peoples from their land and other areas of cultivation or harvesting such as forested areas (Gill 2016; Mollett 2016; Sommerville et al. 2014; on the discourses of “wastelands” see: Baka 2017; Mollett 2011). This narrative is not new, but is instead threaded through the violence of enclosure begun in the colonization of the Americas and which spread throughout what is now the global periphery (Naylor & Thayer 2022), where land was viewed as “pristine” (Miller 2007: 9) or unproductive. Additionally, enclosure was applied “at home” as Western Europe worked steadily to create private property regimes in the 16th–18th centuries (St. Martin 2020). Indeed, Marx coined the term ‘land-grabbing’ when discussing enclosure as White et al. note, something they argue is reminiscent of the English estate and colonial-era plantations (2012: 621, 624).

Enclosure is a topic of much scholarly discussion and many examinations focus on dispossession and the occupying and exclusionary character of land theft, sale, or access restriction (Chatterton & Pusey 2020; Jeffrey et al. 2012; Peluso et al. 2011; Vasudevan et al. 2008). Despite the longstanding practice of land seizure and theft across the globe (see: Mollett 2016), many situate enclosure in a Western European and capitalist context, noting enclosure as an original site of the disruption of commons and creation of private property (Naylor & Thayer 2022; see: Blomley 2007; St. Martin 2020; Vasudevan et al. 2008). Tied as it is to capitalism and capitalist modes of production, discussions of enclosure detail the violence of forced labor, dispossession, dislocation, enslavement, and industrial work (Chatterton & Pusey 2020). In the neoliberal era, appropriations of land are considered the “new enclosure” of the commons (cf. Christophers 2018).

Vasudevan et al. sought to move away from the binary of commons versus private property, opening up enclosure to a variety of “scales, sites, and practices,” expanding from accumulation by dispossession to other forms of “appropriation, manipulation, and exploitation” (2008: 1642). In so doing, they used an expansive understanding of enclosure to explain processes of neoliberal restructuring. They saw the contemporary landscape of enclosure as geoeconomic, geopolitical, and biopolitical (ibid: 1644). Here I add epistemological. Vasudevan et al. note that their categories were not without overlap and I argue, epistemological enclosure cuts across all. For the purposes of this chapter, I focus on the geopolitics of knowledge production and GMOs as a form of knowledge enclosure.

As I have written before (Naylor 2017), in rendering problems experienced through industrial agricultural production technical and decoupling them from the power relations that undergird them, fixes become apolitical and universal. Put differently, by ignoring the geopolitics of industrial agricultural production practices, both the problems and solutions enmeshed in them are often presented as the ‘one right way.’ The contemporary land grab and the development of GMO crops are byproducts of this depoliticizing tendency. It also points to a particular geopolitics of knowledge production whereby actors acquiring large tracts of land and corporations developing GMO seeds and their concurrent technical packages take on a trustee role (see: Li 2007), and claim knowledge over the way agricultural production should happen. In relation to the land grab, Gill notes this practice as an

“epistemic othering” through which the people and practices that existed on the land are “incapable of accessing and mobilizing, the knowledge necessary for productively transforming nature in the service of human development” (2016: 702). This epistemic othering maintains the ‘one right way’ mantra of development discourses of modernization and improvement (ibid; Naylor 2019: 33–34).

Universalized ideas about agricultural practice, largely stemming from the development and deployment of Green Revolution technologies in the past, are responsible for a host of agriculture and food access problems that GMO advocates seek to fix. As the discourses of the Green Revolution blend seamlessly into that of the “Gene Revolution” (the widespread introduction and adoption of genetically engineered technologies, indicating a fourth agricultural revolution, see: Fukuda-Parr 2007), it is critical to see the homogenizing and universalizing tendencies with regard to agricultural practice and food access. This universalizing is part of a geopolitics of knowledge production that I seek to disrupt here.

Decolonial scholars point to a colonial/modern geopolitics of knowledge production that stemmed from Europe creating its other through the violence of colonization. Knowledge ‘sits in places,’ yet, as Mignolo writes, “the organization of knowledge was established in its universal scope,” as capitalist accumulation became paramount (2002: 60). Eurocentrism rendered invisible other forms of knowledge and knowledge production that were outside of Europe. Colonialism was the start of a process that is still ongoing as neocolonial globalization that solidifies the hegemony of European capitalism (Quijano 1997). As noted earlier, decolonial scholars argue that colonialism has not ended and that the ongoing practices that maintain a colonial world order is a form of coloniality, whereby people are classed, raced, and otherized in the interest of white supremacy and capitalism (ibid; Escobar 2007). Thus, there is a rationality that has normalized unequal power relations and universalizing knowledge production.

Decolonial theory, however, suggests that knowledge is multiple and that pluriversal thinking is possible. Colonialism and neocolonialism via globalization and modernization-style development facilitated the spread of a singular idea of how to live well (Naylor 2019: 38). The decolonial is a form of “struggle and survival” against coloniality (Walsh 2018: 17 in Mignolo & Walsh 2018). Decoloniality offers the opportunity for place-based knowledge production that decenters hegemonic universals. Decolonial thinking is a process of recovering subjugated knowledges, privileging multiple perspectives and challenging ongoing processes of colonialism (Tuhiwai-Smith 1999).

In this chapter, I am drawing on decolonial theory in intertwining ways. First, to think about enclosure as plural (following from Vasudevan et al. 2008) and to decenter Europe and the commons in how we talk about accumulation by dispossession. Second, to expand on my earlier claim that both land grabbing and the development and deployment of GMO technology are part of a universal narrative on agricultural production and modernization-style development that needs to be disrupted.

### **Sites of Multiple Enclosures**

The planting of GMOs through large-scale land acquisitions and as a significant component of the farmland that is under cultivation globally represents a multiplicity of enclosure. Land grabbing is already and almost automatically associated with enclosure, Marx’s claims notwithstanding, it is now framed as the “new enclosure” brought by neoliberal capitalism (White et al. 2012). Another way that enclosure is multiple is through the



consolidation of the supply chain in fewer hands; here I draw on Leguizamón's (2016) work in Argentina as an example.

Argentina remains the third-largest producer of GMO crops in the world and specifically in GMO soy production for livestock feed and biofuel for export, of which 100% is GMO and 96% is exported (Leguizamón 2016: 313–314). Leguizamón further notes “soybean production in Argentina relies on extensive agro-industrialization, a form of dispossession” and one that is associated with displacement of peasant farmers (2016: 315). The data in this paper show that the soybean industry in Argentina is highly consolidated, with many of the large exporters also owning milling and processing plants (318). Cargill, the world's largest grain trader controls processing facilities, storage and freight companies and port facilities, effectively commanding the entirety of the soy commodity chain (318). Simultaneously, Syngenta and Bayer (manufacturers of GMO seeds) have monopolized the seed market in Argentina, buying local seed and seed treatment companies (318). The use of “sowing pools,” represents an effort by collaborative agribusiness (operating in Argentina and in some cases supported by U.S. funds) to pool large tracts of land specifically for large-scale, tech-driven, GMO production (321). Of the five largest agribusinesses in the state, two are the fourth- and fifth-largest holders of land worldwide (322). This simultaneous expansion and consolidation is documented by other scholars as well (cf. Borrás et al. 2012; Goldfarb & Zoomers 2013; Goldfarb & van der Haar 2016; Hall et al. 2015; Howard 2016; Li 2018; Lund 2018).

The technical package required for industrial agriculture (whether GMO or not) necessitates and facilitates a multiplicity of enclosures, whereby industrial agriculture, overall, is in the hands of just a few corporate entities. Argentina is not the only place that these systems of control are at work and this type of consolidation is documented in other Latin American contexts, including Brazil (Craviotti 2018) and Paraguay (García-López & Arizpe 2010). These are knowledge enclosures, while also being land enclosures, and geoeconomic, geopolitical, and biopolitical enclosures. Land is consolidated and access to land and resources is restricted. Seeds, seed processing, seed and crop sales, technical packages, crop processing, and export are for-profit endeavors funneling profits into fewer hands. The land grab is facilitated by a geopolitics that gives power to the state and to corporate entities, while also being tied to interstate relations that mirror colonial and neocolonial practices and politics. By dispossessing people of land, it shapes livelihoods, resource access, and behaviors in new ways, while also introducing new living organisms out-of-place.

### **Epistemological Enclosures: Seeds and Place-Based Knowledges**

Seeds have been saved, made freely available and tradeable, and provided a form of commons for centuries. Knowledge is amassed in the propagation, hybridization, and cultivation of seeds by people worldwide. However, the privatization of seeds threatens these forms of knowledge. Universalizing narratives shaped by industrial-capitalist agriculture both restrict access to knowledge (e.g. contracts, patents) and dismiss knowledge. Engineering seeds in laboratory environments, making them sterile, and patenting them is epistemological enclosure. It makes seeds private property. As Howard (2016) notes, intellectual property rights, enforced by law (geopolitical enclosure) and government-subsidized research (geoeconomic enclosure) for engineering seeds (biopolitical enclosure) make this possible. It further confirms that the producers of GMOs are the holders of knowledge regarding agricultural production.

There are examples of non-patented GMOs, such as GM papaya, which was developed to save the papaya industry in Hawaii (Jenkins 2017). However, taking a step back it is important to consider why a genetically engineered papaya was the answer to the loss of the industry? An important crop for Hawaii's agricultural industry, the papaya being grown on the island became infected with the Papaya ringspot virus (PRV) in the 1940s (Gonsalves 1998). Unable to control for the virus, the papaya industry was on the brink of collapse. The expansion and intensification of agricultural production is responsible for the existence of such viruses (Rohr et al. 2019). Intense monocultural production using pesticides and reducing biodiversity is responsible for creating the conditions where diseases such as PRV can grow, thrive and spread. And so, once again, a technical fix is called upon to address the technical problems of industrial agriculture. This "fix" is reliant on a single story of what agricultural production is and how it is practiced.

The dismissal of place-based knowledge is a second form of epistemological enclosure that is exacerbated by the global land grab (see: Gill 2018). As noted earlier, the justification for both industrial agriculture and for the acquisition of land occupied or otherwise utilized by Indigenous peoples, smallholders, and peasants lies in dismissing their relationship to and knowledge of the land. As an example, Bobrow-Strain, in writing about cattle ranchers' responses to land occupations by peasants in Mexico, describes ranchers dismay at seeing former pastures being converted to small-scale corn production and claiming them to be "unproductive" (2007: 21). Furthermore, Mollett argues that fundamental to the discourses of the land grab is the use of the metaphor of "empty lands," which serves to render invisible the theft of land from racialized groups (2016: 427). These are common narratives that disrupt place-based knowledges of agriculture and replace them with practices and inputs that are not endogenous.

GMOs predate the land-grab by decades, however, the extent of their function as multiple enclosures grew significantly with large-scale land acquisitions. These forms of enclosure have had significant impact on local livelihoods, access to nutrient-rich foods, and corporate profit (Davis et al. 2014; Howard 2016). However, as part of rendering scholarly knowledges multiple, in this case, it is important to view land grabbing and GMOs not solely through the lens of dispossession, but also resistance.

### **Resistance**

Imbalanced power dynamics are at work in the land grab, and the capacity of Indigenous peoples, peasants, and smallholders to resist efforts to remove them from the land vary. Creating connections to international groups, bargaining for a stake through determining shared interests (Rutten et al., 2017; Salverda 2019), and collective organizing and activism to maintain communal lands (Brondo 2013; Mollett 2021; Naylor 2019) are among strategies that have allowed smallholders to gain ground in their struggles against large-scale land acquisitions and privatization of communal lands. Salverda (2019), in discussing countermovements in Zambia, demonstrates that the acceptance of land grabbing differs from place to place and that pushback may not be against the acquisition of land itself, but may take the shape of demands for work and access. Other approaches, such as those documented by Brondo (2013), show embodied forms of resistance and attachment to place through storytelling about struggles to maintain land.

In the case of Bolivia, Guzmán (2017) documents popular social movements, which are coordinated in their efforts to resist both GMOs and land-grabbing. Focusing on soy

production, Guzmán shows the struggles against the landed oligarchy and the state, detailing small victories, such as changes in laws that protect large landholdings. Notwithstanding successes, ultimately the capitalist-modernization desires of the state retain hegemony. However, Guzmán concludes that, while GMOs obviate the question of land, the struggle remains important and that current organizing and petitions for transformation at the state level are crucial for the struggles of the next generation.

The fight against GMOs is sustained from the late 1990s and takes multiple forms. Protest, moratoriums, boycotts, legal action, seed saving, and sharing, as well as satyagraha (see: Shiva 2021), are among the forms of resistance to genetically engineered seeds. Howard refers to these actions as “reclaiming the commons” (2016: 121). Seed companies are being taken to court across the globe with the support of farmers and civil society (cf. Busscher et al. 2020; Peschard & Randeria 2020a; 2020b). Consumer protests over the introduction of GMOs remain common (cf. Jenkins 2017; Schapiro 2018). Moratoriums still exist against the growing or importing of GMOs at regional (e.g. the European Union) and state-scales (e.g. Japan, Australia) (Turnbull et al. 2021). The non-GMO project (2021) provides a label that assists with consumer boycotts/buycotts. Outside of these actions, which largely take place in the marketplace or capitalistic legal system, there are two resistance strategies that are mostly focused on non-capital exchange: seed saving/sharing.

Despite corporate consolidation of seed production, open pollinated seeds are not yet protected by intellectual property rights and can be freely saved and shared. Seed saving is a millennia old practice that is still underway in many parts of the globe, particularly in the global periphery (cf. Nishikawa & Pimbert 2022; Peschard & Randeria 2020a, 2020b; Silva Garzón & Escobar 2020). This is the practice of selecting and saving seed from crops grown on an annual basis for the next season’s planting. In the global core, the practice of seed saving has gained a renewed interest and seed saving libraries and other exchange practices are proliferating (Kawai 2022; Soleri 2018; Volkening 2018). The banking and saving of seeds received global attention with the opening of the Svalbard Global Seed Vault in 2008 (Nair 2019) and this vault is one of many seed saving structures that exist. These banks and libraries represent conservation initiatives that are rooted in the struggle for human survival (Curry 2019). Casting Svalbard and others as ‘doomsday vaults’ is a particularly stunning indictment of human destruction of the planet and in particular the destructive character of capitalist-industrial agriculture and its so-called fixes (e.g. genetically engineered sterile seeds).

More than this though, seed saving and the concurrent practice of seed sharing are ways to multiply knowledges about agricultural practice. Another way that seeds are saved is through sharing them with others to grow. As an example, a project of seed saving in the birthplace of corn (Mexico) is the Mother Seeds in Resistance project led by the Zapatistas. This project involves sharing their native corn with groups around the globe, who then attempt to grow it, thus multiplying the seeds and knowledge about them (Naylor 2019: 49). As Aguila-Way writes, “the ‘Mother Seeds in Resistance’ seed bank also challenges a long-standing tradition of hegemonizing national narratives that persistently mobilize discourses about agrarian rights to promote the use of Mexico’s agricultural resources for neoliberal ends” (2014: 67). Other such seed sharing arrangements exist worldwide (cf. Ayala Ayala 2018; Sievers-Glotzbach et al. 2020; Tadesse et al. 2017). Such a practice breaks down enclosures constructed by GMO production, which, as Shiva argued early on, would cause “intellectual and cultural impoverishment by displacing other ways of knowing, other objectives for knowledge creation, and other modes of knowledge sharing” (1997: 9–10 in

Aguila-Way 2014: 87). The practice of seed sharing is fundamentally about knowledge creation and, hopefully, the interruption of universals in agriculture.

### **Concluding Remarks**

By opening up the ways that we see the land grab and GMOs as enclosure, we can more readily consider how universalizing and totalizing narratives about agriculture are in a feedback loop that is part of epistemological (geoeconomic, geopolitical, and biopolitical) enclosures that demands decolonization. As Escobar notes in considering designs for the pluriverse, there must be a laboratory moment that severs the Eurocentric imagination from “the South” and instead takes on “multiple onto-epistemic formations from the South so as to redefine design questions, problems, and practices in ways more appropriate to the South’s contexts” (2018: 6). The post–World War II, U.S. industrial technical packages for agriculture, which fundamentally changed the global agricultural system, must become disembedded from the global periphery.

The geopolitics of knowledge production that are ongoing in neoliberal capitalist systems of development and agricultural production have displaced and dismissed place-based knowledge and through this practice have supported waves of dispossession and necessitated struggle and resistance for Indigenous peoples, peasants, and smallholders. The neocolonial practice of land grabbing and the concurrent use of much of that land for the production of GMO crops represents a site of enclosure that is multiple. These processes form a feedback loop where a universalizing idea of how agricultural production should happen creates issue-prone production, which is then in need of a technical fix. Large-scale land acquisition and GMOs perpetuate the problems they purport to solve and maintain damaging universals. To address the problems faced, land grab scholars (and political ecologists) must decenter universals and incorporate place-based pluriversal thinking into agricultural policy, practice and knowledge production.

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### **Note**

- 1 GMO papaya and cassava are examples of non-profit and non-patented seed technologies. However, they are not widely planted as part of large-scale land acquisitions and thus are less central to the analysis in this chapter.

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## **PART 4**

# **Taking Land for Conservation, Eco-Tourism, Renewable Energy and Carbon Markets**



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# GREEN TERRITORIALITY AND RESOURCE EXTRACTION IN CAMBODIA

*Sarah Milne, Tim Frewer, and Sango Mahanty*

## Introduction

Cambodia's recent efforts to expand protected areas and reinforce state control over natural resources exemplify the phenomenon of "green grabbing" in the Global South. The term "green grabbing" generally refers to acts of territorialisation that alienate land and appropriate resources for supposedly environmental ends (Fairhead et al. 2012). At a fundamental level, this echoes processes of "territorialisation", where state institutions and territorialising practices are used to assert and strengthen claims over land and natural resources (Vandergeest & Peluso 1995). The instruments of territorialisation can include mapping, law-making and other material and symbolic acts of control such as boundary demarcation and patrolling. In Southeast Asia, these practices have long been associated with the assertion of state power, especially over forested land and resource frontiers (ibid.).

Although forms of green territorialisation have existed since the 19th century, what makes contemporary green territorialisation novel is the involvement of diverse actors, including state agencies, non-government organisations (NGOs), consultants, corporations and multilateral donors (Corson et al. 2013; Fairhead et al. 2012). The relationship between contemporary green grabs and advanced capitalism has been noted (Brockington & Schofield 2010; Lohmann 2012) – especially the role played by private actors, which either seek profits from carbon forestry projects (Lansing 2011; Osborne 2015), or channel funding into market-inspired conservation initiatives (Corson et al. 2013). The emergent "green economy" therefore involves commodification, territorialisation and financialisation of nature and ecosystem services.

In this context, we examine the case of Cambodia, where land-based investments linked to the global land grab have played out vividly alongside transnational green interventions and state-backed green territorialisation (e.g. Milne & Mahanty 2015; Schoenberger et al. 2017; Scheidel & Work 2018). Case studies from similar contexts show how this phenomenon of "green territoriality" can re-make frontiers and re-frame property rights, often with the effects of alienating local people, favouring state power and facilitating elite-backed resource extraction (e.g. Hein et al. 2020; Woods 2019; Rasmussen & Lund 2018). We explore these processes in Cambodia, where mechanisms of green territorialisation include the creation of

protected areas, community forests and climate change mitigation schemes, among other things. We show how these mechanisms require state power to function, yet they are typically financed and legitimised by international actors. In Cambodia, this has created unique conditions for illicit resource extraction under a green guise, in aid of ruling elites.

This chapter draws from the long-term fieldwork and research in Cambodia, conducted by the authors. The chapter is organised into three sections. First, we explore the vast state-led environmental enclosures that now see over 40% of Cambodia's surface area zoned for conservation of some kind. This makes Cambodia the country with the second-highest rate of protected area coverage in the world, after Bhutan (Loughlin & Milne 2021). Second, we explore the political economy of these enclosures, by questioning the Cambodian government's apparent and sudden embrace of environmentalism. We suggest instead that there is a "geography of extraction" at play here within government-held protected areas, often enabled by transnational conservation interests (Milne 2015). Third and finally, we explore the role of international environmental actors and mechanisms in Cambodia's processes of green territorialisation and state-led extraction. Here, we argue that the presence of international environmental organisations can greenwash underlying processes of illicit extraction and authoritarian state-making in protected areas. Cambodia's green grabbing phenomenon therefore reflects a paradox that some refer to as "post-frontier resource governance" (Larsen 2015), in which green enclosures form part of a larger trajectory of extraction and frontier reinvention.

### **Green Territorialization: State-Making and Environmental Enclosures**

The enclosure of Cambodia's vast forested lands has been a feature of colonial power and state-making for over a century. Here we trace forest territorialisation in Cambodia from the colonial period (1863–1953); through subsequent decades of conflict and nascent state-making (1980s–1990s); and now in the present era of a re-territorialised set of conservation areas, under firm state control but with international donor and NGO support (2010s–). By tracing the evolution of green territorialisation in Cambodia, we show how it relies on government power, while also serving state-making and extractive agendas.

#### ***Forests in the Twentieth Century***

During the French colonial period, a series of forest reserves were established in Cambodia. The logic of these reserves was to "conserve ecological stability of forest areas" and to harvest valuable hardwoods (Cleary 2005, 263). Cambodia had the highest concentration of forest reserves in Indochina, but the system suffered from chronic under-resourcing and unregulated extraction of timber (Namba 2020). As Cleary (2005) notes, the French *Service Forestier* established a particular rationale of forest governance which had a lasting legacy: a bureaucracy that claimed to save forests from the destructive practices of peasant cultivation, through the creation of centrally controlled concessions. Many of these early forest reserves today exist within Cambodia's protected area system. Others, however, were cleared to become rubber plantations in the 1920s (Aso 2010), such as Snoul in Kratie province. The trajectory of Snoul – which in 1993 was converted back into a Wildlife Sanctuary, only to be de-gazetted in 2016 after land concessions caused substantial deforestation – speaks to the convoluted legacy of intertwined colonial forestry and concession systems.

After independence, during the Sihanouk era (1953–1970), Cambodia’s national park system began to emerge from the colonial forest reserves (IUCN 1974). However Cambodia’s forests soon became havens for Khmer Rouge and Viet Cong troops, involved in protracted struggles associated with the devastating Indochina War. The use of forests as strategic hide-outs by guerrillas echoed a long tradition in Cambodia, seen for example in ethnic Bunong uprisings against French colonialism (Gunn 2014). Under the Sihanouk and Khmer Rouge regimes, forests were militarised and uprisings were quelled with violence – just as occurred with nineteenth century Bunong resistance. The spatial distribution of armed conflict in Cambodia has shaped contemporary forest cover and protected areas. At the end of the twentieth century, Cambodia’s forests were standing precisely because they were former territories of guerrilla forces.

As Margaret Slocumb (2002) notes, the mentality of forest management in 1980s Cambodia was “one of stewardship” where decentralised conservation and modest forest exploitation could generate much needed revenue, albeit tempered by weak state capacity. Yet the continuation of armed conflict in forested areas meant that forests became important buffer zones between government controlled territory and areas still held by the Khmer Rouge. The presence of mines and security risks associated with the Khmer Rouge also limited settlement and clearing of these forests. Yet by the mid-1990s, the Khmer Rouge had formed lucrative logging deals with Thai companies in the border areas purportedly generating millions of dollars per month (Global Witness 1995). Later, as the Khmer Rouge’s power declined, other political forces such as the Cambodian People’s Party took advantage of lucrative timber rents (Le Billon 2000). Eventually, with the 1991 Paris Peace Accords in place, former war-zones would become slated for conservation.

### *Establishing Environmental Governance in Cambodia (1990s–2000s)*

In 1993, the Ministry of Environment (MoE) was created and charged with managing a new Protected Area system, then covering 18% of the country (Paley 2015). These protected areas were declared by King Sihanouk, under Royal Decree, being a product of historical enclosures and post-war borderlands. In 1995, Cambodia then signed the United Nations Convention on Biological Diversity (CBD) and the Framework Convention on Climate Change (UNFCCC), which prompted the adoption of national benchmarks for environmental management. From early on in the nascent state, participation in international environmental governance was encouraged by the highest levels of government. The MoE led the implementation of this global environmental mandate on the ground, with support from donors like the Global Environment Facility (GEF).

Despite MoE’s mandate, it was not considered to be a very lucrative or powerful ministry at the outset (Milne 2022). In the early 2000s, real territorial power lay with the management of the then vast Forest Estate, controlled by the Ministry of Agriculture, Forestry and Fisheries (MAFF). The paradigm in MAFF was one of production, given its mandate to manage logging concessions (Le Billon 2002). However, rapacious and unmanaged logging led to a dramatic logging ban and the demise of commercial timber concessions in 2001. MAFF then took on a new task of “conserving” the Forest Estate, which in practice involved implementation of the 2002 Forestry Law (see Table 11.1), with the aim of forest protection. This attracted international interest, and with GEF backing, global conservation organisations stepped in to assist by creating several Protected Forests within the Forest Estate: these were former forest concession areas, newly designated for conservation under prime ministerial sub-decrees.

Table 11.1 Legislation governing land, forests and protected areas in Cambodia

<i>Regulations</i>	<i>Key provisions</i>
1992 Land Law <sup>‡</sup>	Allows registration and sales based on “possession”; enables “concessions” for land over 5 hectares
2001 Land Law <sup>§</sup>	Enables systematic land registration to promote tenure security, land markets, investment
2002 Law on Forestry <sup>³</sup>	Addresses management, harvesting, use, development and conservation of forests towards “sustainable management for social, economic and environmental benefits”; delegates management of protected areas to MOE
2003 Sub-Decree No. 19 on Social Land Concessions <sup>³³</sup>	Provides for the non-transferrable allocation of state lands to poor/displaced families for residential and/or farming use
2003 Sub-Decree on Community Forestry Management <sup>#</sup>	Sets out rules for rules for the establishment, management and use of community forests on state public property
2005 Sub-Decree No. 146 on Economic Land Concessions <sup>††</sup>	Major growth in agricultural concessions until moratorium in 2012
2008 Protected Areas Law <sup>*</sup>	Eight categories of protected area (following IUCN): national parks, wildlife sanctuaries, protected landscape, multi-purpose-use management area, biosphere reserve, natural heritage site, marine park, RAMSAR site. In national parks, sustainable use zone can incorporate “community protected areas” and actively used “community zones”
2009 Sub-Decree on the Procedures of Registration of Land of Indigenous Communities <sup>§§</sup>	Indigenous communal title for registered Indigenous bodies.
2012 Order 01BB on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions <sup>†††</sup>	Moratorium on ELCs, that also included a rapid land titling initiative that grants titles for many “possessed” lands (≤5 ha)
2016 Sub-Decree No. 69 on the Transfer of Protected Forest, Forest Conservation and Production Forest Areas, and Economic Land Concessions between MAFF and MOE <sup>###</sup>	Transfers management of protected forests from MAFF to the MoE

*Notes*

- ‡ Royal Government of Cambodia, Land Law (1992).
- § Royal Government of Cambodia, Land Law (2001).
- ³ Royal Government of Cambodia, Law on Forestry (2003).
- ³³ Royal Government of Cambodia, Sub-Decree on Social Land Concessions No. 19, ANK/BK, March 19, 2003.
- # Royal Government of Cambodia, Sub-Decree on Community Forestry Management, No. 79, 2 December 20.
- †† Royal Government of Cambodia, Sub-Decree on Economic Land Concessions No. 146 ANK/BK, 2005.
- ††† Royal Government of Cambodia, *Measures to Strengthen and Increase the Effectiveness of the Management of Economic Land Concessions*, May 7, 2012.
- §§ Royal Government of Cambodia, Sub-Decree on the Procedures of Registration of Land of Indigenous Communities, 2009.
- ### Royal Government of Cambodia, Sub-decree on Transfer of the Protected Forest, Forest Conservation and Production Forest Areas, and Economic Land Concessions between MAFF, and MoE. No. 69, 28 April 2016.

This history produced a two-tracked conservation system, where MoE managed Protected Areas and MAFF managed Protected Forests. The two Ministries, together with their counterpart international NGOs, then competed for donor funding. The inter-ministerial dynamic was also initially shaped by party politics, dating back to when Cambodia was governed through a coalition of Hun Sen's Cambodian People's Party (CPP) and the Royalist FUNCINPEC Party (1993–1997).<sup>1</sup> During this power-sharing and state-making phase, patrimonial control over Ministries was divided along party lines, with Hun Sen ensuring that powerful and lucrative ministries went to the CPP. Thus, the CPP took MAFF with its resource rents, while the MoE became FUNCINPEC-aligned. This legacy of weak and strong ministries, and their party-patronage alignments, was felt well into the 2000s, by which stage the CPP had taken full control over the state apparatus (Hughes 2003). Cambodia's recent state-making history, outlined earlier, has created complex jurisdictional and legislative domains for the management of forested land, as shown in Table 11.1.

### ***Contemporary Resource Grabbing and Green Territorialisation***

By the mid-2000s, an unprecedented phase of land grabbing and forest loss was underway in Cambodia, especially after the 2005 sub-decree on Economic Land Concessions (ELCs). By 2012, this land grabbing had garnered international attention, with more than two million hectares of land enclosed for ELCs and up to 800,000 people affected by dispossession, displacement and land conflict (Neef et al. 2013). Importantly, Cambodia's land grab has relied upon the government's ability to convert "state public land" into private concessions, through the category of "state private land" or land deemed no longer to have public value (Loughlin & Milne 2021). The category of state public land, typically applied to natural ecosystems of "public value", is therefore instrumental in state appropriation of land. This classification is often made for environmental reasons, but is later used by state actors for the issuing of ELCs or other enclosures.

Today, vast areas of forest, floodplain and apparently uncultivated land are categorised as state public land in Cambodia. Among other things, these circumstances reflect government unwillingness to recognise the customary rights of farmers and Indigenous peoples (Diepart & Sem 2018; Oldenburg & Neef 2014), as well as historical socialist preferences for recognising collective use of resources, rather than private property (Springer 2013). In tandem, the 2002 Forestry Law declared all natural forests to be state public land, with only vague allowances for customary user rights in those areas (Milne 2013). These conditions rendered countless villagers into squatters, leaving them vulnerable to state-led land enclosures, whether for protected areas or ELCs. Table 11.1 summarises the legislation that has enabled these conditions to prevail.

The two Ministries holding most of Cambodia's state public land during the land grabbing boom (2005–2012) were the MoE and MAFF. Both were involved in the issuing of ELCs, with the MoE approving 113 ELCs *within* protected areas, which by that stage covered 26% of Cambodia's land area (Souter et al. 2016); and MAFF signing agreements with 122 companies covering 1.2 million hectares from 1996–2015 (Agence Kampuchea Press 2015). Thus, governmental enclosures of "natural" or "unoccupied" land through the creation of Protected Areas and the Forest Estate played a key role in Cambodia's land grab, which involved government officials issuing ELCs to domestic elites and international companies.

Amid rising tensions over dispossession and forest destruction, Hun Sen declared a moratorium on ELCs in 2012. He then announced a suite of reforms, under Order 01, effectively



giving rise to a new land governance regime (Loughlin & Milne 2021). Key elements of this reform package involved a national review of ELCs, as well as significant adjustments to the jurisdictional domains of the MoE and MAFF, announced in 2016. Ultimately, these reforms *consolidated* and *expanded* the areas of forested land and natural ecosystems slated for protection by the MoE, while transferring all land under ELCs into the productive portfolio of MAFF. Loughlin and Milne (2021) refer to this process as “re-territorialisation”, because it involves realignment and hence reassertion of state control over land and resources. Similarly, Hak et al. (2018) note that re-categorisation, or new efforts to recreate and reassert state public land, have long been used to extend state control over contested land. Here, the Order 01 titling scheme also contributed to re-territorialisation, since land that was left untitled remained *de facto* state public land (Milne 2013).

The Cambodian government’s re-territorialisation of state land since 2012 has played out with much political fanfare. Key announcements came in major speeches by Hun Sen: first in relation to Order 01 in 2012, and later in relation to the jurisdictional reforms in 2016, when it was declared that the government would “take back” nearly one million hectares of public land that had been handed out to investors, while allowing a now reduced 1,090,000 hectares to remain under ELCs (see Loughlin & Milne 2021). This was the result of the long-awaited “ELC review”, announced in 2012 and executed in 2016. Although Hun Sen emphasised forthcoming land rights for small-holders in his review, there were never any maps of the land to be given back, nor was there a publicly available list of the ELCs being revised. Promised titles for farmers near ELCs and forest frontiers, under Order 01, similarly failed to materialise in a systematic way (Grimsditch & Schoenberger 2015). Subsequent analysis has revealed that around 780,000 hectares of former ELCs were re-appropriated from concessionaires by the government, with unclear end uses (Diepart & Sem 2018).

The 2016 jurisdictional reforms were less ambiguous, especially with regard to the respective roles and territories of the MoE and MAFF. The MoE would govern all land for conservation and the environment, while MAFF would govern land for development and production (Souter et al. 2016). This resulted in the transfer of 74 ELCs from MoE to MAFF, and “in return” MAFF transferred 18 protected forests to the MoE for inclusion in the newly consolidated protected area system (see Figure 11.1). Subsequently, in January 2017, an additional suite of Biodiversity Conservation Corridors was declared, to provide connectivity between Protected Areas, also to be governed by MoE (RGC 2017). Cambodia’s protected area system now covers over 7.4 million hectares, a remarkable 41% of the country’s surface area (*ibid.*).

Although Cambodia’s new protected area system has emerged from the combination of older MoE and MAFF systems, it also entails expanded state territorialisation under new categories of protection. For example, five new protected areas, covering over one million hectares of forest and grassland are included, along with new Biodiversity Conservation Corridors (Souter et al. 2016; RGC 2017). These reforms therefore have major implications for farmers and Indigenous people that rely upon natural resources within protected areas, without formal resource rights. Notably, the 2008 Protected Area Law allows for “community development” and “sustainable use zones”, but it provides very limited scope for communities to secure formal or enduring resource rights or land titles (Paley 2015; UNDP 2019).

There is now a flurry of re-territorialising activity underway in Cambodia, being led by government actors with support from international NGOs and donors. Most of this activity involves demarcation and management of protected areas, given that all but one of

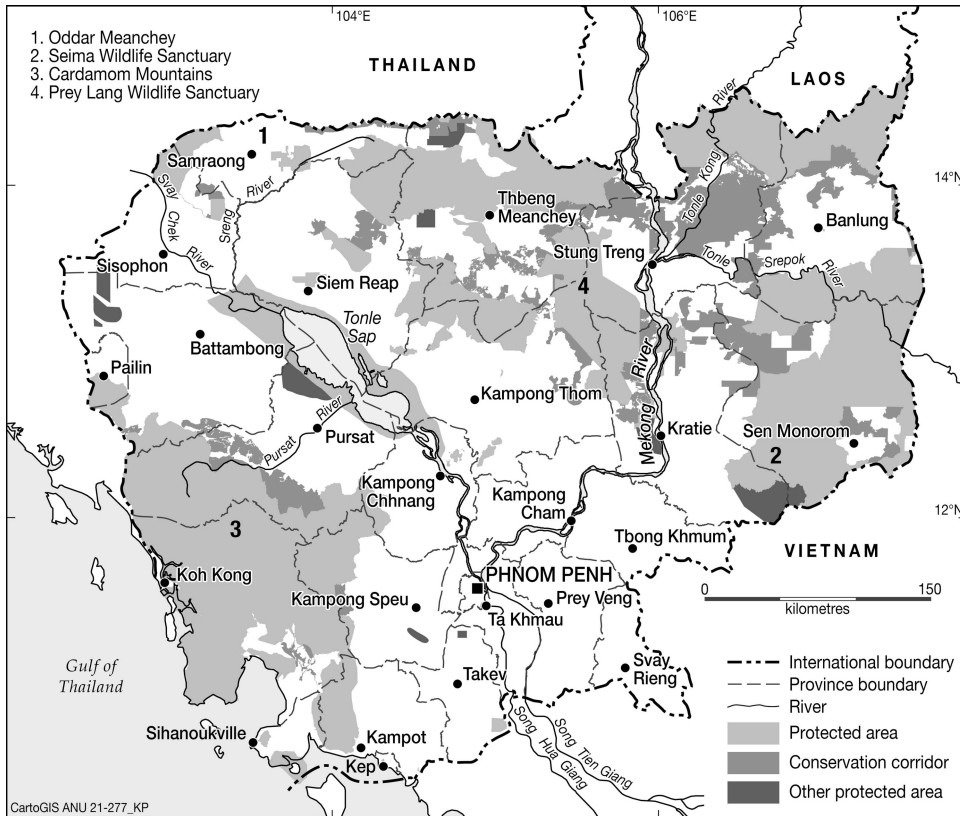


Figure 11.1 Cambodia’s new protected area system, 2017.

Notes: PA = Protected Area; CC = Conservation Corridor; RAMSAR = Wetlands Convention.

Source: Map prepared by ANU College of Asia and the Pacific GIS, using data from RGC (2017).

Cambodia’s 51 newly declared protected areas needs “land registration and demarcation in the field”, not to mention law enforcement (MoE 2017, v). Loans and grants from international donors have been forthcoming to support this work. For example, in 2018, the US Agency for International Development (USAID) established the US\$21 million Greening Prey Lang project in partnership with the MoE; and in 2019, the World Bank initiated the US\$53 million Sustainable Landscape and Ecotourism project in the Cardamom Mountains, also in partnership with the MoE (World Bank 2021).

Yet, this high-profile funding has not necessarily addressed threats or improved conditions in protected areas. A combination of weak law enforcement, human rights violations and ongoing environmental degradation prevails (GI-TOC 2021; Flynn et al. 2021). Meanwhile, villagers’ land claims and contestation by grassroots NGOs is often violently repressed (Loughlin & Milne 2021). Indeed, this reflects a persistent dynamic in Cambodia’s protected areas: the government chooses compliant NGO partners to work with, like mainstream conservation organisations, while at the same time harassing and delegitimising less compliant local NGOs by framing them as “disruptive” or “not registered” – as the

cases of Prey Lang (Strangio 2021) and the Cardamom Mountains (Milne 2021) illustrate. Only occasionally has this dynamic garnered an international response: in March 2021, an open letter from international scholars and activists was sent to USAID regarding illegal logging and harassment of local communities in Prey Lang;<sup>2</sup> and in June 2021, USAID pulled its support to MoE for the Prey Lang project (Strangio 2021). Whether this has any impact on local conditions remains to be seen.

In summary, the Cambodian government's assertion and expansion of state public land through the updated protected areas system is a major act of re-territorialisation. This development has profound implications for two reasons. First, having 41% of the country now designated for protection by the state deeply cements state territorial control over so-called natural areas, with weak prospects for local resource rights (see RGC 2017). Second, and more concerning, protected areas expand the state's territorial monopoly, which previously has been used to facilitate highly lucrative, illicit resource extraction by the ruling elite (Milne et al. 2015; Cock 2016). We will now illustrate this problematic relationship between green territoriality and extraction in contemporary Cambodia, before concluding.

### **Resource Control and Extraction under the Guise of Green Territorialisation**

The Cambodian government's recent re-territorialisation of protected areas and biodiversity corridors, described earlier, demands critical scrutiny. This is because there is now abundant evidence of a nexus between official protection of forested lands and illicit extraction (e.g. GI-TOC 2021; Käkönen & Thuon 2019; Work et al. 2022; Global Witness 2007; Milne 2015). In this section, we examine how the protection-extraction nexus plays out in four illustrative cases, to show how green territorialisation creates new frontiers for resource control in Cambodia, which serve both state-making and extractive agendas (cf. Larsen 2015; Rasmussen & Lund 2018; Loughlin & Milne 2021). Furthermore, we demonstrate the intimate involvement of international environmental actors in these processes.

Recent history must serve as a warning, as the CPP now reasserts its control over state public land, ostensibly for environmental reasons. As described earlier, Cambodia's land grabbing boom entailed the issuing of ELCs from state public land, much of which was either Forest Estate under MAFF or Protected Areas under MoE. Furthermore, 70% of these ELCs either overlapped or bordered onto protected areas (Milne 2015). This was significant because it enabled concessionaires and/or their sub-contractors to extract timber beyond ELC boundaries. The result was windfall profits from logging, from two sources: (i) clearing of natural forest within designated ELC lands, apparently for plantation development; and (ii) illegal logging of timber-rich protected areas adjacent to ELCs, using ELC licences to "launder" the timber (Milne 2015; GI-TOC 2021). Laundering of illicit timber from protected areas is also common in the vicinity of hydropower dams, where government-linked contractors gain licences to clear forest within soon-to-be-flooded reservoir areas (Milne 2015).

On a national scale, illicit revenues from this extractive activity are staggering, easily reaching tens of billions of dollars. Indeed, this illicit extraction is so systematic and significant that it is implicated in state-making processes themselves, being apparently orchestrated to serve Cambodia's ruling elite (Cock 2016; Milne 2015). Here, illicit revenues are often end up funding core state activities such as the building of schools, ranger stations and museums, not to mention contributions to ruling party coffers (Milne et al. 2015). This has prompted wider discussion on the prominence of "illicit state financing" in Southeast Asia, in which territorialisation plays a key role (Baker & Milne 2015).

To illustrate contemporary modalities of green territorialisation and illicit extraction in Cambodia, we now describe four cases, summarised in Table 11.2. The cases are iconic forest conservation projects that have been active over the last decade, sometimes with longer histories. All have enjoyed international funding and technical support, often with links to global carbon markets through the REDD+ mechanism (see Mahanty et al. 2015) or the Clean Development Mechanism (see Käkönen & Thuon 2019). Finally, all of the cases use government-led green territorialisation, while also being subject to extractive projects including licit and illicit logging, ELCs, dams and even Social Land Concessions (SLCs).

Cambodia's first REDD+ project was in **Oddar Meanchey** province. Under the direction of the then Forestry Administration director in MAFF, backing was secured from Hun Sen to pursue REDD+, through a partnership with the US NGO PACT. The project was based in heavily mined forests around the base of the Dangrek Mountains, a former buffer zone between Khmer Rouge strongholds and advancing government forces. Forested patches were secured using the Community Forestry (CF) sub-decree under FA authority, for the purposes of generating carbon credits through REDD+. Over time, however, this newly territorialised forested area was settled by soldiers of the Royal Cambodian Armed Forces (RCAF): they began to clear forests in the CF areas, with the blessing of unseen powerful officials (Frewer 2021). After challenging high ranking members of the RCAF over these forest incursions, and amid other controversies related to illegal logging under MAFF's watch (Milne 2015), Hun Sen publicly fired the director of the Forestry Administration

*Table 11.2 Contemporary cases of the extraction-protection nexus in Cambodia*

<i>Site (shown in Figure 11.1)</i>	<i>Green interventions</i>	<i>Resource extraction</i>	<i>References</i>
Oddar Meanchey (1)	CFs in Forest Estate REDD+ (2008–2018)	Illegal logging Military-backed land grabbing Adjacent ELCs and SLCs	Frewer 2021
Seima Wildlife Sanctuary (2)	Protected Area, formerly Forest Estate REDD+ (since 2010) Communal land titling	Illegal logging Small-holder land-grabbing ELCs adjacent to PA	Mahanty & Milne 2016; Milne 2015; Mahanty et al. 2015; Mahanty 2022
Cardamom Mountains (3)	Five contiguous PAs REDD+ in preparation Order 01 Land titling CDM carbon credits World Bank project (2019-)	Illegal logging Hydro-power dams Small-holder land-grabbing Sub-decree excising land (2021)	Käkönen & Thuon 2019; Milne 2015; Milne 2021; Flynn et al. 2021
Prey Lang (4)	Two PAs REDD+ underway Community-based protection USAID project (2018–2021)	Illegal logging in and around ELCs Timber concession	Work et al. 2022

(Channyda 2010). This left the flailing REDD+ project without political leadership, and unable to stand up to the extractive activities of the RCAF: it soon failed, in an embarrassing fashion for proponents of REDD+ and nascent carbon markets (Frewer 2021).

Cambodia's second REDD+ project was developed in parallel to that of Oddar Meanchey from 2010–2016, in what was then called the Seima Protection Forest under MAFF, now the *Keo Seima Wildlife Sanctuary* under MoE. This REDD+ project relied on a firmer territoriality than the Oddar Meanchey project, given that the forests in question were officially protected. The project also grew from a long-term conservation project with the backing of the NGO Wildlife Conservation Society, which brought significant technical support and oversight. While the project is still intact, with donor and NGO engagement ongoing, it has not been unaffected by the pressures of extraction coming from powerful elements within the Cambodian government. For example, adjacent to the project area were two MoE Wildlife Sanctuaries: the now de-gazetted Snuol to the west, and Phnom Prich to the north. Both of these areas suffered from overlapping ELCs and illegal logging rackets, which spilled over their boundaries into the Seima conservation area (Milne 2015; Frewer 2021). The well-known timber tycoon Oknya Ol ran this logging, making use of the government's territorial monopoly over conservation areas, until his 2019 arrest (Vichar 2019). Timber coming out of these forests formed a major part in the booming illicit trade of luxury timber to Vietnam in the late 2010s (Environmental Investigation Agency 2017; Mahanty 2022).

The *Cardamom mountains* conservation landscape bears many parallels with that of Seima, being the site of long-term conservation investments by international NGOs in the Forest Estate and in MoE-backed protected areas (Milne 2021). The landscape entails over one million hectares of remote forested land, with northern flanks of the area having been a buffer zone and Khmer Rouge stronghold in the 1990s. From 2009 onwards, a series of hydropower dams and associated roads have been constructed, mainly in what was then called the Central Cardamoms Projected Forest under MAFF. The dam construction activity led to major illegal logging rackets focussed on rosewood (*Dalbergia cochinchinensis*) across the conservation landscape, which were controlled by government-backed tycoons in carefully designated territorial monopolies (Milne 2015). Despite the strong international involvement in this conservation landscape, no one was able to stop the rosewood logging, even after Cambodia's most prominent environmentalist was murdered trying to disrupt the trade (Milne 2022).

Today green territorialisation in the Cardamom Mountains proceeds apace. For example, an ambitious new REDD+ project, covering over 500,000 hectares of forest is prompting the MoE to re-territorialise and assert its green credentials. Partnering with NGO Wildlife Alliance, the MoE has increased its ground patrols, with the aim of improving forest law enforcement (Wildlife Alliance 2021). If the project is successful, it will be a financial boon to the MoE, which expects to secure “several hundred million dollars” of climate finance in the upcoming years, after the 2016 reforms (Frewer 2017). In addition, the World Bank's major Sustainable Landscape project with MoE is now underway in the area (World Bank 2021), alongside other NGO-backed funding bids.<sup>3</sup> The problem is that major extractive threats are on the horizon: in May 2021, the government announced Sub-decree No. 30 that will excise nearly 127,000 hectares from the region's protected areas, with unknown end uses for this largely forested land (Flynn et al. 2021). Thus, as transnational green territorialisation advances, new frontiers for government-led exploitation emerge.

The final case is that of *Prey Lang*, the most extensive remaining lowland evergreen forest area in Mainland Southeast Asia. In 2016, the MoE established a new Wildlife Sanctuary in the area, making it Cambodia's largest protected area; and this received enthusiastic support from USAID, along with international NGOs like Conservation International<sup>4</sup>. Tellingly, while the government pursued its territorialising "conservation" agenda in this area, elite-backed illegal logging has also thrived (GI-TOC 2021). Much of this logging activity can be linked to the *Think Biotech* company, operating on the eastern edge of Prey Lang, and the well-connected timber processing company *Angkor Plywood* (Work et al. forthcoming). Both companies are implicated in lucrative timber smuggling from Prey Lang to Vietnam, to the tune of hundreds of millions of dollars in recent years (GI-TOC 2021). The MoE's stubborn refusal to acknowledge this logging suggests deep government involvement.

Even more problematic has been the government's efforts to silence those who contest the logging, along with the generalised inaction of international conservation actors in the Prey Lang landscape. Here, the remarkable efforts of local villagers and activists working through the Prey Lang Community Network (PLCN) has garnered international attention. These actors have become famous for their direct action against land grabbing and illegal logging in the Prey Lang area, including in the adjacent Prey Preah Rokha Wildlife Sanctuary (Biggar 2020). Yet the PLCN and other grassroots environmentalists have suffered intimidation and violence for trying to expose the logging (Strangio 2021). The situation remains in flux, after USAID pulled its funding from the Greening Prey Lang project in mid-2021 (described above). This shows that international actors *can* make a stand, although with unknown consequences.

The four cases described earlier show how green territorialisation unfolds in different physical and administrative landscapes across Cambodia, often with transnational dimensions. In Oddar Meanchey, the FA's failure to territorialise its project area occurred due to powerful military interests, which exploited the newly created frontier. In Mondulhiri and the Cardamom Mountains, green territorialisation has been largely successful, in spite of widespread elite-backed rosewood extraction from 2009 to 2015. In both cases, REDD+ now looks set to provide an official revenue stream to the MoE, which may legitimise its role as the official manager of these forest landscapes. Recent developments in the Cardamom Mountains, however, point to higher order threats (Flynn et al. 2021). Finally, in the case of Prey Lang, the MoE has recently territorialised these forests through declarations of new Wildlife Sanctuaries, while prohibiting the activities of Indigenous and grassroots groups involved in contesting the illicit timber trade that is thriving under MoE's watch. In all cases, we see government power prevailing in the interests of elite accumulation, at the expense of local villagers.

## **Conclusion**

In this chapter, we have described how Cambodia's "green grabbing" phenomenon works through two key elements or processes: (i) state-led green territorialisation, chiefly through the declaration of government held Protected Areas and Forest Estate; and (ii) international legitimisation of these enclosures through funding from donors and mechanisms like REDD+, with technical support and implementation on the part of big international NGOs. These two elements work together, to show how "green grabbing" is not always about the power of international NGOs or global mechanisms to create green enclosures in the Global South, as

the literature often suggests (Fairhead et al. 2012; Corson et al. 2013). Rather we show how international environmental governance plays an important part in creating “green legitimacy” or “greenwashing” for underlying state predation and illicit extraction.

Green grabbing in Cambodia has therefore facilitated ongoing extraction just as much as it enabled protection. This protection-extraction nexus works because state-facilitated “protection” involves the alienation of Indigenous people and customary rights holders from forested landscapes. Furthermore, it is constantly being re-declared and re-categorised, so as to maintain the government’s territorial claims over time. This ongoing process of green territorialisation has the effect of constantly remaking frontiers, therefore providing new grounds for extraction, often under the purview of international actors.

### Notes

- 1 FUNCINPEC stands for the French language name for the party: Front uni national pour un Cambodge indépendant, neutre, pacifique, et coopératif.
- 2 Open letter can be found here, 22 March 2021: <https://opendevdevelopmentcambodia.net/announcements/open-letter-to-usaid-in-cambodia/>
- 3 For example see the proposal for sustainable financing in the Central Cardamom Mountains National Park, led by Conservation International: <https://legacylandscapes.org/project/central-cardamom-mountains-national-park-cambodia-asia/>
- 4 For example see Conservation International’s Prey Lang project website: <https://www.conservation.org/projects/prey-lang-wildlife-sanctuary>

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# TOWARDS CLIMATE-SMART LAND POLICY

## Land Grabbing under a Changing Political Landscape in Mozambique

*Natacha Bruna and Aires A. Mbanze*

### **Introduction**

At the turn of the 21st century, debates about land expropriations which seemed to have died out following the emergence of modern sovereign states have flared up again with greater intensity – now described as “land grabbing” (Borras & Franco, 2012; McMichael, 2012; White et al., 2012). The new wave of land and resources grabbing in Africa reached its peak in 2008 because of the commodity price boom and various other driving factors (Ajala, 2018; Conigliani et al., 2018; Porsani et al., 2017).

Following the reforms established by the Bretton Woods Institutions, the Government of Mozambique adopted a neoclassical approach towards development which turned the country into a target of large flows of foreign direct investments (FDI) during the last two decades, which resulted in a wave of expropriation driven by efficiency-seeking investments. This resource rush, embedded in the land grabbing debate over the last decades, shapes land and livelihood-based governance, with associated socioeconomic, political and environmental impacts (Borras et al., 2011; Hall 2011a; White et al., 2012). However, a new driver of land and resource grabbing is currently emerging under the umbrella of climate change narratives and policies to address it. Expropriation of land and resources is at the core of climate change adaptation and mitigation policies, particularly Climate-Smart Agriculture (CSA) and Reduced Emissions from Deforestation and Forest Degradation (REDD+).

In Mozambique, the national climate change strategy is guided by the REDD+ National strategy, which constitutes an integrated landscape management project that aims to “promote community-based forest management, agro-forestry, sustainable charcoal production, promotion of Climate Smart Agriculture and reforestation to restore degraded areas”<sup>1</sup> (MITADER, 2016). Many argue that projects and related policy programmes have the potential to reinforce existing inequities and social exclusions (Corbera, 2012; Hunsberger et al., 2017; Phelps et al., 2010). On the other hand, “greener investments” are being prioritized over the “traditional” extractives industry. For instance, many projects of biofuel production have been implemented following Mozambique’s government strategy on biofuel, approved in 2009, which intends to boost clean energy production in the context of climate change (Schut et al., 2011, 2010). However, the overlap between environmental agenda and

traditional agriculture, which demands larger cultivation areas (Ismael et al., 2021; Mbanze et al., 2020), further exacerbates land conflict in a country where agriculture employs 80% of the labour force and contributes approximately 20% of the gross domestic product (GDP) (Cunguara et al., 2018). In addition, the national population is expected to more than double by 2050 (Zinkina & Korotayev, 2014), bringing with it greater land demand for agriculture, energy production (Schut et al., 2011), infrastructure (Mills et al., 2017), and other development activities. This is accompanied by a changing political landscape in the country where several national policies and strategies are being redesigned and highly shaped to accommodate both international environmental and capital accumulation goals. Hence, this chapter aims to analyse the dynamics and implications of the current changing political landscape and how it shapes land grabbing and land use in Mozambique. The chapter will analyse resource grabbing under the context of the ongoing changing political landscape, focusing on the Zambézia province.

### **Theoretical Lens and Literature Review**

#### ***Land Grabbing and “the Greener” New Scramble for Resources***

Debates around expropriation, dispossession and accumulation re-emerged and further developed since the 2007/2008 crisis and its resulting debates around land grabbing. Substantive progress has been made in understanding the roots, patterns, consequences, and dynamics of the phenomena around the world. The term “land grabbing” has been highly debated in the last decade, and it is used when referring to processes of land enclosures that entail unjust social processes of displacement of people from their land, implying unequal economic benefits to different groups of actors (Borras & Franco, 2012; McMichael, 2012; Zoomers, 2010). Land grabs materialize through interrelated processes of privatization and financialization (Borras & Franco, 2012; Edelman et al., 2013; White et al., 2012).

White et al. (2012) identified six trends linked to large-scale land acquisitions that include: (1) global anticipation of food insecurity; (2) speculation on the increase in energy resources prices that awakens new forms of extraction and biofuel rush; (3) green grabs or market environmentalism; (4) the establishment of extensive infrastructure corridors and Special Economic Zones; (5) financial instruments to reduce risk involving investments that increasingly include pieces of foreign territory; and, (6) international legal frameworks facilitated by aid and lending programmes. To be region-specific, Hall (2011b) puts forward dimensions of land grabbing in Southern Africa, underlining the tendency of substituting food crops to biofuel production and the intensification of extraction of resources, particularly mining and forest resources, adding that “what is being grabbed is not only the land but also the water and the minerals and, I would argue, the cheap labour with which to exploit these” (Hall, 2011).

In the context of land grabbing debates related to environmental crises, Fairhead et al. (2012) engage in the discussion of the emerging appropriation of nature, which they call “green grabbing” as the appropriation of land and resources for environmental ends. The implications of this type of resource grabbing involve the prevention of livelihood practices and resource uses and restructuring of labour relations (Fairhead et al., 2012; Seagle, 2012). REDD+ programmes in the context of conservation are among the main responses that mainstream institutions have proposed to deal with the current environmental crisis.

### ***Climate Change and Land Grabbing: Towards Climate Smart Land Politics***

Land provides the principal basis for human livelihoods and well-being, including the supply of food, freshwater and multiple other ecosystem services. Land ecosystems and biodiversity are vulnerable to ongoing climate change and weather and climate extremes. Sustainable land management can contribute to reducing the negative impacts of multiple stressors, including climate change, on ecosystems and societies (IPCC, 2019). Borras and Franco (2018) analyse the implications for land politics and observe the emergence of what they call “climate-smart land politics”, which consists of the combined processes of incorporating the twin objectives of purportedly combating inefficient and destructive use of natural resources. This is particularly prevalent in the Global South, where land control is the common denominator of this set of policies ranging from biofuel production, conservation, REDD+, CSA, and other land-based policies. Franco and Borras (2019) and Borras, Franco, and Nam (2020) aim at deepening Fairhead, Leach, and Scoones (2012) concept of “green grabbing” by exploring the interconnections between climate change politics and the global land rush. They concluded that these interconnections occur in at least three broad ways: (i) climate change as a trigger for land grabbing, as a context for land rush; (ii) a legitimating process for land grabs – green grabs through climate change mitigation and adaptation policies; or (iii) a de-legitimizing process for people’s climate change mitigation and adaptation practices, (Borras et al., 2020: 1). It is in this direction that this research will further explore environmental resource grabbing, accumulation and implications to rural livelihoods.

#### **Role of the State and Institutions**

In line with Fox’s (1993) take on the contradictory task of the state regarding political legitimacy and facilitator of capital accumulation, Borras and Franco (2013: 1729) provide a broader overview of the state’s facilitative role in land deals, stating that the tasks of the state include a combination of all of the following:

- 1 invention or justification of the need for large-scale land investments;
- 2 definition, reclassification and quantification of what are “marginal, under-utilized and empty” lands;
- 3 identification of these particular types of land;
- 4 assertion of the state’s absolute authority over these lands;
- 5 acquisition or appropriation of these lands; and
- 6 re-allocation or disposition of these lands to investors. These mechanisms of land dis-possession separately and all together constitute varying shades and degrees of extra-economic coercion by the state.

Nevertheless, in non-Western-centric and more aid-dependent contexts such as African countries, external actors, on the one hand, the Bretton Woods Institutions, which impose their economic, financial, and fiscal guidelines, and on the other hand, international organizations such as health, education, and more recently environmental organizations, which are pursuing their interests in a global scale, play a fundamental role in how state’s actions unfold. The state must be able to accommodate the current demands of these two sets of actors that jointly are highly essential to its functioning and economic sufficiency.

Recent land grabbing literature invokes the state as a key player, suggesting that states are active calculating partners in land deals (Wolford et al., 2013). A common ground between extractivist projects and environmental projects' dynamics of dispossession is the role of the state throughout the process of acquiring land. Levien (2012) maintains that the state is not only a driving force of extra-economic mechanisms of dispossession but also an active actor in those processes that come with claims of aiming to improve the public good. It is also important to analyse the power relations among state actors and classes, including the role of the state as "facilitator" or even "instrument" of the dominant class, and also how its performance in this process shapes the outcomes of dispossession and adverse incorporation in relation to rural livelihoods. Looking at local levels, particular attention should be drawn to the dynamics of what was left of the "decentralized despotism" (Mamdani, 2018) in post-colonial rural Mozambique, which was the base of the current local elite formation.

## **Land Grabbing and Political Landscape in Mozambique**

### *Context and Land Politics*

What has been constant in the agrarian and rural policy in post-independence Mozambique is the presence of an authoritarian populist party that has been shifting ideologies throughout the 42 years of independence (Monjane & Bruna, 2019). Right after independence, land was nationalized and became state-owned (Funada-Classen, 2012). It was maintained even after Frelimo, as the ruling party, shifted its own statutes to a capitalist market liberalization approach with colonial continuities (Calengo, 2005). One of the clearest colonial continuities is the set of policies towards market-oriented agricultural development based on the commodification of the peasantry.

But the current distribution of land was highly determined during the 1980s when the privatization process started as a condition for the implementation of Structural Adjustment Programs (SAPs), which marked the period in which Mozambique transitioned from a socialist-driven economy to a market-driven economy. Public enterprises and land were distributed among Frelimo's political elites that continue to maintain the control of access to land and other means of production, which is the basis for the intensification of rent-seeking as land demand in Mozambique increases (Bruna, 2017a; Chivangue & Cortez, 2015; Salimo, 2017). As neoliberalism intensified, land started to be allocated to large-scale investments in several sectors. According to the Mozambican Forestry and Wildlife Regulation (decree No 30/2012 of 1 August), the requirement of land for the establishment of large-scale commercial and viable investments requires the following procedures: (i) obtain the land DUAT from the local authorities, (ii) have an approved environmental impact assessment and, (iii) have an approved investment project.

The main national agricultural policy, namely the *Plano Estratégico para o Desenvolvimento do Sector Agrário* (PEDSA), supports the promotion of large-scale investment in agriculture. Clearly stated, the main objective of this policy is to transform the agricultural sector into a more investment-friendly business environment supported by the principles of the Green Revolution in order to achieve rates of growth of 7% per year and solve the issue of food insecurity in Mozambique. These strategies account for 70% of the total population, where the majority engage in rural employment and are characterized as smallholders. Given the high inflows of land-based investment (mainly in the agricultural sector and extractive industry more recently), land (use and allocation) became a crucial aspect of inequality and social exclusion.

This land rush resulted in the intensification of land conflicts (Capaina, 2019; Mandamule, 2016; Mandamule & Bruna, 2017; Mosca et al., 2016). According to the Land Matrix, which tracks and keeps a database for transnational land acquisitions, Mozambique is among the top ten most targeted countries in terms of land acquisitions in the world: 7th in the world and 2nd in Africa after South Sudan.<sup>2</sup> Other sources reveal that between 2007 and 2008, more than 2 million hectares were allocated to biofuel projects, and 3.4 million hectares were conceded to mining companies in Tete (Capaina, 2019; Human Rights Watch, 2013; Manuel & César, 2014). Since 2000, out of one million hectares of land that were allocated for foreign investments only in Niassa province, 73% were for forestry projects (2012). Some data from 2014 shows that from the total area of Mozambican territory, around 12 million hectares were conceded to economic enterprises (tourism, agriculture and others) and mining concessions, with more than 500,000 people affected by them (Manuel & César 2014). Additionally, the conservation areas in Mozambique occupy approximately 18.6 million hectares (25% of the national territory) which include 7 National Parks, 9 National Reserves, 20 hunting areas, 3 community conservation areas and 50 *fazendas de bravio* (ANAC 2015).

Although land ownership is exclusively vested in the State, it is still structured in a way that can also facilitate investment by protecting use and land rights to investors and guaranteeing accessibility and security in land ownership for up until 50 years with almost zero cost (Bruna, 2017b; Salimo, 2017; World Bank, 2016). In addition to this, studies reveal that, since the rush for large-scale land acquisition started, national political elites and international companies have privileges in accessing land, particularly high fertility land or mineral or energy resource-rich land (Calengo, 2016; Porsani et al., 2017). Political elites, which sometimes overlap with economic elites in Mozambique, usually have access to relevant investment information and historically privileged access to resource-rich land. They usually facilitate access to land by foreign investors and invest in the most diverse businesses that serve these external investments (Chivangue & Cortez, 2015; Kirshner & Power, 2015; Lesutis, 2019). They constitute the emerging domestic capitalist class referred to by Castel-Branco's (2014) analysis. This is the genesis of the land-based model of capital accumulation in Mozambique.

### **Changing Political Landscape towards Climate-Smart Land Use: Agricultural Policy towards Commodification and Financialization**

The promotion of land-based foreign direct investment (FDI), mainly for export, is the predominant strategy for growth and development (Mosca, 2014; Castel-Branco 2014). Until the last decade, the World Bank (The World Bank, 2010a, 2007) has systematically underlined the role of land in poverty reduction. Policies around institutional innovations in markets and finance and even revolutions in biotechnology and information technology have been promoted as a way to revolutionize agricultural productivity and promote development (The World Bank, 2007). However, it also underlines the role of the extractive industry in Mozambique, particularly putting forward interventions and prospects for growth poles in resource-rich regions such as Tete province in Central Mozambique: one of the biggest reserves of mineral coal in the world (The World Bank, 2010b). Specifically for the agricultural sector, the Government follows the same neoliberal extractivist approach that aims mainly to respond to the international market's stimulus and financial institutions' guidelines on development and economic growth. Some of the main rural and agricultural policies are put forward in order to grasp how the policy landscape in Mozambique

actually “accommodates” or “facilitates” land grabbing: (1) ProSAVANA and PEDSA; (2) SUSTENTA; (3) Green policies: REDD+, CSA, Biofuel and green investments under the umbrella of climate change goals (biofuel and tree plantations); and finally, a transversal land policy enforcement that complements rural development policy regarding land: “*Programa Terra Segura*” and the ongoing land policy revision.

### **PEDSA and ProSAVANA**

The ProSAVANA programme is a policy aimed at boosting agricultural and rural development targeting many districts of the Nacala Corridor (approximately 13% of the country and 17% of the total population). The Nacala Development Corridor includes highly fertile land, mineral resource-rich areas, and strategic location and infrastructures to access international markets. This Government-led programme follows most of the guidelines recorded in PEDSA<sup>3</sup> targeting 19 specific districts of Nampula, Zambézia, and Niassa provinces. However, its Master Plan was designed by the triangular cooperation between Mozambique, Brazil, and Japan, with the main objective of increasing agricultural productivity.

Believed to be a replica of one of the biggest land grabbing programmes of Brazil’s cerrado (Prodecer), social movements have been resisting its implementation since a leaked first version of its Master Plan went public. As was the case in the Brazilian context, in addition to the potential negatives impacts, such as the invasion of monocrops, displacement of peasants, deforestation and other environmental hazards, the programme lacked participation and a democratic process of decision making (Funada-Classen, 2012; Clements & Fernandes, 2013; Mosca et al., 2016). This study does not engage with the resistance process of this programme that eventually led to its cancelation (for more information regarding this issue, see Monjane & Bruna, 2019), but it takes a look at its approach and guidelines to grasp the direction in which the Mozambican Government was (and possibly is) willing to take regarding land use.

ProSAVANA had broader plans beyond agricultural productivity; it included the development of the extractive industry, as the Master Plan itself predicts higher levels of growth and production in that specific sector. These plans are clearly aligned with the interests of Brazilian and Japanese investors and cooperation involving an integrated scheme of extractivism through agribusiness development (export monocultures, forest plantations, among others), minerals (coal, heavy sands, energy and others), and infrastructures (in particular communication routes for the exportation of agricultural and mineral primary commodities). Overall, this programme predicted a wave of land-based investment in agribusiness and extractive industry (potentially mainly foreign investment and financialization) without any mechanism to guarantee land rights to the rural population that resides in the Nacala Corridor (the most densely populated region of Mozambique).

### **SUSTENTA: Promoting Rural Financialization (Land as Collateral)**

After the failure of ProSAVANA, SUSTENTA emerges as the next big development solution for promoting agricultural development in the country. Financed by the World Bank, SUSTENTA is a national policy designed by the Ministry of Land, Environment and Rural Development (MITADER) under the umbrella of the National Program of Sustainable Development. SUSTENTA aims to “stimulate the rural economy, through the

integration of rural families in the development of sustainable value chains, based on agriculture and forestry, in order to improve their income and quality and life, with respect for environmental conservation” (MADER, 2020). It aims to improve rural livelihoods through natural resources and land while addressing environmental goals.

One of the specific objectives of this project is to improve institutional capacity at the local level for the land regularization process (delimitation of community lands and titles), (MADER, 2020). Basically, the main strategy is to create links among different classes of actors through financing mechanisms. Starting from small-scale producers with around 1.3 ha (supported with credit to buy agricultural inputs, mechanization, land title, and extension services), which will be connected to small-scale emerging commercial producers (that will have access to diversified credit lines including for mechanization, business management and beyond) to small to medium-sized companies (which will have access to credit to finance activities) to sectors connected to agro-food businesses, such as energy and tourism, that are expected to improve the value chain.

The first production cycle of SUSTENTA in those provinces took place from the beginning of 2017 to mid-2018 (MITADER, 2016). One of the seven pillars of this project is regarding the practice of sustainable agriculture due to environmental goals. Studies indicate some risks of SUSTENTA: (1) it may induce rural social differentiation if integration in the markets does not provide equitable conditions of access to resources but is marked by politicized forms and different favoritisms; (2) it does not present a consolidated plan to permanently monitor implementation and corrective policy; (3) it is hugely reliant on public resources in a context where public resources (budget) are limited; and (4) it lacks transparency on how the beneficiaries of credits are selected. Although the initiative seems quite promising to leverage the national agriculture sector and thus allow national agricultural entrepreneurs to compete with multinational companies, there is much that needs to be done for the success and sustainability of the project. Like any scheme of financing and credit lines to smallholders, especially if not accompanied by a solid plan to overcome smallholders’ challenges (agricultural inputs, market connections and sufficient income to invest in production), this is highly likely to result in many smallholders losing their most valuable “asset” – land.

### **Programa Terra Segura**

Parallely with the aforementioned policies (during ProSAVANA implementation and Sustenta conception), a nationwide programme of land titling arises: Programa Terra Segura (Secure Land Programme). The Ministry of Land, Environment and Rural Development aimed to provide five million titles of DUATs and delimit 1,200 areas occupied by local communities in 71 selected districts nation-wide, thus contributing to the overall goal of the Terra Segura Program.<sup>4</sup> It is mainly aimed at the registration of rights already acquired by customary rights. Studies questioned the real agenda of this programme, as the current Land Law already provides protection of customary rights. What is the real need of each smallholder to hold a land title? Issues around using the DUAT as collateral and losing it through indebtedness arise as high risks of this policy.

### **Green Agendas, Policy-Making, and Land Grabbing under Climate Change Narratives**

During the last decade, multiple policy instruments were put forward to accommodate environmental goals and address the global environmental crisis. The emerging global



Table 12.1 Implementation of major “green” investments and projects

<i>Name of the project/ Company</i>	<i>Hectares</i>	<i>Objective</i>	<i>Obs.</i>
Portucel Moçambique	350,000	<i>Approved “green” investments</i> Eucalyptus forest plantation	Implementation of CSA as a way to compensate land expropriation
Chikweti forest	63,040	Establishment of exotic and commercial plantation	No resettlement was required
Green Resources	133,000	Establishment of exotic and commercial plantation	No resettlement was required
Procana	30,000	Sugarcane/ethanol plantation	No resettlement
Limpopo National Park	1,123,316	<i>Conservation/Climate change policies</i> Reestablishment of a conservation area	Several communities living inside the park Implementation of CSA as a way to compensate loss of forest resources
Gilé National Reserve	286,000	Reestablishment of the reserve	Implementation of CSA as a way to compensate loss of forest resources
Niassa Special Reserve	4,200,000	Reestablishment of the reserve	Several communities living inside the reserve
Quirimbas national park	750,000	Reestablishment of the reserve	Several communities living inside the reserve

*Source:* ANAC (2015); MITADER (2016); Portucel Moçambique.

*Note:* 25% of national territory was appointed to be reestablished as conservation areas, whether as reserves or national parks. The table shows a selected group of the largest projects and investments with recent or ongoing land conflicts.

environmental policy, particularly regarding land-based climate change mitigation policies, is highly promoted by the most powerful development “partner”, the World Bank. This puts the government in the middle of competing approaches for land-use, where none of them are of direct interest to the local inhabitants.

The Government of Mozambique received around USD 8.8 million just to prepare the National Strategy of REDD+ and legal/administrative instruments for its operationalization (MITADER, 2016). The Mozambican REDD+ National Strategy aims “to reduce emissions from deforestation and forest degradation, forest conservation, sustainable management and increase of carbon reserves through planted forests” (MITADER, 2016) by focusing on three main sectors: agriculture, forest and energy (most notable projects are presented in Table 12.1). The REDD+ strategy also integrates mechanisms of climate change adaptation such as the promotion of sustainable agricultural practices in line with “Climate-smart” techniques (MITADER, 2016).

REDD+ National Strategy includes cross-sectorial interventions, most of them land-based: conservation, community-based reforestation, CSA, and policies promoting “green” investments such as tree plantations and biofuel production. Despite the systematic failure of different biofuel projects, this is still an arena aimed to be further explored by the government and seeking investors mainly for sugarcane, coconut and jatropha.

### **Land Policy Revision: Towards a More Business-Friendly Land Law**

One of the main mechanisms through which the process of resource grabbing is shaped would be current regulations regarding land and resources. The following is stated in the current Land Law: “Natural resources situated on the ground and in the subsoil, inland waters, the territorial sea, the continental shelf and the exclusive economic zone are State property” (Article 98 (1) of the Constitution), and “The land is owned by the State and cannot be sold or, in any way alienated, mortgaged or impounded” (Article 3, The Land Law 19/97). After the approval of the Land Law of 1997, citizens have the right to get the DUAT (a document that allows the person to have the Right to Use of Land) for a determined period of time.

The current Law is internationally recognized as very progressive since it acknowledges customary rights. Nevertheless, the land rush for the last three to four decades saw thousands of rural people losing their land to large-scale investments without getting fair compensation (Bruna, 2017b). Law enforcement is not applied in most cases and is even instrumentalized to accommodate external interests rather than defending customary rights. The case of Portucel is an example of ignoring the Law (both by the private sector and the State itself). It was deliberated at the level of the Ministers Council that the company wouldn’t have to resettle any household residing on the 356,000 hectares as long as it incorporates them into a social development plan. This happened without discussing with the affected households and without the consent of rural residents.

The ownership of the land was consented exclusively to the state, but it is still structured in a way that can also facilitate investment by protecting use and land rights to investors and guaranteeing accessibility and security in land ownership for up until 50 years with approximately zero cost (Bruna, 2017b; Salimo, 2017). Salimo (2017), who conducted a study on land issues in Mozambique, states that the behaviour of elites, political and economic, uses their power and authority to withdraw land from weaker groups. In the case of social injustices and peasant/workers conflicts and confrontation with private capital, there is an apathy of the state or a lack of responsibility to defend people’s interests. The

role of the state in the process of land occupation in Mozambique has been identified as facilitators or intermediaries at all levels (Besseling, 2012; Chivangue & Cortez, 2015; Fairbairn, 2013; Mosca et al., 2016).

Even after it has been proven that the Government fails to enforce the existing Law (considered progressive), the Government (with external financial support) decided to revise the Law to better accommodate conjunctural economic dynamics. As pointed out by the President, in the act of Launching the Consultation Process on the Revision of the National Land Policy,

with this reform we want to respond to the challenges of consolidating the structures of the market economy, the increase in the number of inhabitants, in the face of a non-renewable natural resource, and in the context of climate change, the need to compensate for biodiversity, the emergence of mega-projects, and the accelerated growth of the urban population.

The central idea of this revision, according to the respective Ministry, is to “ensure the rights of the Mozambican people over land and other natural resources, as well as promoting investment and the sustainable and equitable use of these resources” (MITA, 2020).

The terms of reference of the Land Policy Revision state that one of the main objectives of the revision is to align land legislation with the national agricultural and economic policy (the one of transforming and modernizing the value chain) of promoting a bigger involvement of the private sector to increase production and productivity; so, according to the plan, land legislation should “facilitate” this objective (MITA, 2020). In their own words, the expected outcome is to accord “[a] right to use and exploit (the land) that still encourages investment in land by families that directly depend on it and by private economic agents, including indirect investments based on land”. The revision happens in the context where “green policies” are being enforced by the country’s main donors and financiers, and land use is the main target of those policies. This revision answers to the economic efficiency goal (or accumulation goal) as it aims to make the Law more investment-friendly; at the same time, it takes the issue of climate change very seriously due to the main financier of this process: the World Bank and its call for a climate-smart world. Hence, the Mozambican political landscape is heading the way into what Borrás and Franco (2018) call the twin objective of economic efficiency and environmental friendliness.

### **Building a Policy Landscape Facilitating Land Grabbing: The Case of Zambézia Province**

Zambézia is a very resource-rich province (in terms of water, biodiversity, forest and agricultural potential) covering more than 100,000 km<sup>2</sup> and, according to the World Bank,

offers untapped opportunities for sustainable and equitable economic growth through agriculture and industry. However, as one of the poorest, yet most populous, provinces in the country, challenges such as rapid population expansion and poor management of natural resources threaten vulnerable rural livelihoods.

*(The World Bank, no date: 2)*

For that reason, the World Bank and the Mozambican government are fully invested in promoting the intertwined objectives of efficiency-seeking investments and green-oriented projects.

The World Bank and the Mozambican government are currently implementing what they call “Zambezia’s Landscape Integrated Management” (ZLIM). This includes multiple projects and initiatives and creating synergies with other projects, such as Terra Segura and Sustenta, also financed by the World Bank. The projects of ZLIM aim mainly conservation and providing technical assistance for sustainable practices (including sustainable natural resource management, climate-smart agriculture, commercial reforestation, and community tourism). The province has been a target of multiple policies and investments in the last decade, as Table 12.2 portrays.

Besides the projects and investments earlier, the province has been targeted by a wide range of agricultural investments solely in agri-business with little or no correlation with environmental policies. These investments are basically agri-businesses aiming at monoculture production such as soy, bananas, macadamia, and tea, both for export and domestic markets (Mandamule & Bruna, 2017; Mosca et al., 2016). These investments (most of them

*Table 12.2* Zambézia’s agricultural and environmental policy, projects, and investments

<i>Project/Policy</i>	<i>Description</i>
ProSAVANA	Targeting two districts of the province (Gurue and Alto Molocue).
SUSTENTA	Zambézia was appointed as one of the pilot region and now the whole province is targeted by SUSTENTA. Which is implemented in a complementary way with Terra Segura and MozFIP.
REDD+ (Conservation)	Gilé National Reserve: an area of 2.860 Km <sup>2</sup> it aims in “promoting community-based forest management, agro-forestry, sustainable charcoal making and reforestation to restore degraded areas” <sup>5</sup> throughout 163.000 households in the targeted districts of not only Zambézia, but in Cabo-Delgado province as well (MITADER, 2016).
REDD+	for Tree Plantation: Implemented in two districts of the province: Ile and Namarroi.
REDD+(MozFIP)	For reforestation: Esquema de fomento florestal: is based on technical assistance combined with cash payments based on performance of the beneficiary (community members and small to médium entrepreneurs). Including the: Gilé, Mocuba, Ile, Gurue Alto Molucue, Maganja da Costa, Pebane, and Mocubela e Mulevala.
CSA for conservation	Gilé National Reserve (includes areas from two districts: Pebane and Gilé)
Nacala Development Corridor	Overlaps with ProSAVANA implementation, targeting two districts of the province (Gurue and Alto Molocue). This projects aims at improving “draining” commodities infrastructures (including, railway, roads and ports).
Tree plantations (Potucel Moçambique) under REDD+	Portucel Moçambique (with 20% of the shares belonging to the World Bank branch International Finance Corporation), occupied over 170,000 hectares in Zambézia without resettling any household residing in that area.

*Source:* National strategies and policies for each project.

*Note:* The table does not include all of the projects currently in operation in Zambézia, it attempts to provide landscape of the most relevant projects in terms of dimension of land use and number of people affected.

foreign or with foreign shareholders) are supported by other general national policies for the agricultural sector, PEDSA.

Long-term research in this province, including intermittent fieldwork, allowed us to grasp the general implications of this set of policies and the role of legislation. Increased demand for land, mainly land used by smallholders, is one of the main implications of this political landscape. This resulted in either continuous land conflict or expropriation of land without fair compensation. For instance, none of the projects mentioned in Table 12.2 presented a resettlement plan in cases where land was expropriated from rural households. Evidence from the field (from the Portucel and ProSAVANA case) shows that households were expropriated without getting sufficient compensation for what they lost. Interviewees underlined the lack of fertile land for practising subsistence agriculture as well as not having the promised employment opportunity. Rural unemployment, loss of land, adverse implications for food security and sovereignty were among the most reported implications. Whereas environmental projects (in the case of the Gilé National Reserve) tend not to expropriate the land, they strip households from the diverse ecological assets that are key determinants of their livelihoods. Around 50% of the food and income sources of the households around the reserve stem from access to forest resources. Evidence from the field showed that after restricting access to the reserve, the households were not fully compensated for their losses. A recurring issue in our interviews was the deepening of local poverty.

### **Conclusion**

For the last two decades, land and economic policy in Mozambique have accommodated an extractive model of economic growth with negative implications for rural development. High inflows of FDI resulted in adverse implications for rural livelihoods with high levels of external capital accumulation. In the context of climate change and its narratives around land use being the solution for the current environmental crisis, greener land use is being promoted and enforced by international organizations and financial institutions. As a result, the country is gradually changing its focus from solely efficiency-driven FDI to green efficiency-driven FDI and financialization.

Several national policies and regulations are currently being reformulated (also new ones are being put forward), financed mainly by the World Bank and other pro-green institutions. By analysing the goals and priorities of such policies, it becomes clear that the political landscape is changing towards accommodating land grabbing, especially land grabbing towards climate change land use. This includes enforcing conservation areas (REDD+ and CSA); promoting forest plantations (under the umbrella of REDD+); promoting biofuel production (also under the umbrella of REDD+); changing the land law to facilitate external investment but at the same time to accommodate international environmental goals; and designing and reformulating key national agrarian, economic, and rural policies towards climate-smart land policy.

As was shown, climate-smart policies often disregard local aspirations, priorities, and needs. Empirical evidence shows that the implementation of these policies is ultimately adversely affecting rural households as they are expropriated of land and other key resources as they did previously, but in the context of climate-smart policies, they are also expropriated of biodiversity and forest resources that are key to their livelihood strategies. With the projected growth of human population and lack of adequate policies to address land dispute and grabbing, it is more likely that the struggle over land access and land rights will further

exacerbate in the future, although it is expected to shift slightly from rural to urban areas. In this context, it is also important to underline that climate-smart policies are usually designed in a top-down manner by international organisations and enforced in economic-dependent countries such as Mozambique, where the state lacks both capacity and autonomy.

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### **Notes**

- 1 <http://www.worldbank.org/en/news/press-release/2017/03/07/world-bank-injects-47-million-to-stem-deforestation-in-mozambique>
- 2 Land Matrix (<https://landmatrix.org/charts/web-of-transnational-deals/>), also revealed that in 2017, the transnational land deals occupied an area of 1,965,403 ha in Mozambique.
- 3 Is the Strategic Plan for the Development of the Agricultural Sector in Mozambique. Or more commonly known as “*Plano Estratégico para o Desenvolvimento do Sector Agrário (PEDSA 2011–2020)*”, in Portuguese. PEDSA is a plan that fits into the government instruments that were established by the National Planning System, with a medium long-term vision, based on the national guidelines for agriculture on the priorities of the common guiding framework of the African countries for the performance of the agricultural sector – the Comprehensive Africa Agriculture Development Program (CAADP). For further information visit – <https://landportal.org/node/52178>
- 4 <https://www.fnds.gov.mz/index.php/pt/nossos-projetos/listagem-de-projetos/terra-segura>
- 5 <http://www.worldbank.org/en/news/press-release/2017/03/07/world-bank-injects-47-million-to-stem-deforestation-in-mozambique>

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# 13

## RENEWABLES GRABBING

### Land and Resource Appropriations in the Global Energy Transition

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#### **Introduction**

A global transition from fossil fuels to renewable energies is urgently needed to mitigate climate change and to reduce the conflictive and contaminating extraction and consumption of coal, oil, and gas resources globally (IPCC, 2018). However, the onset of this transition has come along with the emergence of new geographical and technological frontiers of energy carrier production that are associated with new injustices experienced by local and customary groups (Sovacool, 2021). Vast amounts of land and other resources are required to develop renewable energy infrastructures, which has provoked new processes of land and resource acquisitions globally (Scheidel & Sorman, 2012). Well-known examples are land grabs associated with agro-industrial plantations producing crops for a growing global biofuels market (Borras et al., 2015, 2010), or land dispossession for hydropower dams flooding vast areas and changing the river ecology on which customary livelihoods depend (McCully, 2001; Del Bene, Scheidel, & Temper, 2018). Justice concerns are also emerging over wind power plants (Avila, 2018; Franquesa, 2018) and the rapid expansion of large-scale solar power (Stock & Birkenholtz, 2019; Yenneti et al., 2016), where conflicts have sparked over the dispossession of local users from land and other environmental resources, lack of procedural justice in the decision-making processes, and questions over who will benefit from these green development projects and in which ways.

Energy systems can be characterized as an objective, a means, or a cause of conflict (Månsson, 2014). Renewable energy projects can be as conflictive as fossil fuel extraction projects, according to an analysis of 649 conflicts over diverse energy projects (Temper et al., 2020). The processes through which injustices emerge are diverse but recurrent. In a review of 20 years of related literature, Sovacool (2021) describes the persistent presence of four general processes characterizing low-carbon transitions across regions, actors, and mitigation options: enclosure (privatization of land and other resources), exclusion (marginalization of actors in the planning process), encroachment (environmental destruction), and entrenchment (increased vulnerability, disempowerment and wealth concentration). This observation poses significant questions of how to move toward more just energy transitions, while avoiding instances of what we call ‘renewables grabbing’: the grabbing of land and other environmental resources for the development of renewable energy infrastructure at the expense of local and

customary users. Renewables grabbing can be understood as a form of green grabbing, where land and resources are appropriated for environmental ends (Fairhead et al., 2012). The concept of green grabbing draws specifically attention to the significant role ‘green’ factors play in shaping and restricting access to land. The concept has been useful to discuss declining access of customary users to land through climate change politics (Franco & Borrás, 2019), tree plantations for forest recovery (Scheidel & Work, 2018), or the establishment of conservation areas (Benjaminsen & Bryceson, 2012). In this chapter, we specifically discuss processes of green resource grabbing linked to the expansion of renewable energy generation worldwide.

We first provide an overview of the general drivers of renewables grabbing and outline the growing demand for specific resources required in the energy transition. We then take a sectoral perspective and describe some of the emerging justice concerns associated with the main renewable energy frontiers of today: (i) large-scale biofuels, (ii) dams, (iii) wind power, and (iv) large-scale solar power projects. Following key questions in environmental justice scholarship (Schlosberg, 2004), we ask: what are the implications of the expansion of these renewables frontiers for distributional concerns, particularly regarding access to land and resources; for procedural justice in renewable energy planning; and for the recognition of different values and worldviews in shaping the forms of the renewable energy frontiers? While by no means all renewable energy projects are conflictive per se, within the scope of this chapter, we look specifically at those where conflicts over access to resources and their governance have emerged to better understand where pathways toward a more socially and environmentally just and democratic energy transition are needed, and how they may look like.

### **Changing Energy Frontiers**

As global trends strive toward the decarbonization of energy systems, arguably better for people and the environment, this manifests in terms of a shift in socio-metabolic regimes toward a spatial extension and expansion of land required to provide energy carriers. A multitude of underlying drivers, stemming from different biophysical, socio-political, economic, cultural and technological processes, shape these changing energy frontiers (Figure 13.1). These underlying drivers are not isolated processes but are rather interrelated and embedded within the larger economic and political system (Muradian et al., 2012), led by forces of globalization (Lambin et al., 2001).

The end of abundant cheap fossil energy sources represents perhaps the most relevant biophysical condition shaping a transition from fossil fuels to land-based alternative energy sources, creating new spatial arrangements and horizontal energy regimes (Huber & McCarthy, 2017). While this shift has ‘powered down’ the energy output per unit of land, requiring more land to compensate for societal energy needs; it has also been pressured by the overall expansion of global societal metabolisms, that is, societies’ current demands for materials and energy to sustain and grow (Muradian et al., 2012). This has resulted in the appropriation of ecological space (Hermele, 2014); a phenomenon experienced locally, nationally, and globally with crop fuels and renewable energy alternatives gaining momentum. The rising demand for alternative energy has been manifested on the ground in terms of large-scale land acquisitions for energy systems (Scheidel & Sorman, 2012), or small-scale appropriation and dispossession of land experienced in a systematic vein (Avila, 2018).

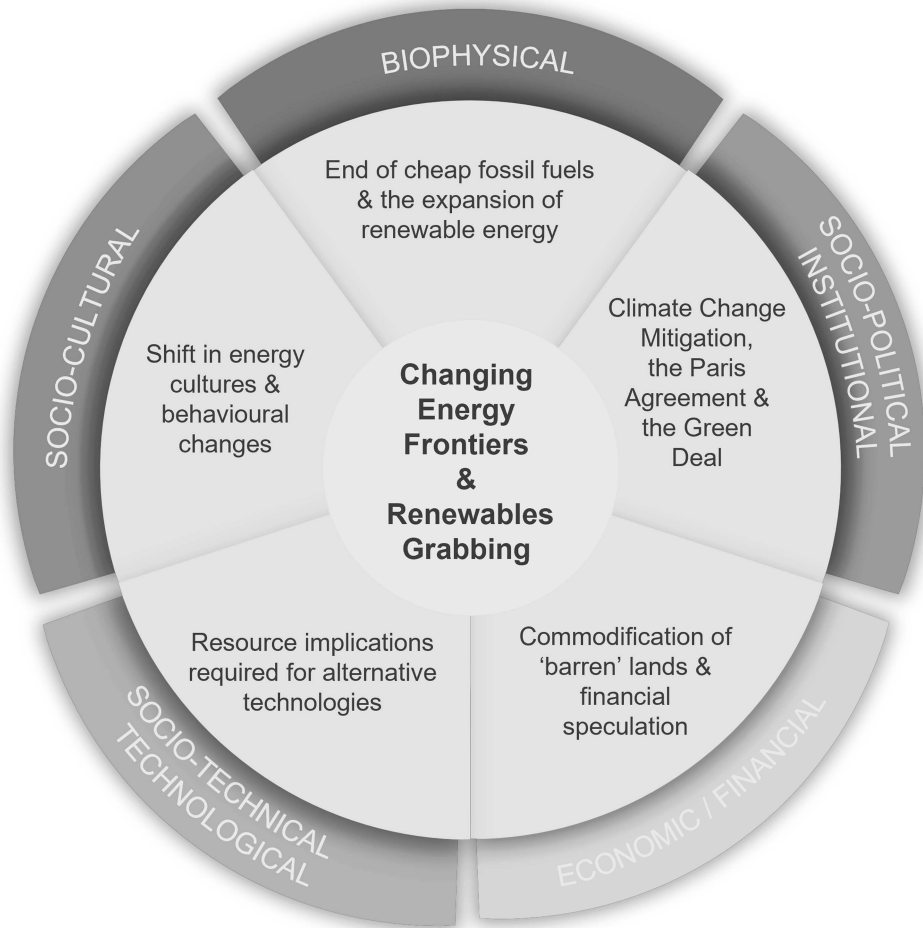


Figure 13.1 Underlying drivers of changing energy frontiers.

Source: The authors.

The biophysical changes in energy supply systems and their implications for land requirements in the energy transition have been profoundly shaped by institutional and socio-political processes. The 'extractivism of renewable energies' (Del Bene, Scheidel, & Temper, 2018) to scale up to increasing energy demands have been extensively promoted under the ecological modernization paradigm (Scoones et al., 2015) for achieving win-win solutions for all; a notional failing to grasp the complexities and socially differentiated injustices of renewable energy rollouts. Furthermore, institutional arrangements in line with the Paris Agreement, the Green New Deal, notably in the EU and in the US, and increasing ambitions amid the COVID-19 pandemic to green the global economy have been steering the politics of energy transitions. Yet, green alternatives to fossil fuels are championed without much questioning of underlying justice implications and shifting costs (Zografos & Robbins, 2020),

for example, on Indigenous and marginalized populations and lands in the name of the energy transition (Temper et al., 2020).

The revaluation of land in the context of changing biophysical and institutional environments has come along with economic changes in land use, resulting in the commodification of so-called waste, barren, or unproductive lands to make them available for energy systems, as advocated by numerous actors such as pension and sovereign wealth funds, agro-businesses, energy conglomerates, finance firms, technology companies, states, and local or international speculators (Hermele, 2014; Sassen, 2013). This has led to land being grabbed in many parts of the world. New investment opportunities of commodifying ‘under’-utilized land for energy carrier production, such as biofuels crops (Ariza-Montobbio et al., 2010) or solar power (Stock & Birkenholtz, 2019), have not only been fostered by states, developers, and financial institutions but have also been reinforced by asymmetrical power relations between institutions and governments embedded within unequal North-South dynamics, South-South relations, and rising agents in the East (Borras et al., 2011; Dauvergne & Neville, 2010). Financial speculation, moreover, is aggravated when acquired land is purposefully kept empty, to be sold once land prices gain higher value (Fairbairn, 2014).

Finally, socio-cultural transitions implying a shift in energy cultures (Stephenson et al., 2010), accompanied by socio-technological innovations, also have immediate and indirect consequences on global value chains, resource acquisition, and land use. As behavioral, cultural, and technological shifts materialize, resource implications required for alternative technologies shift the politics of land use globally. For instance, as electric vehicles are promoted further under climate neutrality pacts, land grabs for lithium deposits may increase, leading to mineral dependency and cost shifting. Many green technologies (e.g., wind turbines and electric vehicle batteries) that rely on rare earth elements (REEs) are currently supplied from China providing more than 99% of the supply. Solar photovoltaic technologies relying on semiconductor materials and battery factories have also resulted in waste implications due to toxic and hazardous chemicals, externalizing health implications while also outsourcing supply chains (Newell & Mulvaney, 2013). In an attempt to offset emissions, the promotion of renewable energies triggers mining expansions and a complex web of repercussions and tensions resulting from new mining frontiers that come about with such a transition (Phadke, 2018).

The new resource requirements provoked by the complex interplay of biophysical, socio-cultural, institutional, and technological changes alter not only the political ecology of land use but also of water, labor, and traditional energy sources such as biomass, closely interwoven in the global food-energy-water nexus (D’Odorico et al., 2018; Giampietro et al., 2014; Perrone & Hornberger, 2014). For example, energy pathways requiring intensive water use due to provision, extraction, generation, or cooling technologies have been shown to cause water injustices and ‘water grabbing’ (Dell’Angelo et al., 2018; Franco et al., 2013). Current trends in energy provision and consumption have the potential to increase the pressures on land use and users, and create new environmental injustices, while reinforcing existing vulnerabilities in terms of access to land and other nexus resources (Capellan-Perez et al., 2017). The next section details these implications for the four main renewable energy frontiers.

### **Resource Grabbing and Conflict at the Renewable Energy Frontiers**

A diverse and growing body of research on resource grabbing and conflicts over renewable energies has emerged over the last decade. Within the limited scope of this chapter, we do not aim to provide an in-depth review of available literature for each

renewable frontier. Instead, we aim to highlight some of the major concerns arising in the energy transition, based on a selection of articles that illustrate both empirical and conceptual concerns. In addition to academic articles, we also draw on the empirical wealth of information documented in the global Atlas of Environmental Justice (EJAtlas)<sup>1</sup>, particularly for the discussion of the more recent rise of resource grabs related to solar power megaprojects.

### ***Large-Scale Biofuels***

Traditional and small-scale biomass uses such as wood for cooking and heating represent the oldest form of bioenergy use. The current trend toward large-scale biofuels, which has provoked vast land grabs, is based on an entirely different production and consumption model. Large-scale biofuels rely on industrialized land use and wage labor (Giampietro & Mayumi, 2009), are embedded in complex capitalist and globalized supply chains (Margulis et al. 2013), and produce uneven social and ecological consequences across and within regions of production and consumption (Dauvergne & Neville, 2010). Conflictive and environmentally devastating biofuels crop monocultures are expanding rapidly in (but not limited to) the Global South (e.g., Aha & Ayitey, 2017; Alonso-Fradejas, 2021), whereas their consumption as a clean replacement for dirty fossil fuels occurs increasingly (but not only) in the global North, driven by climate change mitigation policies and renewable energy mandates (e.g., Larsen et al., 2014). The global rise in demand for biofuels, and the envisioning of agriculture as the ‘oil wells of the 21st century’ (Borras et al., 2015), has significantly reshaped current processes of agrarian change, the politics of land use, and the rise of conflicts over land grabs. (Borras et al., 2011, 2010).

Land dispossession and conflicts over biofuel crop plantations are mainly associated with first-generation biofuels, that is, biofuels based on edible food crops such as sugarcane, corn, wheat, or cassava used for bioethanol production, or oil palm, soybean and rapeseed crops used for biodiesel production.<sup>2</sup> Land is the most central resource being acquired in this context and related land grabs have produced severe conflicts over dispossession and declining access to commons land globally (Dell’Angelo et al., 2021). In addition to land acquisitions, the appropriation of water resources located in and around the concession areas accompany this process. Because of water’s fluid nature and its key role in supporting larger ecological cycles, associated water grabbing may affect even more land users in surrounding areas (Franco et al., 2013). Second-generation biofuels are based on non-food crops and organic residues that do not compete directly with land uses primarily for food production. While they have been argued to be less conflict-prone, they may still compete indirectly with multifunctional land uses, including food crops. Ariza-Montobbio (2010) describes this for the case of *Jatropha curcas*, a perennial, non-edible crop used for biodiesel production. The rapid expansion of *Jatropha* in Tamil Nadu, India, promoted by the government and companies as a pro-poor crop with agronomic viability on marginal lands, has provoked that many poor farmers have put barren land in production and substituted food crops such as groundnut with *Jatropha* under contract farming schemes. However, the program failed to deliver promised yields and incomes, leaving many farmers with reduced access to firewood and fodder for their cattle, as well as shortages in food provision, that is, edible oils. Only large farmers seemed to be able to benefit from this development, while poorer ones abandoned the plantations or uprooted the crops, facing increased vulnerabilities due to important livelihood losses (ibid).

The links between the global biofuels complex and local land disposessions are most apparent when the crops cultivated on grabbed land are explicitly used for biofuels production. However, the mechanisms through which biofuels have changed the politics and practices of land uses are frequently more complex and subtle, shaping processes of exclusion from land in various ways. On the one hand, the global rise of biofuels has impacted local land uses by triggering an overall demand for cultivable land as well as increases in food commodity prices (HLPE, 2013). This has provoked the ‘rediscovery’ of the agricultural sector to investors and opened up new arenas of land and commodity speculation (Fairbairn, 2014). In this context, land concessions are acquired but not necessarily directly related to biofuel production processes. Sometimes land is not even put into production, while leaving customary users without access to land (Merian-Research & CRBM, 2010). On the other hand, the flexible uses of biofuel crops in agro-industries, including their multiple uses for food, fodder, and biofuels, has enabled investors to adapt their production patterns to diverse markets. Borrás et al. (2015) describe how this greater flexibility and multiple uses of ‘flex crops’ has altered the political economy of land uses: market competition is intensified, while power relations between investors, traders, local land users, and laborers are changing. Finally, the discursive power associated with biofuels as a ‘sustainable’ energy source has allowed investors to enhance their negotiation power by legitimizing their claims over land through obtaining a ‘green license’ to operate (see Hunsberger & Alonso-Fradejas, 2016).

Large-scale biofuels remain a highly contested renewable energy sources, not only because of the associated processes of land grabbing and changes in the politics and practices of land uses, but also because of their low energetic performance and their devastating environmental impacts such as biodiversity loss or deforestation (Giampietro & Mayumi, 2009). For moving toward just and more sustainable biomass uses, a different production, processing, and consumption model is needed. Small-scale and localized bioenergy uses outside the webs of global commodity flows and investments have much to offer to promote renewable energy use at the local level, compatible with current land uses of the small-farmer economy.

### ***Hydropower***

Hydroelectric dams have become a key component of global policies toward the increase of renewable energies (IHA, 2020). As a major recipient of Clean Development Mechanism (CDM) credits, the sector has long been considered relevant to tackle climate change (Haya & Payal, 2011). Its predominant role today is confirmed in many national energy transition plans for its flexibility and energy storage services that will complement other renewable energy sources such as solar and wind. Hydropower is therefore often touted as the transition energy per excellence (FLEXHYDRO, 2020; IHA, 2020; IRENA, 2020). In a post-COVID 19 scenario, hydropower is furthermore promoted as a promising force for recovery for its critical role in delivering clean, reliable, and affordable energy (IHA, 2020; IRENA 2021).

There are mainly four types of hydropower plants, namely run-of-river (RoR), storage, pumped storage, and offshore hydropower. Of special relevance in an energy transition scenario are the first two. RoR schemes are a series of hydropower plants interconnected through tunnels and water discharges along the same river and its tributaries. They are considered less harmful for local ecologies and are particularly promoted in narrow

valleys and on smaller rivers. Pumped-storage hydroelectricity is believed to allow energy saving from other renewable energy intermittent sources for periods of higher demand, while pumping water into reservoirs during off-peak. The recent boom in hydropower investment includes refurbishing of old storage projects as well as greenfield projects. Apart from traditional funding agencies such as the World Bank, new actors are gaining prominence in the dam building market, including international investment funds, the Chinese government and state companies, and climate finance (Siciliano et al., 2019). New large-scale dam projects are in the pipeline in the Brazilian Amazon, in the Yangtze basin in China, in the Andes, in Sub-Saharan Africa, and in the Mekong and Ganges–Brahmaputra basins (Zarfl et al., 2015). Countries like Mexico, Turkey, India, and the Balkan republics have witnessed an unprecedented boom in RoR dam construction while unfinished large-scale projects are also being completed, such as the Ilisu dam on the Tigris river (Islar, 2012).

The socio-ecological impacts of dams have been largely addressed in the academic literature (Kirchher, 2016; Lerer & Scudder, 1999; Moran et al., 2018), and were extensively denounced by environmental justice organizations and local groups (see McCully, 2001). Socio-environmental conflicts arise in the impacted areas, both upstream and downstream the barrage. Upstream territories are usually affected by the submergence of vast portions of forests, Indigenous and common lands, villages, and even cities. However, downstream communities and their fisheries are also heavily affected by dying rivers, water contamination, and slope destabilization, among other impacts. Furthermore, the blasting for tunneling the water in RoR schemes undermines underground water sources leading to deforestation and soil depletion (Baker, 2014; Asher and Bandhari, 2021). Conflicts can also emerge over the associated infrastructure for hydropower, such as power transmission and distribution infrastructures developed across the territory. This is particularly true along the new ‘hydropower extraction frontiers’, that is, regions and river basins previously unexploited. Canada and the US, for example, plan a series of high-voltage transmission lines to transport hydropower electricity from Canadian dams to US cities. US-based groups have largely questioned the viability of these electricity corridors and protested against evictions and impacts, which often affect Indigenous territories<sup>3</sup>.

According to a recent analysis of the hydropower conflicts registered in the EJAtlas, the loss of livelihoods, forced displacement, lack of compensation, flawed impact assessments, and the lack of community consultation are the most reported reasons for opposition and mobilization against hydropower projects by local actors (Temper et al., 2020). Contentious hydropower projects tend to register a higher level of social conflict compared to other renewable energy sources. Demands of opponents include recognition of rights enshrined in current national and international law, adequate Environmental Impact Assessments (EIAs), and thorough studies of alternatives to hydropower for energy generation before clearing new projects. However, in many cases, local populations and supporting organizations demand the ultimate cancellation, or the dismantling of plants, moratoria, and the adoption of alternative management and economic plans for the region (ibid). Dam building is often part of a larger plan for exploiting natural resources and controlling access to territories, commonly threatening local populations with resource grabbing and violence (Del Bene, Scheidel, & Temper, 2018). Environmental defenders belonging to farming and Indigenous communities are particularly hit by violence, repression, and criminalization of protest, especially in countries such as Colombia, the Philippines, Brazil, Mexico, and Honduras, among others, according to Global Witness (2020). This happens to such an



extent that dam building often replicates similar patterns of injustices of other extractivist activities such as oil drilling or mining (Del Bene, Scheidel, & Temper, 2018).

Hydropower is certainly of relevance for future energy generation. However, the spatial implications of the expanding dam sector for land grabbing need close attention, as well as the rise of the demand for resources for the construction of barrages, roads, and other associated infrastructures, such as cement, sand, metals for power transmission cables, or power houses. Issues such as the size, governance, property, control, maintenance, and eventually dismantling of the plants need to be thoroughly analyzed altogether. Future decisions cannot be taken only on technical grounds of power capacity but by discussing what the energy is used for and by whom. Principles of ‘energy sovereignty’ of local communities can represent the basis of more just and distributed energy systems (Del Bene, Soler-Villamizar, & Roa-Avendaño, 2018).

### ***Wind Power***

Wind energy has become a mainstream source of electricity production and a key part of ongoing efforts to decarbonize energy systems. Since 2004, global installed capacity and investments in the sector have increased substantially, positioning it as a cost-competitive alternative for fuel-based electricity production (REN21, 2020). This steady and progressive expansion in the sector has been mainly concentrated in the deployment of onshore commercial-scale facilities, with a noticeable increase of investments in countries of the global South (Bloomberg NEF 2019; REN21, 2020). Social and environmental impacts associated with the wind power sector are less visible than those triggered by biofuels, or fossil, nuclear, and hydropower projects (Temper et al., 2020). However, the large-scale deployment of wind energy facilities is triggering new demands over land and minerals, raising attention to potential resource grabs and local environmental injustices.

Like other renewables, wind power requires vast amounts of space to generate energy that fossil and nuclear resources can produce in focal points of extraction (Huber, 2015). This biophysical condition highlights that, if the level of energy flows continues to increase under a low-carbon system, area coverage of wind energy will have to increase in large magnitudes (Scheidel & Sorman, 2012). The spatial dimension bound to the expansion of wind power highlights the potential competition for land between electricity production and other land uses such as agriculture, forestry, and conservation. These processes, in turn, are particularly relevant for locations where rural communities’ livelihoods and cultural identities depend on the recognition of land rights and the access to resources related to them. A second important demand of resources pertains to the variety of minerals required for the production of modern wind power technologies, including cement, cobalt, steel, aluminum, as well as rare minerals (World Bank, 2017). The socio-environmental impacts produced by mining activities have been largely studied, highlighting key concerns for environmental sustainability and social justice (e.g., Bebbington & Bury, 2013; Urkidi & Walter, 2011). The growing demand for materials that are bound to the expansion of wind power therefore raises attention to an amplified extractive frontier associated with decarbonization strategies (Lèbre et al., 2020). Finally, also the dismantling of old wind turbines poses a growing waste problem<sup>4</sup>, and social justice concerns may arise in the future about adequate siting and handling of these new ‘green’ landfills.

Territories holding important flows of wind resources (e.g., coastal areas, peninsulas, and other vantage geographical locations) are becoming particularly attractive for wind power

developers seeking to exploit commercial-scale electricity production (Hook & Sanderson, 2021). Large-scale wind power facilities are triggering an increasing number of local conflicts in different locations of the rural world (e.g., Avila-Calero, 2017; Avila & Rao, 2018; Dunlap 2018a, b; Backhouse & Lehmann, 2020; Lopez-Gomez et al, 2019; Zografos & Martínez-Alier, 2009). A systematic analysis conducted with the EJAtlas (Avila, 2018) highlights that groups mobilizing against wind power facilities commonly involve agrarian and Indigenous communities whose material and cultural existence is strongly attached to territories holding valuable wind resources. Additionally, a variety of environmental and conservation groups tend to raise concerns in terms of the large-scale disruption of biodiversity conservation efforts, particularly over birds and local vegetation cover. Wind energy has also the highest aesthetical landscape impact compared to other renewables (Ioannidis & Koutsoyiannis, 2020).

In addition to the tensions around land grabs caused by wind-farms, conflicts around the deployment of wind power megaprojects also raise concerns over the decision-making process regarding questions of where, how much, and for whom wind energy is being harnessed, distributed, and consumed (e.g., Howe, 2014; Franquesa, 2018; Baker, 2021). For example, in Mexico, Indigenous communities mobilizing against the deployment of an ambitious Wind Power Corridor located in the State of Oaxaca explicitly questioned the corporate profile of a large-scale infrastructure that not only dispossessed the communal lands of the Zapotec communities but was also designed to supply electricity to different industries and urban regions of the country. These mobilizations, in turn, led to a proposal to implement a cooperative wind power scheme in the region (Avila-Calero, 2017; Oceransky, 2010), as well as broader debates across the country to implement decentralized and autonomous renewable systems.

Attempts to sustain ongoing energy demands with an increasing share of wind energy production will involve an unprecedented demand for resources, particularly rural lands, but also minerals required for manufacturing technologies. These processes highlight the need for further scholarly attention on both the drivers, conflicts, and alternatives emerging at the frontiers of wind power as a decarbonization strategy. Conflicts emerging against the deployment of wind power facilities shed light on how ongoing strategies for wind power production are disproportionately affecting rural areas where existing users often have less power and fewer formal land rights (McCarthy, 2015). However, claims of mobilizing groups not only highlight the misrecognition of material, cultural and environmental values bound to their territories but also shed light on the lack of participation in defining the scale, control, and distribution of wind power production.

### ***Large-Scale Solar Power***

Solar energy is a renewable energy source propelling the heating and electricity sectors. The solar technology portfolio ranges from electricity production from solar photovoltaics (PV) and concentrated solar power (CSP), to solar thermal plants applied for (use water) heating. Today, and in future roll-out scenarios, the lion's share of solar energy is provided by solar PV and, to some extent, by CSP, with the consequence that environmental and land conflicts over the expansion of large-scale solar projects center around these two solar technologies.<sup>5</sup> Environmental injustices, including land dispossession, can occur along the entire value chain, ranging from the extraction of required raw materials (De Ridder, 2013), over

exposure to toxic substances in the manufacturing process (Mulvaney, 2014), to the application and implementation of the solar technology itself on which we focus here<sup>6</sup>.

Socio-environmental concerns expressed in local protests against solar PV projects include generally issues such as food and energy security concerns, displacement, corruption, irregular land-acquisition and dispossession, and the violation of human rights (see Temper et al., 2020). For example, Yenneti et al. (2016) describe land acquisition processes in the Indian *Charanka Solar PV Park*, in which vulnerable subsistence farmers were deprived of their livelihoods, grazing, and agricultural land, and dispossessed of their homestead. This suggests that the least advantaged groups seem to carry the greatest burdens in the implementation of ‘green’ mega-sized PV plants. By focusing on two further large-scale solar projects in India, Stock and Birkenholtz (2019) shed light on key events in such solar land grabs: acquired lands were previously defined and demarcated as ‘marginal’ or ‘wastelands’, then acquired by the state through extra-economic means, and finally allocated to the project developers. This resulted in land and energy dispossession of locals through the grabbing of agricultural land and the exclusion from fire-wood sources, creating landless peasants, dependent on wage labor. In such cases, climate capital invested into large-scale solar power is triggering a larger agrarian transformation involving the partial proletarianization of the peasantry (ibid). Such processes may also be marked by coercion and violence. For example, in the conflict over the large-scale PV plant *Planta Voltaica Los Prados* in Honduras, protesters were criminalized and threatened. The conflict culminated in the assassination of a protest leader (EJAtlas, 2019a).

Several other environmental justice concerns can arise in solar power conflicts. Structural exclusions from democratic processes, where local communities are not adequately included in the planning processes of solar power projects, and where their material and cultural values attached to land have not been respected, are further causes of (land) conflicts both in the global North and South. For example, the siting of the large-scale PV *Desert Sunlight Solar Farm* on Indigenous lands in the Californian desert triggered concerns over inadequate consultation and destruction of ancient sacred and tribal sites (EJAtlas, 2019b). Because of its close location to recreational areas and national parks, the project also provoked opposition by environmental groups. More generally, environmental concerns that may instigate conflicts over solar power plants include: impacts on wildlife, draining desert area groundwater sources through the use of water for facility cleaning (EJAtlas, 2019c), heat islands causing bush fires, potential intoxication with Cadmium-Telluride (EJAtlas, 2019d), reduction of air quality (EJAtlas, 2019d), deforestation (EJAtlas, 2021), (EJAtlas, 2019d), habitat loss (EJAtlas, 2019d), and other landscape impacts (EJAtlas, 2019b, 2019e; Ioannidis & Koutsoyiannis, 2020). Finally, conflicts over the unequal distribution of economic gains and opportunities, and the uneven consumption of electricity produced, have emerged as a result of large-scale solar projects. For instance, in India, in the *Kamuthi Solar Power Project*, a conflict is indicated with locals seeking jobs they were promised in return for allowing project development on peasants’ land, but were ultimately denied (EJAtlas, 2019c). In the *Gujarat Solar Park*, villagers complained that developers increased electricity prices when they were initially promised free energy (Stock & Birkenholtz, 2019). In Mexico’s largest PV project, the *Solar Park Villanueva*, workers set up blockades in protest against over ten months of unpaid salaries (EJAtlas, 2019f).

Patterns of extractivism, forms of exploitation of poor and marginalized local groups, and hegemonic post-colonial structures commonly appear also in large-scale solar projects. These

projects may involve ‘green’ land dispossessions and broader agrarian transformations through the reorganization of labor and land in the face of a globally ascendent, green neoliberal capitalism (Stock & Birkenholtz, 2019). Given the recency of the expansion of large-scale solar power, further research is needed to fully unpack the scale of solar land grabs emerging today. The question of how solar power development can adequately address issues of distributional and procedural justice, recognition of cultural and material values and access to energy for marginal groups remains central in the global energy transition. As for other renewable projects, smaller-scaled community-centered approaches, local ownership, and democratic control can potentially lead to more energy sovereignty. These are the crucial components of more sustainable, just, and resilient energy transitions that must be strived for.

### **Conclusion**

Efforts to decarbonize the global economy are necessary. However, it is important to understand the socio-ecological impacts, power relations, and vulnerabilities manifesting in the expansion of current renewable energy frontiers. Understanding why agrarian and environmental conflicts arise over the expansion of renewable energies can help to address, and ultimately avoid, instances of what we term ‘renewable grabbing’: the appropriation of land and other resources for the expansion of renewables at the cost of local and customary users facing new environmental injustices.

Conflicts, playing out in different ways across the main renewable energy frontiers, bring to our attention the environmental injustices associated with such green transitions, as well as the demands made by affected communities to reshape energy transitions toward more just outcomes. For example, ‘just transitions’ proposals by global labor unions gaining momentum and visibility, are having direct implications on the articulation of distribution, recognition, and participation in the transition to a green economy (Stevis & Felli, 2015). Environmental justice movements that contest unjust and unsustainable energy projects globally point to a number of aspects needed to transform decarbonization pathways toward more just ones, including the need for better participation, localization, avoidance of environmental racism, shorter energy supply chains, and more generally energy sovereignty and sufficiency (Temper et al., 2020).

Tackling the climate crisis while centering on justice, sovereignty, and sufficiency must be at the heart of defining just and sustainable energy transition strategies. Further research can contribute to building these strategies, drawing lessons from conflictive renewable deployments, and providing alternative approaches to reverse its most recurrent adverse impacts. Aspects of recognition of both communities and ecologies at local scales are key in these alternative approaches, calling attention to the need for mandatory implementation of local consultations and participatory processes in designing social and environmental impact assessments of renewable energy projects. Aspects of procedure could also be further strengthened through the implementation of direct democracy mechanisms in territorial planning, favoring local participation, and recognition and protection of customary land rights.

Together, these elements could make important contributions to mitigating ongoing pressures over land and other resources associated with the implementation of renewable energy systems. However, genuine redistributive approaches in renewable energy implementation must work in tandem with structural transformations over the economic, political, and social structures currently driving the energy transition. Inter- and trans-

disciplinary research is required to understand and reimagine the interplay between the environmental, social, cultural, political, and economic dimensions entangled in the transition. This agenda could contribute to unveil and prevent injustices across different geographical scales, such as across North-South, center-peripheries, or urban-rural dynamics, and across the diverse points in the renewable energy value chain: across sites of mining extraction and energy production, spaces and cultures of energy consumption, and the ‘green’ waste disposal frontiers that are likely to emerge in the coming years.

### Notes

- 1 See [www.ejAtlas.org](http://www.ejAtlas.org)
- 2 Other types of biofuels, not discussed here further, are for example algae-based biofuels (Doshi et al., 2016) and bioenergy for electricity and heating, based on wood-based sources. The latter may lead to land conflicts through the expansion of tree plantations at the cost of customary users (Kröger, 2016).
- 3 See for example NAMRA website: [northeastmegadamresistance.org](http://northeastmegadamresistance.org).
- 4 See for example <https://www.bloomberg.com/news/features/2020-02-05/wind-turbine-blades-can-t-be-recycled-so-they-re-piling-up-in-landfills>
- 5 The world’s solar-thermal capacity is mostly limited to small household applications and is not discussed here further.
- 6 What remains to be seen is whether the dismantling of solar PV infrastructure after lifetime triggers new conflicts over waste disposal.

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# GEOSPATIAL TECHNOLOGIES IN TOURISM LAND AND RESOURCE GRABS

Evidence from Guatemala's Protected Areas

*Laura Aileen Sauls and Jennifer A. Devine*

## Introduction

Academic literature as well as popular culture have long grappled with the complicated, often dark, role that tourism plays across local social, economic, and political contexts. From studies highlighting the abuse of Afro-descendent and Indigenous women domestic labor in tourism enclaves in Panama (Mollett 2016), to the militarized exclusion of communities from tourism-oriented national parks (Ojeda 2012), to the performative cultural appropriation of the 2021 HBO series *The White Lotus* based in Hawai'i (Recentering 2020), the uncomfortable reality of tourism is increasingly clear. Underpinning all these cases, real and fictional, is land grabbing.

Zoomers (2010, 430) defines land grabs as the “foreignization of space” driven by a combination of the neoliberalization of land markets and the worldwide boom in foreign direct investment. One of the primary ways tourism is driving the foreignization of space is the development of protected areas as the basis for ecotourism (Zoomers 2010; Loperena 2016). Ecotourism development drives land and resource grabbing by enclosing, privatizing, and commodifying space in rural and protected areas outside, or not fully integrated into, circuits of global capital accumulation (Devine 2017). Ecotourism land grabs are fueled and justified by discourses and practices of neoliberal sustainable development, where ecotourism is ostensibly a win-win strategy, particularly in postcolonial countries, that simultaneously achieves economic development and nature conservation (Duffy 2015). Land and resource grabbing in ecotourism are further justified as a means to finance nature-based climate solutions and biodiversity and heritage conservation, which are themselves justified as globally significant enough to offset local losses in revenue and even rights (Waldron et al. 2020). Tourism-enabled land grabbing ranges from swift, large-scale acquisitions of property or resources to gradual and ongoing forms of legalized marginalization and exclusion, whether by fraud, force, or policy change (Borras Jr & Franco 2012; Mollett 2014).

The Maya Biosphere Reserve (MBR) in northern Guatemala is a site of tourism-enabled land grabbing, especially in relation to a Maya archeology site called El Mirador. For over twenty years, El Mirador's tourism development advocates have pursued a range of legal

and political strategies to amplify existing national park boundaries surrounding the archeological site to create an extensive wilderness preserve. Such efforts, however, threaten the land rights of the MBR residents that currently manage the forests around El Mirador as community forest concessions.

This chapter examines two interrelated dynamics of tourism-enabled land and resource grabbing that are underexplored by scholars, but which the case of El Mirador clearly illustrates. After providing background on the history and contemporary conservation challenges in the MBR, we foreground the role of geospatial technologies and spatial knowledge production in tourism-driven land and resource grabbing. In particular, we explain how geospatial technologies and data underpin truth-claims about threats to tourism sites that can then justify land grabbing. The chapter also highlights how geospatial knowledge production enables practices of historical and geographical erasure that render invisible contemporary communities in ways that facilitate cultural resource grabbing of Maya heritage. Next, we examine how tourism-enabled land grabbing increasingly operates through evolving discourses and practices of securitization in the MBR. Tourism requires spaces that are sanitized and secure for the bodies, infrastructure, and practices that enable it; processes of “accumulation by securitization” (following Massé & Lunstrum 2016) are tied to the threat narratives and erasures enabled by geospatial knowledge production, but also to a transnational imperative to control those frontier spaces where ecotourism in particular operates (Rasmussen & Lund 2018). In conclusion, we argue that the case of the MBR suggests that despite the conditions favorable for tourism-enabled land and resource grabbing and going efforts to achieve this end, such dispossessions are not predetermined, and that space exists for effective resistance.<sup>1</sup>

### Background: Maya Biosphere Reserve

The area now called the Maya Biosphere Reserve (Figure 14.1) was one of the last parts of Central America to be colonized by the Spanish and remained sparsely populated until the turn of the twentieth century (Schwartz 1990). This history informs two key elements that make the MBR of particular interest for tourism. First, the Reserve boasts some of the most important and extensive Maya archeological sites and artifacts yet identified. Second, the

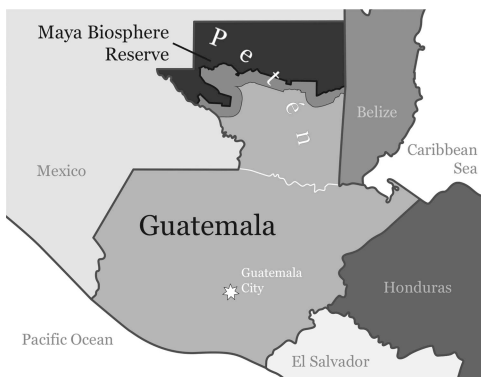


Figure 14.1 Location of the Maya Biosphere Reserve in Petén, Guatemala.

MBR is characterized by one of the hemisphere's largest extant tropical forests, rich with biological diversity, including large, charismatic mammal species such as the jaguar. Over the past two centuries, this region has also attracted interest from a range of foreign and domestic actors given its rich natural resources, including *chicle* (gum), rubber, timber, and more recently, oil. Archaeology-linked tourism, however, has fundamentally shaped how the MBR is arranged and governed, with tourism the second most important source of income for Guatemala, and most important source for the department of Petén, alongside timber production (UNESCO 2019). This section provides additional detail on the history of the MBR and outlines the ways that tourism is influencing contemporary community struggles over land and resources.

### ***Reserve Forest Use and Management***

While the economic dominance of tourism is a more recent phenomenon, interest in the natural and archaeological wonders of the region has a longer history. In the 1890s, Mexican *chicle* tappers began migrating to the forest and established temporary extraction camps during the tapping season, lasting for about six months (Mathews 2009). The violence of the Mexican Revolution motivated many *chicle* tappers to settle permanently in the forests of northern Guatemala and to establish settlements, including the contemporary villages of Carmelita and Uaxactún (Schwartz 1990). Today, forest residents describe the 1930s–1960s *chicle* bonanza as the period of “white gold,” a boom in the industry before the bust following the invention of a synthetic alternative to *chicle* resin to produce chewing gum (Cariás Vega 2019).

Following the *chicle* bust, the poverty and hardship of the 1970s for those living in forest villages of northern Petén intersected with the 36-year Guatemalan civil war and the period known as the *saqueo*: the large-scale “looting” of the forest's archeology sites (Schwartz 1990). Looting was often carried out by military generals and their soldiers, and to a lesser extent, individuals who claimed to be archaeologists who extracted jade, pottery, and other cultural resources for private collections or to sell in international markets (Devine 2016). While *chicle* tappers were not immune from the fever of the *saqueo*, forest residents also protected and conserved Maya artifacts and cultural resources. The Chiclero's Museum in Uaxactún, for example, contains nearly 600 artifacts rescued during the *saqueo* by a local villager (Paredes Maury 1999; Devine 2016).

In the 1980s, high deforestation rates in Guatemala and across Central America raised concerns among national and global conservationists, increasingly attracting significant donor funding (Grandia 2007; Holland 2012). During the Guatemalan peace process, the first civilian government partnered with international conservation institutions and national environmentalists to establish the MBR in 1990 as part of United Nations Educational, Scientific and Cultural Organization (UNESCO) Man and Biosphere Programme (Sundberg 2003). This Programme requires that protected areas include varying levels of conservation restrictions, recognizing the importance of “innovative approaches to economic development that are socially and culturally appropriate and environmentally sustainable” (UNESCO 2019). The MBR received this UNESCO designation largely because of its combined natural and cultural heritage, with tourism as part of the way in which sustainable development might unfold.

In the “core zones” of the MBR are national parks and biotopes, which prohibit human settlements and resource extraction but may include tourism sites and related infrastructure

– including El Mirador. In “multiple-use zones,” limited economic activity, including timber extraction, is permitted in line with strict management plans. A “buffer zone” around the other zones is meant to allow for a broader range of economic activities, including agriculture, but with greater oversight than non-biosphere areas (Davis & Sauls 2017).

### ***Contested Conservation Landscapes***

Today, organized communities and/or companies can sustainably extract natural resources in exchange for meeting conservation objectives in the multi-use zone; however, the right to do so results from significant community organizing to prevent land dispossession during the MBR’s formation (Gómez & Méndez 2007). In the early 1990s, newly penned conservation laws conflicted with traditional land uses and translated into lost usufruct rights for residents (Elías & Monterroso 2014). When forest-dependent communities resident in the multi-use and buffer zones learned of the government’s plans to grant private-sector timber concessions in their forests, and to remove many residents, they began to engage in advocacy, negotiation, and direct action in resistance (Gómez & Méndez 2007). Over the course of ten years and under the banner of the Association of Forest Communities of Petén (ACOFOP), MBR residents and their allies organized to create 12 community forest concessions through a fraught and hard-won political struggle (Elías & Monterroso 2014). These concessions are granted by the government for 25-year periods and require compliance with international forestry standards as well as national conservation and land use laws; different community forestry groups distribute the income from their activities differently, depending on their own governance procedures (Monterroso & Barry 2012).

Evidence today suggests that areas under community management, with sustainable forestry, non-timber forest product collection, and community-based tourism, are better conserved than several of the reserve’s national parks, which are characterized by high rates of biodiversity and forest loss (Radachowsky et al. 2012; Davis & Sauls 2017; Devine et al. 2020). Community forestry economically benefits more than 30,000 people a year, which includes revenues from sustainable resource extraction and community-led tourism, including to El Mirador (Butler & Current 2021). Community forestry also enables local residents to be protagonists in biodiversity conservation and local development strategies as forest concession managers (Stoian et al. 2018; Romero Bac 2021).

While the concessions model is widely heralded as a success in conservation and community development terms (United Nations Development Programme 2012), tourism remains dominant in terms of income into the region. The most accessible of the Maya archaeology sites in the MBR, the UNESCO World Heritage site of Tikal, receives 200,000 people annually and generates \$250 million dollars in direct and indirect benefits per year (GDT 2010).<sup>2</sup> In this context, that El Mirador receives a mere 3,000 tourists a year, despite its greater historical significance and archeological and artistic grandeur as compared to Tikal, has provoked repeated and ongoing calls for plans to expand El Mirador’s tourism potential (GDT 2010). These calls have motivated a range of dynamic, complex and often contradictory alliances around competing visions of tourism development in the MBR over the past 30 years.

Two clear camps have emerged with differing tourism development visions for El Mirador and the MBR. An assortment of archaeological researchers, foreign and national investors, and strict conservationists make up the first. They call for a re-zoning of the MBR to enhance the status of El Mirador as a touristic site of international renown. A coalition

led by the board of the Foundation for Anthropological Research and Environmental Studies (FARES) has been the most significant proponent in a campaign to expand the existing El Mirador protected area and re-classify the expanded site as a wilderness preserve, where non-tourism economic activity would be illegal. This FARES team envisions national elite tourism operators, as well as foreign providers, owning and running the tourism infrastructure at El Mirador, which would include a small gauge train visiting various sites (Devine et al. 2021).

This vision of tourism development contradicts, undermines, and threatens the integrity of the community forest concession system, which provides livelihoods, documented effectiveness in biodiversity conservation, and a socio-ecological basis for territorial development. The second coalition, which includes community forest concessionaires, their international donors and political associations, biodiversity organizations, and many Guatemalan citizens, sees limited and community-led tourism as a worthwhile addition to the suite of forest- and heritage-based activities already in play, but decries moves to undermine the concession system (Eliás & Monterroso 2014). For over 20 years, the tourism development advocates of El Mirador have pursued a range of legal and political strategies to amplify existing national park boundaries surrounding the archeology site to create an extensive, strictly protected wilderness preserve, both in the name of heritage preservation and economic development. Such efforts, however, threaten the land rights of the MBR's community forest concessions.

### **Geospatial Technologies and Tourism Land and Resource Grabbing in the Maya Biosphere Reserve**

This section highlights the role that tourism plays in land and resource grabbing in the MBR. We discuss how geospatial knowledge practices become essential for the production of spaces appropriate for tourism and then how discourses of insecurity and threat enable land grabbing in these spaces. We argue that, following Zoomers' definition, the foreignization of space that land and resource grabbing represents is underpinned by discursive and material practices that enable erasure and dispossession, but also can engender the conditions for resistance.

#### ***Geospatial Knowledges and the Production of Touristic Spaces***

Paradise, pristine nature, and exotic destinations are forged and socially constructed through material and discursive practices rather than existing prior to tourism development efforts (Ojeda 2012; Devine & Ojeda 2017; Loperena 2017). Tourism tends to carve out enclaves within a given landscape, and the first step toward much tourism-related land grabbing is creating spaces friendly to investment in the sector (Ek & Tesfahuney 2019). This section illuminates how geospatial technologies, data, and the knowledge they produce underpin the production of spaces of untapped touristic value, which is a precursor for tourism land and resource grabbing efforts.

In the MBR, geospatial knowledge production contributes to create spaces of untapped touristic value through two processes, specifically, (1) enabling contestation over the boundaries and land uses of the MBR's protected areas, and (2) erasing contemporary communities and forest concessions from the landscape. The deployment of techno-scientific knowledge in the processes of boundary setting and of cultural erasure demonstrate the range

of diverse practices of dispossession that operate in tourism (Devine & Ojeda 2017), aside from the explicit loss of possession over a good through the use of force (Hart 2006; Butler & Athanasiou 2013). Tourism-enabled land and resource grabbing can dispossess communities not only of their capacities to make decisions about their lives and livelihoods (Mollett 2014; Devine & Ojeda 2017; Devine et al. 2021), but also of the right to reproduce their heritage, culture, and history (Fitchett, Lindberg, & Martin 2021), as the case of El Mirador illustrates.

On the first point, promoters of large-scale tourism development at El Mirador have contested the boundaries of the Mirador-Río Azul National Park containing the site since the MBR’s inception. They claim that the park boundaries are at odds with a natural and cultural zone they identify as the “Mirador Basin” (Rahder 2015). Using geo-spatial data and analyses, they claim that the geologic and landscape features that constitute the Basin make it distinct from other areas of the MBR and thus it merits enhanced conservation (Devine 2018; Rahder 2020). As cartographer Monmonier (2018, 1) has famously noted, “it’s easy to lie with maps.” Whether those lies are a result of the nature of reducing three-dimensional space to a two-dimensional plane or deliberate, the proponents of the expansion of El Mirador have consistently deployed cartographic images – especially based on remotely sensed data and digital terrain modeling – to show one thing: a clearly defined Basin. As Figure 14.2 illustrates, the boundaries of the Basin overlap with the territories of several community forest concessions.

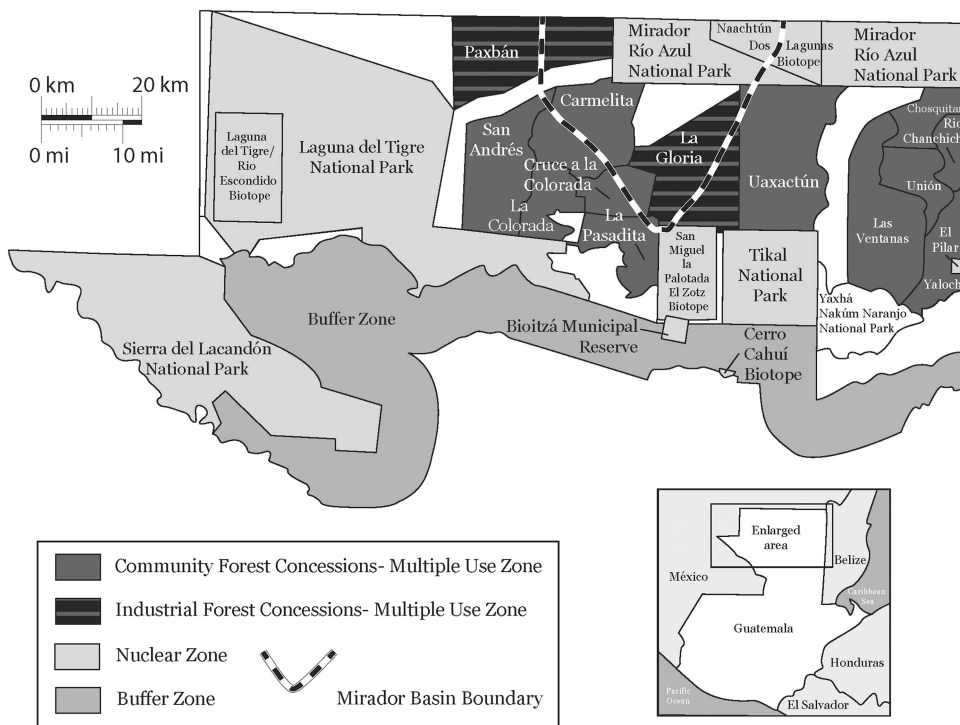


Figure 14.2 The contemporary zoning of the Maya Biosphere Reserve with the proposed Mirador Basin overlapping several of the existing concessions, source Devine (2018).

Despite the geospatial evidence produced by FARES, the existence of the Basin itself is contested. Representatives of community concessions and biodiversity organizations argue that the purported Basin is actually part of the San Pedro watershed (Rahder 2020). They further question whether the existence of a Basin should warrant additional levels of protection at all, especially as potential “Basin” areas controlled by communities experience significantly less deforestation, degradation, and forest fires than other parts of the MBR (Devine et al. 2020; Rahder 2020).

At the same time as the FARES team employ geospatial technologies to identify the boundaries of the purported Mirador Basin, they discursively construct the region into a space of pristine nature and ancient Maya legend. In doing so, they erase contemporary inhabitants and environmental management from the landscape. These intertwined technologies of delimiting the Mirador as a basin and erasing local residents, including contemporary Maya communities, are precursors for land grabbing and cultural resource grabbing (Devine & Ojeda 2017). First, delimiting a geographical space for land grabbing through legal means requires clearly defined boundaries. Second, erasing contemporary people and their environmental management practices from the landscape hides the territorial politics of these projects from global conservationists and developers who see ecotourism as a commonsense solution to raising funds to finance conservation.

For decades, Mirador Basin proponents have described the basin as untouched by human influence since the ancient Maya and covered today by pristine, virgin forests devoid of human intervention. For example, the Global Heritage Fund (GHF)-funding FARES describes the region as the “Cradle of the Maya Civilization, the Mirador Basin is the *last tract of virgin rainforest* remaining in Central America” (GHF n.d., emphasis ours). This “ancient place, pristine space” tourism imaginary is part of a longstanding myth of pristine nature in the MBR and elsewhere (Rocheleau 2015; Mendoza et al. 2017; Domínguez & Luoma 2020), which combines both the idea of wilderness and of a fantastical lost civilization to appeal to (foreign) touristic appetites (Denevan 1992; Sluyter 1999).

The ancient space, pristine place narrative articulates with discourses describing El Mirador as an El Dorado, an untapped tourism gold mine, and is reproduced and sold in various forms of global media, such as travel magazines, blogs, and TV documentaries. For example, in 2009, the CNN Special “Mirador the Lost City” opened with the anchor viewing the forest canopy from a helicopter. She explains, “From the air it looks like just a jungle, but these forests in Guatemala hide *an ancient secret: the city of Mirador*” (Lost City of Mirador 2009, emphasis added). Film director and former FARES board member Mel Gibson captures the intertwined economic development and tourism imaginaries: “a new model for rainforest and archeological site conservation through sustainable programs using the *ancient jungle shrouded cities* as the economic catalysts for their own preservation” (Idaho State University Marketing & Communications 2009, emphasis added). This ancient space, pristine place El Mirador imaginary erases forest residents, their concessions territories, and their management practices from the landscape altogether.

The recent mapping of the MBR using LiDAR has reinvigorated narratives of neo-colonialism, discovery, and territoriality that build on the ancient space, pristine place imaginary. In 2018, FARES-allied NGO PACUNAM helped raise over US\$1 million to support LiDAR research analyzing the subterranean topographies of Maya archaeology sites across the entire reserve. This project effectively executed a media campaign that simultaneously resulted in high profile, scientific and popular cultural coverage reproducing the ancient space, pristine place narrative. For example, on February 13, 2018, comedian



Trevor Noah replayed CBS coverage of a National Geographic special releasing the LiDAR project's findings on *The Daily Show*. Noah prefaces a video clip for his audiences, "for centuries the Guatemalan jungle shrouded more than 60,000 Mayan structures hidden by the rainforest," then the coverage cuts to MBR LiDAR imagery (Noah's Ark-eology: A Hidden Mayan Village & The Cheddar Man: The Daily Show 2018). Likewise, in April 2019, *The Guardian* newspaper printed an article about the LiDAR project titled, "Laser maps reveal 'lost' Mayan treasures in the Guatemalan jungle" (Davis 2019).

These practices of erasure and discourses of neo-colonial discovery, and the territorial claims they enable, constitute land and resource grabbing because they dispossess MBR residents, many of whom are Maya descendants, from the right to manage the forests they call home, as well as the right to reproduce their cultural heritage. Such practices also reflect efforts by El Mirador tourism-based land and resource grabbers to exclude MBR residents and local resource managers from decision- and policy-making circles regarding MBR heritage management and tourism development, as the next section illustrates.

### *Threat Narratives and Geospatial Technologies*

The production of spaces of untapped touristic value is often insufficient to motivate the extensive land and resource grabs required for ecotourism imaginaries; it requires threats to these spaces of cultural and natural value to catalyze and justify land and resource grabs. Despite the scientific and popular debates regarding the existence and appropriate management of the Basin, the FARES team and other heritage conservation organizations continue to leverage their geo-spatial evidence to campaign for the expansion of the Mirador-Rio Azul National Park. Failure to protect the whole Basin, this group claims, will lead to the destruction of as-yet under-explored LiDAR-identified archeological sites of great importance. In the geographic imaginary of the Mirador Basin wilderness preserve, only tourism and research activities are permitted. Community forestry and the sustainable extraction of forest resources currently practiced would be outlawed.

Advocates of the Mirador Basin further deploy geospatial technologies to depict it as under threat and in need of protection. For example, using data from the U.S. National Aeronautics and Space Administration (NASA), FARES and partners have made a series of maps detailing what they call "slash and burn fires" menacing the borders of the Basin (Global Conservation 2022). Along with captions such as "Fires that have devastated the rest of the Maya Biosphere are now right at the doorsteps of Mirador," fires maps have also been used by these groups in national and international lobbying efforts (Global Conservation 2022). They depict what appears to be careless human destruction of the forests surrounding El Mirador, and other versions of the map expand on this idea:

The fires result from intrusive settlers who follow newly constructed roads built facilitate [sic] logging, oil exportation and looting. In many cases, these people [alleged settlers] are paid by well financed narcotics interests ... Each year the fire burns closer to the Mirador Basin, the heart of this unique ecosystem.  
(FARES 2011b)

Such maps and accompanying narrative descriptions selectively present spatial data underscoring the threat to the Basin and portray locals as settlers with ties to organized crime. In these images, the red spots that encircle the Basin are, per NASA, "anomalous

hotspots” captured by the MODIS satellite, which in this case most likely correspond to fires; however, FARES maps do not disaggregate the data based on temporal and spatial trends or changes in governance across the MBR (Davis & Sauls 2017; Monterroso et al. 2018). By excluding the demarcations of the zones of the MBR – including the buffer zone, which has many fewer restrictions on land use, and the concessions, which have almost non-existent deforestation; by grouping data from years before many of the concessions were made official or during their start-up without distinguishing time with more recent years; and by suggesting that these are slash-and-burn fires rather than, in some cases close to El Mirador, permitted and well-regulated annual agricultural clearance fires or errors based on cloud cover, this type of map communicates a partial version of reality that serves a particular set of interests.

The geospatially informed boundary-setting project underpinning the establishment of the Basin and the threats it faces manifest in the politics and policy of land and resource grabbing (Rahder 2015). In 2000, the FARES coalition successfully lobbied then-President Portillo to issue a presidential decree establishing the “Mirador Basin Special Natural and Cultural Zone” (Devine 2018). The presidential decree superseded the legal boundaries and land use designations of the Maya Biosphere, including the boundaries and usufruct rights of several community forest concessions (Devine et al. 2021). Forest concessionaires argued that the decree threatened the overall integrity of the forest concession system, and they organized in response. ACOFOP and their allied legal team spent two years and US\$1 million contesting the decree and the creation of the Mirador Basin Special Zone as a land grab that threatened concessionaire land rights and livelihoods. Ultimately ACOFOP was successful. In 2002, the Guatemalan government reinstated the legal boundaries of the MBR as legislated in 1990 and the land rights of affected forest concessions (Devine 2018). That said, legislative and administrative proposals to re-make the Basin as a zone of exception have resurfaced consistently – again in 2010, in 2016, and most recently through a 2019 US appropriations bill, described in further detail in the chapter (Devine et al. 2021).

### ***Securitization Logics and Practices in Tourism Land Grabbing***

Tourism land grabs are increasingly tied to practices of securitization fueled by perceived threats to spaces of identified untapped touristic value (Ojeda 2012; Bocarejo & Ojeda 2016; Massé & Lunstrum 2016). Securitization in tourism often includes practices of providing or performing conditions of peace, safety, and control to tourists (Becklake 2020), while citizenship and security are undermined for locals and Indigenous people in particular (Gonzalez 2013). Securitization in tourism is multi-scalar; it operates at the scale of tourists’ bodies as well as at the scale of protected areas. Political ecologists have documented increasing practices of securitization and militarization in protected areas across the world, whereby perceived threats to wildlife and nature justify the criminalization of local resource users (Marijnen & Verweijen 2016; Duffy et al. 2019; Witter 2021). Massé and Lunstrum (2016) identify how the securitization of conservation spaces enables accumulation by dispossession, or the ability of land and resource grabbers to accumulate wealth by dispossessing locals of their territory, livelihoods, and identity. They define “accumulation by securitization” as “the ways in which capital accumulation, often tied to land and resource enclosure, is enabled by practices and logics of security ... provoking the dispossession of vulnerable communities, itself enabling accumulation” (Massé & Lunstrum 2016, 227).

The case of the MBR illustrates transforming practices of securitization in tourism that suggest tourism land grabs will increasingly operate through evolving security logics and practices. This evolution includes a spatial expansion of threat narratives that articulate threats to El Mirador's under-capitalized cultural and natural resources with US national security interests, as a recent US Senate bill evidences. Practices of securitization hinge on threat narratives that position contemporary inhabitants of these "ancient spaces, pristine places" as threats to that imaginary as well as regional stability and national security. In the MBR, El Mirador wilderness preserve advocates grab land and resources in the name of conservation, tourism development, and security for the site and surrounding forests. The FARES website, for example, suggests that their management of El Mirador will provide "local inhabitants a sustainable and healthy alternative to the current destructive practices of burning, logging, looting and poaching" (FARES 2011a), rather than recognizing the role community foresters and MBR residents play in forest conservation and cultural preservation (Davis & Sauls 2017; Stoian et al. 2018; Wrathall et al. 2020).

Over 20 years of contentious political and territorial struggle over the boundaries and land uses of El Mirador and the surrounding area have culminated in a proposed 2019 US Senate Bill (S. 3131) aiming to establish a wilderness preserve that includes the Mirador Basin's alleged geography and the adjacent Calakmul Biosphere Reserve in Mexico. The proposed 10-year project titled the "Mirador-Calakmul Basin Maya Security and Conservation Act of 2019" seeks \$60 million in congressional funding to create and financially support a preserve that correlates with the purported Mirador Basin. The bill states the goal of the program shall be "to create a sustainable tourism model that provides low-impact, controlled access to the archeology sites of Mirador-Calakmul Basin in Central America" (Inhofe 2019).

The FARES coalition, once again, are driving this most recent iteration of a tourism driven El Mirador land and resource grab. The links between tourism, conservation, and securitization are clear in the bill's summary that states the goal of the "Maya Security and Conservation Partnership Program" shall be "to create a sustainable tourism model that provides low-impact, controlled access to the archeology sites of Mirador-Calakmul Basin in Central America" (Inhofe 2019). The bill's statement of policy

encourages the governments of Mexico and Guatemala – (A) to prioritize the Basin; and (B) to establish a formal joint program for the security and conservation of the biodiversity and archeological ruins of the Basin, comprising "the Cradle of Maya Civilization," which would be the first ever binational *security and conservation program* of its size and scale in Latin America. (emphasis added)

The project aims to "fund field-based tropical and archeological research, law enforcement, and sustainable tourism activities," with emphasis on the role of governments and foreign researchers and NGOs (Inhofe 2019). The language of the bill and the stated aims of the proposed project illustrate how security, conservation, and tourism are interwoven in tourism land and resource grabs.

Senate Bill 3131 represents an incipient, yet important shift in practices of protected area securitization. It is the first time that threat narratives to El Mirador have been defined as an issue of US national security. Republican Jim Inhofe of Oklahoma, one of the bill's three sponsors, is quoted in the press stating he believes the bill will dissuade illegal immigration to the United States (Yates 2020; *Mayan Ruins in Guatemala Could Become a U.S.-Funded*

Tourist Attraction 2020). Combined with the bill's focus on reducing drug trafficking, it becomes clear S. 3131 is motivated by US congressional desires to secure its southern border from illicit flows of people and commodities, with conservation an ancillary benefit. To the bill's sponsors, tourism development of El Mirador should provide locals an alternative to illicit activities and to deter outmigration to the US (even as this area of Guatemala has some of the lowest levels of out-migration per capita (Stoian et al. 2018)).

Despite the bill's language that local communities "should have a leading role in fostering the partnership to preserve and protect the Basin" (Inhofe 2019) – alongside the private sector, government, and international donors – forest communities characterize the bill as the latest iteration of ongoing land grabbing efforts in the name of conservation and tourism development. References to providing "secure economic opportunity" to local communities fall on doubtful ears in the MBR where many residents, the forest concessions, and their allies have a more than twenty-year history litigating the boundaries and uses of the MBR with the network of supporters of the Mirador Basin wilderness area. A common refrain from community members is that they are not looking for low-wage, seasonal jobs in their own forest; rather, if tourism in El Mirador is to expand, they should be the "protagonists" of this sector, and it should complement their existing efforts and reflect their socio-ecological values (Mayan Ruins in Guatemala Could Become a U.S.-Funded Tourist Attraction 2020).

MBR residents and concessionaires have successfully (thus far) organized in opposition to the proposed S. 3131 at the local level and internationally. Following the release of a shortform Vice News documentary in 2020 detailing the proposed bill, in which Basin proponents speak poorly of forest concessionaires and suggest that private sector companies would be the managers of the proposed preserve, concession supporters created a Change.org petition that has received over 208,200 signatures as of this chapter's publication. The petition reads: "Guatemala does not need to be colonized in 2020, protect our Mayan ruins from capitalistic US greed" (Arango 2020). While the bill's current status is "died in previous Congress," it still could be passed as a companion bill or re-introduced in future sessions (GovTrack.us 2022). In other words, while S. 3131 lies dormant, the land grabbing threats and long-term interests it represents remain concerning for many MBR residents and forest concessionaires, especially given the potential for and scale of US funding and intervention.

## **Conclusion**

This chapter has detailed several lenses through which to understand tourism-related land and resource grabbing in the MBR. First, we outlined the longer history of tourism land grabbing in the MBR and specifically around the El Mirador Maya archeology site. We then explored two ways in which geospatial knowledge production is bound up in tourism land and resource grabbing, based on this case: first, in the production of tourism spaces through "ancient place, pristine space" logics; and second, in the characterization of threats to these spaces to justify intervention. Finally, we examined evolving practices of securitization in tourism spaces that create further erasures and exclusions.

This chapter also demonstrates that tourism-related land and resource grabs are not predetermined nor always successful; they do not always result in dispossession. The battle over tourism development in El Mirador reveals how forest residents have successfully defended their land rights, but also the high cost of doing so. It also illustrates how MBR

residents and local resource managers continue to face ongoing threats to their land rights, livelihoods, and socio-environmental justice movement. Heritage and ecotourism can be a means for local communities living in and around protected areas to create just and sustainable livelihoods and socio-environmental relations (Muganda, Sirima, & Ezra 2013; Giraud 2018). Our research suggests that the risk of tourism land and resource grabbing is minimized and the potential to benefit “hosts” maximized when local communities are the owners and managers of tourism ventures and the protagonists of tourism management and decision-making (Devine 2017; Giraud 2018). Yet, the conditions under which land grabs are successfully thwarted need to be better understood, as do the roles of geospatial knowledge production and practices of securitization in tourism land and resource grabs. While the case presented earlier comes from a specific intersection of historical, cultural, and ecological factors, in many ways, as a biosphere reserve and home of tourism-dependent world heritage sites, the MBR provides a lens through which to start weaving together these trends.

### Acknowledgements

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### Notes

- 1 This chapter draws upon more than ten years of ethnographic research in the MBR by the two authors, including two years of living reserve villages, more than 100 in-depth interviews, and dozens of participant observation experiences related to MBR conservation and tourism development. The analysis presented here synthesizes several articles and book chapters analyzing the politics, territoriality, and violence of tourism development, conservation, and securitization in the Maya Biosphere (see Devine 2016, 2018; Bebbington et al. 2018; Devine et al. 2021).
- 2 Pre-COVID-19 data.

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## **PART 5**

# **Land Grabbing by Extractive Industries**

**Fossil Fuels, Minerals and Metals**



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# ARCTIC RESOURCE EXTRACTION IN THE CONTEXT OF CLIMATE CRISES AND ECOLOGICAL COLLAPSES

*Markus Kröger*

## **Introduction**

The Arctic land and resource rush has not been in the limelight of global research on new land grabbing (Kröger 2019), which focused first especially on the rising long-term leasing of plantation land in Africa, especially by Gulf and East Asian rising states, following the 2008 financial market crisis (Edelman et al. 2013). Since then, research on this new land rush has also looked at other contexts and states, and a variety of actors pushing for land grabs, such as different corporations, funds and other actors, especially in the Global South, but also in the Global North. The attention has expanded from farmland to mining, hydrocarbons, forestry, tourism, and other forms of land grabbing (see Chapter 1 in this volume; Neef 2021; Kröger 2013; 2020). The essential role of the establishment of extractive infrastructures and logistics has also been studied (Mezzadra & Neilson 2019; Tsing 2018); for example, the role of states and corporations that establish large pipelines and port complexes which allow for push and are essential for broader land grabs at the points of extraction (Pedlowski 2013). Also, the diversity of actors and processes which explain new land rushes has expanded, including the role of financialization and other actors than states and corporations that operate at global scales (see Chapter 1 in this volume; Cotula 2012; Sosa Varrotti & Gras 2021). However, even within this broader view of land grabbing as a global phenomenon, the Arctic has been mostly sidelined, although Arctic specialists, located in the Global North and having their own established research traditions, including natural resource management and extraction, have provided some new analyses (see Kröger 2019 for a review). Having said that, the situation of the Arctic still demands much more attention, and global land grabbing scholarship can help to provide an even more critical and global understanding of land rush dynamics.

This chapter merges specific Arctic studies and concepts with global land grabbing theories and knowledge, aiming to provide a contribution to both by emphasizing that the ongoing climate and ecological crises need to be incorporated fully into explanatory models. This is a pioneering proposition. In *The New North: The World in 2050*, Smith (2011) argues that the areas North of latitude 45 will in the future have much more strategic importance and an increased global role due to several trends. However, this book, like the bulk of

other existing studies, assumes that no major catastrophes, pandemics, or other shocks will occur, and thus provides an assessment which foresees, for example, that oil and gas extraction will continue to rise, and permafrost melting will most likely not be a major problem.<sup>1</sup> I question this approach here, based on the world-systemic approach, which analyzes how the world has already entered a period of chaos where epochal, abrupt, and unexpected changes, alongside agency, will explain many more future trajectories than the assumption that processes of change will remain stable (Wallerstein 2011). I merge this approach with the latest scientific knowledge on the dire situation of the permafrost thawing as well as other ecological and global climatic disruptions, and how they are already affecting the Arctic. In a decade, the body of knowledge on these tipping points and feedback loop events has increased, and some new Arctic social science is starting to emerge taking these issues seriously into account (such as Dodds & Nuttall 2019). There is now even more evidence that demands a thoroughly new approach to analyze likely futures, especially in the Arctic, and particularly in relation to the land and resource rush prognoses.

Through this approach, I will argue that the key concepts of “Arctic hype” and “Arctic paradox” need to be seen in a new light. These key concepts relating to Arctic politics are explored in the context of catastrophic changes, which are somewhat present in non-social scientific studies (which the first part of the chapter assesses), yet are practically absent from social scientific studies on resource rushes. I argue that due to the rapidly cascading global ecological crises, which will affect the Arctic faster than most places, it is much less likely that the foreseen “untapped potential” of resources will be available for extraction. In fact, the destruction of existing oil and gas pipelines, due to permafrost melting, and riskier sea routes and offshore extraction due to unexpected storms, may well prove to be much more vital processes in defining the contours of extraction than the will to extract. Thus, the “Arctic hype,” which refers to claims over-exaggerating the potential untapped resources and boon provided for global resource extraction by the Arctic (Finger & Heininen 2019), may be over, or face major narrative transformation. The “Arctic paradox” refers to the receding ice sheets and the opening of maritime passages, supposedly opening up possibilities for further extraction. Paradoxically, these ecological changes are caused partially by the increased extraction and its emissions and other disturbances in the environments. Hence, the “Arctic paradox” may also be under major narrative transformation. This is probable if the Arctic changes do not provide the possibility for furthering extractive capacities, but instead force existing investment projects to discontinue. This would mean shutting down extractive areas and depopulating those Arctic towns that have become exceedingly dangerous due to, for example, massive methane releases, and other changes forcing rapid changes in the lived environments of the Arctic. This kind of rendering of prior land uses, such as extensive reindeer herding, is already happening in some places, as the record snow cover in Lapland in 2020 showed. The Sámi people had great difficulties in their reindeer herding as the reindeer could not get at the lichen under the snow, and had to be feed-lot fed. These kinds of abrupt yet ever more typical weather disruptions affect existing livelihoods and lived environments, the kind of land uses, and the ways of life that are possible. Sámi spokespersons have said that if reindeer herding ends, that will be the end of their traditional culture, lifestyles, and languages. This chapter will explore these transformations in and through the Arctic in the interface of climate crises, ecological collapses, resource extraction and global land grabbing.

I will first explain the key biophysical changes in which the land and resource rush in the Arctic is currently situated, to emphasize that these issues should not be studied as

happening in some sort of vacuum where capital investments can freely flow to places around the world. The environmental, technical, political, and economic difficulties of extraction are reviewed. These include studies on infrastructural damages and costs, which are mostly neglected by government policies, but are starting to be taken more seriously by would-be investors. After this, the social responses and resistance to Arctic resource grabbing are explored, and the varied forms and trajectories that Arctic regions are likely to experience are assessed. The study is primarily based on a literature review that unites different strands of scholarship to make a transdisciplinary argument, while basing this knowledge on personal field research on mining and other types of resource frontiers globally and in Finland. The conclusions connect the current situation to a demand for incorporating politics at the current tipping points and also connect ecological crises much more closely to existing social scientific and other studies on global land grabbing and other issues.

### **The Difficulties of Resource Extraction Amid Climate Catastrophes**

Global temperature rises have led to a rapid increase in permafrost temperatures around the world, and this has caused fast-expanding permafrost thawing especially in the Northern Hemisphere (Biskaborn et al. 2019). The degradation of the permafrost system has been dramatic between the 1970s and 2018 for example in the Western Russian Arctic (Vasiliev et al. 2020). This thawing of the permafrost has already passed a tipping point and will continue for hundreds of years even if the emission of greenhouse gases by humans were immediately halted (Randers & Goluke 2020). The methane and other greenhouse gases that the Arctic thawing is now releasing will further accelerate this process, making developments in the near decades unstable for an assumed continuation of extraction. Scientists have warned that this process will be further increased as there are very few signs of decreasing emissions; instead the focus has shifted toward net-zero targets in the distant future and dubious offsetting schemes and other false solutions to address the climate crisis (e.g. <https://www.climatechangenews.com/2020/12/11/10-myths-net-zero-targets-carbon-offsetting-busted/>). The potential of carbon that will be emitted from permafrost thawing is massive, estimates running from 260 to 360 billion tonnes of carbon, a considerable part of which will thaw abruptly and not gradually, these abrupt emissions greatly increasing the release projections (Merritt et al. 2019). Just a tiny fraction of this emission potential would have catastrophic impacts (Smith 2011).

There are a few studies which have started to incorporate the aforementioned situation into their prognoses, although the vast majority, based on my review, suggests that most analyses are oblivious to these facts, or ignore them. Hjort et al. (2018) claims to be the first study detailing the fundamental infrastructure which is at risk across the Northern Hemisphere permafrost area due to climate changes. They argue that by 2050, about 69% of the pan-Arctic infrastructure that is essential to human life in these conditions, including housing, transport, and industry facilities, will be in areas of high potential for permafrost thaw near the surface. They also note that even if the Paris Agreement target is reached, most Arctic infrastructures would be at risk. This includes such central extractive infrastructures as the 1,590-kilometer Eastern Siberia–Pacific Ocean oil pipeline, 1,260 kilometers of gas pipelines originating in the Yamal-Nenets region, and 550 kilometers of the Trans-Alaska Pipeline System (Hjort et al. 2018). This suggests that especially hydrocarbon extraction will become extremely difficult, too costly, or socio-environmentally hazardous,

as the constant thawing will require re-building the pipelines. As the costs of merely trying to upkeep the existing industrial structures, buildings and essential logistics of extraction are extremely high, there will be fewer funds for expansion projects. For example, Streletskiy et al. (2019) estimate that by 2050, Russia will need to spend over 100 billion USD to sustain its existing infrastructures that will be damaged by thawing. Producing cheap commodities that rely on massive infrastructures, such as hydrocarbons, is thus likely to be hard, even impossible. Moreover, the situation will become even worse due to the currently rapidly decreasing funding given to hydrocarbon expansion projects, and the massive and rising costs, and lowering returns, that the pumping of oil and gas in the Arctic would produce. Similarly, slurry pipelines for pumping minerals with water are likely to be unfeasible in the Arctic. A more likely, and less costly, outcome in the worst thawing regions is for the people now living in extractive towns' old buildings which are collapsing to be moved to other regions, where upkeeping infrastructure will be less costly, and where the rapidly cascading effects and risks of thawing are less likely. This suggests that very large areas of Siberia and North America would become more akin to wasteland than usable targets for land grabbing, as investing would be far too risky and short-lived.

These barriers set by climatic catastrophes are not limited to land, but also affect the seas. Coastal and offshore operations will suffer from increasing storms and drifting ice, which already make the situation so perilous that, along with other factors such as the unavailability of funds, or close enough ports, make other Arctic seas except the Norwegian-controlled Barents Sea highly unlikely, even impossible sites of expanding drilling (Eliasson 2017). The melting perennial and multi-year Arctic ice will not only raise sea levels, but will lead to extinctions of microorganisms dependent on ice. This will lead to dramatic existential problems for Arctic life, including the many fishing and hunting dependent populations (Dodds & Nuttall 2019).

These prognoses make it clear that not only will forecast expansions into permafrost and ice cover areas be much more difficult than expected, even impossible, but that the existing logistics and extraction operations relying on steady ground are also likely to be damaged. Those who have invested in Arctic extraction and exploitation permits, leased land and extraction rights, or have already invested in infrastructures and operations, are going to face rising and unexpected risks. As Francis (2018: 17) notes in her *Scientific American* climate change special issue article, which showcases how the Arctic is changing much faster than predicted, coming closer to tipping points with feedback loops, it is time to “prepare for the unexpected.”

### **Neglect of the Climate Crisis in Arctic Government Policies**

Despite the above and other scientific studies and local peoples' complaints, which clearly point toward the necessity to take future and already happening crises seriously, governments interested in the Arctic or situated there are mostly going in the opposite direction in their policies. Newlin et al. (2021) note how extremely ill-equipped current Russian regional governments are to respond to the above challenges, due to lack of funds: they are already in heavy debt and falling into bankruptcy. In this haphazard situation, ecological catastrophes such as leakages from pipelines and factories into rivers and elsewhere have increased, as environmental regulations and infrastructural investments are overlooked. The time of cheap commodities seems to be thus already ending, as Moore (2015) has generally noted, and as I can confirm from my studies about the Arctic and the case of the Finnish

mining boom, where costs of investing and operations have exceeded the returns in the key expansion projects (Kröger 2016). However, governments across the Arctic still seem to push the Arctic land and resource rush further. There are major Arctic pulp investment, mining, tourism, and wind energy booms currently in Finland, and some of these booms are also present in Norway, Sweden, Iceland and Greenland. Instead of investing in alternatives, Russia is focusing heavily on increasing its capacity of hydrocarbon power production (Newlin et al. 2021). The actual and political costs of these moves, which tie the energy matrix for years to come to fossil fuels, will increase.

There also seem to be diverging resource grabbing trajectories between the Arctic regions. The EU (2020) estimates that North America will not engage in large-scale Arctic oil extraction as it has also less costly and smaller-scale options. The EU (2020) Arctic Policy paper suggests that it is much more likely that Norway and Russia will continue their Arctic oil extraction expansion, due to sunk costs in Norway, that being possibly the easiest option seen for GDP growth in Russia by its current decision-makers. Staalesen (2020), assessing the Russian energy and climate policies, shows how climate change is recognized in Russia, but basically nothing has been done to prepare for it: instead, expanding hydrocarbon extraction is framed as essential and no alternatives are seen as viable. This has made many, including Sukhankin (2020), who wonders about the Russian 2035 coal strategy (which foresees major expansion), ask “Why does Russia ignore this rapidly shifting reality?” This refers to Russia merely preparing to adapt to some climate changes, but not combating them (Staalesen 2020). Tynkkynen (2018) assesses the reasons for this. According to him, the Russian state has a specific, hydrocarbon giant rhetoric directed toward domestic audiences, which makes the negative effects of climate change social taboos. This rhetoric also exaggerates the economic potential of Arctic industrialization and downplays the dependence on just hydrocarbons. The practice of compensating Indigenous people for pollution and loss of habitat in a way that merely seeks to stifle criticism is another example of the balancing act by the Russian state to keep the constructed hydrocarbon identities alive, argues Tynkkynen. The longer this hydrocarbon rhetoric continues, the more likely the aforementioned predictions on the magnitude and timing of planetary catastrophes due to climate disruptions will become.

These kinds of moves suggest that technological lock-ins are being built, based on existing grabbing trajectories, such as in the Norwegian focus on offshore drilling and the so-called blue economy of extracting everything from the seabed that is possible. The propensity of such sunk costs tends to be for invested-in projects to be continued, even if they would be highly problematic, unprofitable, or destructive. This is because someone has already invested in them and wants – or even needs – to make money to pay debts, or to continue resource grabbing in other places. Yet, at some point in the near future, it is likely that this situation of ever-expanding resource frontiers for at least the past 550 years, will come to loggerheads with the harsh realities. This is expected to happen faster in the Arctic than elsewhere, as the temperature rises there are two to three times higher than elsewhere, and the natural conditions are much more fragile. Francis (2018: 52) calls the Arctic the “canary in the coal mine” for the whole earth. While there are more natural resources in the Arctic than in many other places, these are not available for extraction in sensible terms.

Besides natural barriers, there are also particular international politics which strongly impact the pace and style of extraction. Leroux and Spiro (2018) note the crucial importance of inter-state competition: if one starts to extract, others can make use of the solutions and technologies, and have the impetus to invest as well. The Russian will to expand



hydrocarbon extraction has been greatly affected by Western sanctions, without which it has proven to be impossible for Russian operators to expand oil operations in the Arctic, as this would require extensive technological developments and Western funds (Morgunova 2020). Nationalist agendas, such as Russia's 2007 planting of its flag by submarines on the ocean floor of the North Pole, seem to have slowed down a joint capitalist rush to the Arctic. Inter-state rivalry between some Arctic nations, visible in the race for who gets to first claim and grab sea areas has, curiously, been an impediment to starting offshore and port-expanding projects in the same manner as forecasted earlier. In this setting, imposing greater environmental regulation has been interpreted by other would-be Arctic extractive nations as a sign that a country would not be so interested in expanding to the Arctic – something that Leroux and Spiro (2018) argue has deterred expansion thrusts. But national thrusts of expansion remain. Besides Russia, Morgunova (2020) explains that the will to expand into the Arctic, and citizen support for this, is high also in Norway. This makes Norway the most likely candidate for being the first nation to start Arctic extractive operations, as it has funds, making what happens in Norway and its initial operations extremely important for the whole region's future.

### **Market and Social Responses to Worsening Extraction Possibilities**

While governments are trying to promote Arctic resource rushes, global markets and investors have already started to look in other directions. The drastic decrease in oil prices in 2020, linked to COVID-19 pandemic politics, and to Russian and Saudi Arabian maneuvers to make use of a multiple global crisis to push oil prices down (as they can sustain lower prices longer than other oil producers, thus capturing markets in the end), and the rising flow of investments to so-called renewables instead of hydrocarbons, have dramatically lessened the likelihood of Arctic offshore oil investments. Carayannis et al. (2021) estimate that in this current situation, oil and gas companies are unable to utilize their unique competencies, and that only one or two large projects may materialize in the Arctic. Considering this slowdown of investments from the viewpoint of Leroux and Spiro (2018), who emphasize that not investing does not cause leakage to other regions, but in fact creates a strong regional policy of not engaging in extraction, COVID-19, low oil prices, and the shift to renewables investments that have taken place in the past two to three years, give some hope in the timeline. Since the longer the perilous investments that would increase emissions are postponed, the harder and less likely it will become for companies to realize them.

This consideration of timelines is essential and suggests that the currently budding resistance to Arctic resource extraction projects is essential and well-timed and would need to be supported and expanded in scale and scope. The Arctic context is changing so rapidly that even a few years can show the instability of this setting for investments – in which case the would-be investors, at least those losing money, should in fact be grateful for the current resistance against their ill-thought moves to expand extraction. Shell had to pay a heavy prize of several billion USD when abandoning its Alaska offshore oil exploration, amid rising Greenpeace and other global protests against these moves. Other companies are likely to take note of the risks of consumer boycotts as well, as even one oil leakage in the Arctic seas would be devastating for the fragile environments and the people relying on them. Such an accident would signify a drastic end to the extraction pushes, but hopefully Norway or other actors are not going to test their luck so far as to realize those risks.

### **Arctic Social Scientific Contributions to Global Land Grabbing Studies**

The aforementioned discussion has focused on the biophysical changes which strongly suggest that future resource rushes in the Arctic will not take place in the way fathomed thus far. The bulk of global and Arctic resource extraction has focused on hydrocarbons. This energy sector is also the most important due to the pivotal role it has played and continues to play in emissions. There are, however, also other important sectors that are also causing climatic and ecological impacts, and are involved in land grabbing across the Arctic. Hydrocarbon projects have been placed on Indigenous lands and periodically put Indigenous and conservation areas at risk, as studies in Alaska and Russia (Kumpula et al. 2011) have shown. Wilson and Stammler (2016) have introduced a special issue around Arctic extractivisms, arguing how extractivist logics have pushed many locals into supporting extractivist projects. However, there are variations to this, and since 2016, there has been significant mobilization against extractivism in the Arctic, for example among the Sámi (Kuokkanen 2019). Locals have engaged in such acts of resistance as countermapping their territories against mining projects' mapping of "resources," and in emphasizing the place-specific, unique qualities which cannot be compensated if destroyed by open-pit mines (Lassila 2018; 2020). In comparison to the Global South, with its heavily oppressive and violent politics and contexts of extraction, the Arctic setting does seem to offer some more room for agency by locals and would-be resistance against extractive projects, even in Russia according to Stammler and Ivanova (2016). Yet, here as elsewhere, this resistance does not surge automatically as a response to grievances but needs to be built by active agency and specific resistance strategies (Kröger 2013; 2020).

While I have argued here that much of the Arctic land and resource rush remains at the level of hype and will not be realized due to the climate and ecological collapses, there are several existing and new projects in parts of the Arctic that are currently expanding. These include mining projects to secure rare earth and other minerals for the transition to battery-based electric vehicles as a supposed solution in a move away from hydrocarbons. The moves to expand wind energy have been heavily criticized for the damage it causes, and because it leads to land grabbing of Indigenous land in the Global South (Dunlap & Jakobsen 2020). Lapland is now starting to experience these conflicts related to wind farm expansion plans. Resistance experiences of what works in the Global South, where people have already experienced heavily violent extractive expansions and learned how to resist them (see Kröger 2020), could be used by the Arctic populations to resist land grabs in their region. In fact, this is already happening, as the Arctic is becoming increasingly global, and connected to all sorts of global politics and interactions (Finger & Heininen 2019).

Unequal economic and ecological exchange are also affecting local communities and even states targeted for new resource extraction in the Arctic. For example, Finland has the world's most pro-corporate royalty and mining revenue distribution regime in the world (Kröger 2016). Most of the increased interest in the Arctic as a massive untapped source of resources and energy comes from outside of the region, which has led scholars to see the Arctic scramble as a sort of continuation of resource colonialism (Gritsenko 2018). In this game, argues Markowitz (2020), those states which have most abundant resources, and have tied their economies to resource rents, are the most likely to project power to grab further resources in the Arctic. Markowitz (2020) thus emphasizes that this is not an all-out competition for the Arctic resources – which he, as is the convention, sees mostly as being made more available and not less available by climate change (unlike what I have argued

here) – but state reactions vary. This kind of setting of divisions between elites (of different countries) does offer greater possibilities for those seeking to resist extractive projects (Kröger 2020).

The most likely outcome for the 2020–2030 period is that the earlier melting of the Arctic Ocean will result in increased shipping, due to the vastly faster and thus cheaper sea route to China. China will most likely try to exert more influence and control, but Russia has the highest interest in seeking rents from controlling the shipping lanes, and extracting more minerals, whose loading might become easier at some port sites. These mine-port complexes would, however, need to be located somewhere else than in fragile and thawing permafrost areas, or otherwise these will be literally sunk costs rather than profit-making enterprises. Some inland mines may expand, but hydrocarbon expansion projects beyond what Russia and Norway are preparing are unlikely, and even the proposed plans might very well be unrealized. Greenland may see some mines opened, although its earlier hopes of getting independence by a mining boom have been set aside recently as local resistance to uranium and other destructive mines has risen, and locals have come to understand that the dozens of planned mega-mining projects would destroy existing lived environments. This said, there has been a notable and quantifiably massive increase in Arctic mining, which has caused the amount of waste and side rock to increase tenfold between 2005 and 2010 in Finland for example (Kröger 2016). Nunavut in Canada has also seen expansion projects, for example, for massive iron ore mines in the Baffin Island. Alaskan communities and conservation sites are at constant risk, as the policies of President Trump showed: if a similar candidate comes to power, things might change rapidly for Alaska, with regional impacts for the Arctic. Policy studies have therefore recommended making more lasting national and international laws to ensure the major planetary benefits that a healthy Arctic has been providing (Carson 2019). These include the reflection of sunlight by snow and ice cover, whose melting should be prevented, but is now being exacerbated by flaring in gas and oil refineries in the Arctic regions, and black smoke from other burning processes (Isomäki 2009). However, there are not many drastic changes to these industrial activities currently underway, as many think, there is still plenty of time in the future to mitigate the damages. However, if these activities continue unabated for too long, the potential changes might come too late to have significant impact. That is, the ecological degradation might be too severe for reversal if proactive action is not taken. French (2019) argues that because of the Arctic and other tipping points, it is unlikely that there will be a chance of continuing in the old way of first doing and then learning from one's mistakes, but the paradigm should change into building on the burgeoning knowledge on the high risks of extraction and only then exploiting (within environmental boundaries).

### **Concluding Remarks**

The most important contribution that the addition of the Arctic to the bulk of knowledge brings is that the Arctic is not merely just one more case of where land rushes have risen. There are myriad opportunities to draw broader theoretical and empirical understandings on the phenomena included and related to global land grabbing due to the unique dynamics in the Arctic; including, the Arctic's natural conditions, the changes in Northern polities, the particularity of international relations, and the rapidly changing interrelations between climate, ecological crises, and ecological collapses. The climate is warming two to three times faster in the Arctic than the global average. Permafrost melting is making extraction

of minerals and fossil fuels much more difficult, risky, and even impossible, as infrastructures that have been built with great sunk costs are deteriorating and spreading pollution into the Arctic areas, especially in Russia but also elsewhere. The rapidly advancing climate catastrophe can already be observed, firsthand, in the Arctic. This can provide insights into what kinds of dynamics can be expected elsewhere. The Arctic is likely to see rapid collapses of extractive infrastructures amid high hopes for expanding them. The coming climate catastrophe is largely neglected in current Arctic policies. Yet, other-than-human agency can fast and abruptly change the contours of resource and commodity frontiers. Such drastic events may offer space for positive and fast political responses.

If the Arctic reaches its tipping points, such as runaway permafrost thawing, there is no return to the Holocene's stable climatic (and thus political) conditions (Francis 2018). I argue that the whole social scientific apparatus needs to dramatically shift to incorporate the politics at these tipping points, as the current way of treating the global climate crisis still shows a continued rise in emissions. But how long can this continue, when major tipping points are reached and start to show their impacts? Will these tipping point politics have radically different ways of doing politics and understanding the role of other-than-human nature and its role in affecting political possibilities? I argue that these tipping points need to be further incorporated into analyses and policies beforehand to prevent them from materializing.

This chapter has offered an example of how to incorporate existing climatic forecasting research with social scientific studies, in this case, the current state and future outlook of a land and resource rush and grab in the Arctic along the lines of what has happened in the 2000s in the Global South. I have argued that this land and resource grab is less likely in the Arctic, given the rapidly changing climatic conditions such as permafrost thawing and the overall unpredictability and ecological instability of the region, which make much of the extraction projects in future decades there more of a hype than a reality. While the 2005–2020 period did see a notable and major expansion of resource extraction and land grabbing in many parts of the Arctic, as elsewhere around the world (Kröger 2019) due to the global commodity boom, this tendency is likely to be at least attenuated, if not reversed, given the rising costs, risks, and instabilities of Arctic resource extraction.

### **Note**

- 1 There is a specific chapter in Smith (2011) looking also at much more negative, abrupt possibilities, such as faster permafrost and Greenland ice melting. These are, however, sidelined as less likely, due to the modeling approach which requires knowledge about whether, how and when these events would occur (which Smith claims was not robust enough in 2010), and the common and conventional perspective which wants to assume continuity over disruptions.

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# 16

## TERRITORIAL CONTROL, DISPOSSESSION AND RESISTANCE

### The Political Economy of Large-Scale Mining in Asia

*Pascale Hatcher and Etienne Roy Grégoire*

#### **Introduction**

The changing supply and demand for minerals is reshaping the Global South. On the one hand, heightened depletion of mineral reserves, emerging technologies of extraction, and sustained demand from China have propelled multinational companies to explore new sites of extraction, which are increasingly located in remote corners of the globe (Hatcher 2014; Sommer 2017). On the other hand, large-scale mining has often been justified with enticing promises of national development and local benefits-sharing arrangements. Framed as a “frontier environment” for mineral development (IFC 2012), Asia experiences new dynamics of control over land, territories and resources, enabled by large-scale mining’s specific governance regime.

The concept of land grabbing has infrequently been used in the literature on large-scale mining in Asia.<sup>1</sup> However, and as exemplified in this contribution, the definition of land grabbing has gradually widened beyond its initial reference to large-scale investment and foreign ownership of agricultural land (see GRAIN 2008). The concept now expands to include a variety of models of control over territories in order to secure access to – and to speculate over – a range of natural resources, including minerals, and regardless of the nationality of the actors involved (Borras Jr. & Franco 2012). Defining land grabbing more broadly as “transfers of effective control over land-based wealth and power” (Borras Jr. & Franco 2010: 23), and complementing a field originally framed in terms of the global political economy, a diverse literature now delves into more historically and geographically specific land and resource grabbing dynamics, including within the context of large-scale mining activities. That literature looks at particular territorial control strategies, with their attending political ecologies, normative and discursive dimensions, social configurations and repertoires of resistance and counterinsurgency doctrines (Borras Jr. & Franco 2012; Dunlap 2020).

Conversely, the discussion around land grabbing, when applied to the context of mining, allows to highlight strategies of control achieved through sector-specific normative

instruments, but whose object goes beyond the global political economy of access to mineral resources to include other, intermediate practices of accumulation by dispossession (Harvey 2004). This chapter focuses on the political economy and the normative framework of mining as one specific model of territorial control in Asia. Its aim is to present an overview of the discussion within this literature that argue that beyond state legal regimes, a number of local, national and international actors with plural and often contradictory interests – such as corporations, national and local elites, armed actors, donors, international development banks and civil society – are involved in crafting, implementing and contesting mining regimes, a process that further speaks to the transnational nature of the sector. Crucially, however, these regimes and the expansion of the mining frontier have profound impacts on the livelihoods of the local communities living in the vicinity of large-scale mining projects, communities often already marginalised.

This chapter is divided into three sections. After providing an overview of the scale of Asia's mineral endowment, the first section of the chapter introduces the specific governance model and normative framework that characterises the region's mining sector. The argument presented in the second part of the chapter demonstrates how such governance and normative framing has facilitated practices of accumulation and dispossession across the region, and in turn, how these practices have triggered a range of repertoires of resistance around mining. The last section examines the case of Mongolia, one of the region's most mineral endowed countries.

### **The Land and Large-Scale Mining Nexus in Asia: A Political Economy Framing**

The Asia-Pacific region is tremendously rich in minerals, accounting for more than half of the world's metal ore production (USGS 2019: 1.1). According to the United States Geological Survey (USGS), the region is the world's leading producer of a vast array of minerals, including alumina, bauxite, refined copper, iron ore, lead, magnesite, mercury, mined nickel, tin, tungsten and zinc (2019: 1.1). Incidentally, all of the world's largest mining companies currently have projects in the region (Kemp & Owen 2017: 131). While Japan and South Korea are sizeable importers of minerals, China and India remain the largest consumers of minerals in Asia – China is the largest importer of rare earths minerals (Daly 2019); India, of gold (USGS 2018; 2020). China is also a world's leading producer of minerals, including gold, most nonferrous metals and raw steel – it also accounts for 80 percent of rare earths' world production (USGS 2020). Within Southeast Asia, mineral trade was valued at USD 249.8 billion in 2012, accounting for 8.9 percent of the region's total trade (ASEAN 2020). Indonesia is by far the largest producer of the Association of Southeast Asian Nations' members (notably nickel, tin, bauxite and gold), although other members are also important mineral producers, including Malaysia, Myanmar, the Philippines, Thailand and Vietnam (see USGS 2019). Indonesia and the Philippines, together with Papua New Guinea, account for a staggering 82 percent of the total mineral exploration budget for the region (in 2014) (USGS 2017: 1.2 cited in Hatcher 2020a).<sup>2</sup>

Like other regions rich in natural resources across the Global South, Asia's large-scale mining sector is ruled by a neoliberal governance model and normative framework characteristic of a now globalised mining sector (O'Callaghan & Vivoda 2010). This governance model was disseminated through successive waves of neoliberal reforms across Latin America and Africa in the 1980s and 1990s (Campbell 2009), and more recently, in Asia (Hatcher 2020a; Naito et al. 1998). It is worth noting that over the decades, international



financial institutions such as the World Bank, as well as some regional banks and bilateral donors, were instrumental in promoting this governance model by twining it to a discourse that associates foreign direct investment to development and poverty reduction (Hatcher 2014). If some of the provisions embedded in these “generations of mining regimes” remain in constant flux, they are all driven by a set of normative principles that seeks to reframe political issues regarding the distribution of risks, costs and benefits of mining in technical and managerial terms, while transferring the authority over natural resources from public institutions to the private sphere (Campbell 2004; Campbell & Hatcher 2019). As argued in this contribution, this governance model has had a profound impact on modes of territorial control and consequently, has heightened tensions around mining sites and beyond.

One key normative element of this depoliticised resource governance is the principle of “free mining” or “free entry”, which prioritises the interest of mining rights holders over the interests of surface rights holders (Gagné-Ouellet 2013: 51–52; Laforce et al. 2012: 31–34). Expressed through a variety of normative instruments according to each country’s specific jurisdictions, the principle of free mining aims to provide “legal certainty” by insulating mineral rights from “risks” emanating from competing land claims, the exercise of territorial planning by the state or local communities, or the affirmation of Indigenous jurisdiction (Isaac & Hoekstra 2021; Newman & Graham 2021).

This discourse around “risk” is heightened in “frontier regions” (see IFC 2012). Increased depletion of mineral reserves, emerging technologies of extraction, and sustained demands from China have propelled multinational mining companies to explore new sites of extraction, which are increasingly located in remote corners of the globe. In these remote regions such as the resource-rich but conflict-stricken island of Mindanao in the Philippines or the Gobi Desert in Mongolia, where the mining giant Rio Tinto has been developing one of the largest known copper and gold deposits in the world,<sup>3</sup> corporate investments are seen as particularly “risky” (Bretton Woods Project 2011) and hence in need of legal certainty, alongside fiscal and legal incentives (IFC 2012). Twined with such “last frontier” narrative is one emphasising “development”, whereby “idle empty” regions or “vacant lands” are in need of *mise en valeur* and hence, ripe to be harnessed for corporate investments (see Borrás Jr et al. 2011: 209; Geenen & Hönke 2014; Hatcher 2014). Of course, and as exemplified by the score of ethnographic studies on the subject, these remote regions are seldom unpopulated and the promises of development for communities in the vicinity of large-scale mines have too often failed to materialise.<sup>4</sup>

The second key normative element of the hegemonic mining governance regime is the dissemination of private-led governance schemes aimed at managing and containing local socio-environmental conflicts. Closely linked to the neo-liberal transformation of the sector, states tend to respond to these conflicts by pairing formal exploitation rights with diffuse and informal social responsibilities (Szablowski 2007). Since the 1990s, a host of private-led normative instruments aimed at defusing local conflicts and generating “community support” around Extractive Industries (EI) have been developed under the general category of Corporate Social Responsibility (CSR) or the Social License to Operate (SLO), the latter understood as the “support” of local communities for extractive projects (Prno & Slocombe, 2012). CSR and SLO are increasingly relevant paradigms for the management of community-EI relationship in Asian countries (see AICHR 2014; ASEAN 2011).

CSR’s role in this emerging normative and political ecosystem is paradoxical in nature. On the one hand, it can be conceived as imposing supplementary constraints on EI as part of a hybrid legal-market form of regulation (Engle 2004; Trebeck 2008). On the other hand,

it forms an integral part of “negotiated” local governance practices in which EI are called upon to manage local politics, territorial organisation, environmental protection, and arbitrate Indigenous and human rights (Szablowski 2010). The emergence of SLO and CSR in EI is thus concomitant with the reframing of inherently political issues into technical ones, and with the blurring of accountability mechanisms between the public and the private sphere (Campbell 2012; Campbell & Laforce 2016). This normative framework tends to rely on implicit disciplinary norms rather than explicit, democratically deliberated rules (Andreucci & Kallis 2017; Lander 2020; Sawyer & Gomez 2008). As an integral part of the industry’s management of “environmental, social and political risk”, obtaining the SLO often implies pre-empting forms of collective action aimed at enforcing rights, Indigenous jurisdiction and/or disrupting extraction (Motard 2019; Szablowski 2019).

Together, the principle of free entry and the deployment of disciplinary practices of social management by title holders “re-distributes” authority and legitimacy in extractive territories and pre-empts democratic control over natural resources and land planning (Roy Grégoire 2020), thus enabling a host of practices of accumulation through territorial control.

### **Enabling Intermediate Practices of Accumulation and Dispossession, and Mining-Specific Repertoires of Resistance**

EI are a prominent driver of the steady increase in socio-environmental conflicts documented in the last decades (Scheidel et al. 2020), reflecting both the extent and scale of the socio-environmental impacts of EI, as well as a global environmental grassroots mobilisation (Temper et al. 2018). In fact, 2019 saw the highest number of lethal attacks against environmental defenders on record, with the mining sector linked to the most murders; and while the majority of these attacks were in Latin America, it is worth noting that the Philippines was the country with the most mining-specific related killings (Global Witness 2020: 10).

Criminalisation, repression and violations of Indigenous rights specifically around EI projects are also increasingly documented worldwide (UN 2018) and in Asia (UN 2020). According to Global Witness (2020: 10), Indigenous peoples are some of the most at-risk communities across the globe – even though Indigenous communities make up only 5 percent of the world’s population, over a third of all fatal attacks against environmental defenders have targeted Indigenous people between 2015 and 2019. This resonates with what Dunlap and Jakobsen (2020: 73–90) have characterised as “resource militarisation”, a process that builds upon counterinsurgency doctrines and social control. Indeed, territorial control, access to resources, coercion and legitimisation are inherent to the historical formation of states and capitalism and are accompanied by both “hard” and “soft” modalities of violence (Dunlap and Jacobsen 2020: 76). What remains open to empirical enquiry, however, is the way political and economic institutions respond to and structure the opposing forces of power accumulation and human agency – that is, “resistance” in its variegated forms.

As argued earlier, EI are a vector of a certain redistribution of authority over land. While the state – directly or by its “strategic” absence, as argued by Szablowski (2007) – remains a key actor of influence in these heightened conflicts, a plurality of other actors also come into play. The principle of free mining modifies the structure of incentives for a wide set of actors at every scale of governance (see Hall, Hirsch & Li 2011: 5), including some actors that may

have no capacity for mining but might nevertheless wish to pre-empt democratic, collective and/or Indigenous modes of territorial governance. This is because while the most visible beneficiaries of the “legal certainty” afforded by mining rights are extractive, the acquisition of mining rights by extractive companies is often the last of a series of transactions between third parties, each accumulating profit by virtue of the veto over land use afforded by the title under free-entry regimes. The new structure of incentives can enable alliances between actors such as illegal armed groups speculating on the title by forcibly removing local Indigenous or peasant populations; landowners and corrupt officials benefitting from zoning and public infrastructure decisions; or anyone whose strategy of accumulation is facilitated by weak social mobilisation and fragile public scrutiny (see Roy Grégoire 2019b).

With a plurality of (often contradictory) multi-scalar state and corporate interests feeding into conflicts over land as well as the colossal revenues derived from large-scale mining, development outcomes have often disappointed. The literature on the correlation between natural resource abundance, corruption and (under)development<sup>5</sup> is plural and there is an agreement that most Global South mineral-rich countries fair rather poorly despite being endowed with natural resources. It is illustrative to note that despite being some of the world’s richest countries in mineral reserves, several resource-rich Asian countries remain low on the Human Development Index (HDI)<sup>6</sup> – Indonesia ranks 107 out of 189 countries; Lao People’s Democratic Republic (Laos) 137; Mongolia 99; Myanmar 147; and the Philippines 107 (UNDP 2020: 242–243). Likewise, corruption and a noted lack of capacity – and at times political will – have often been twined with large-scale mining activities, as in land-grab practices more broadly. Today, most of the significant mineral producers in the Asian region rank poorly on the world’s Corruption Perceptions Index (CPI): Indonesia with a score of 37, Laos 29; Mongolia 35, Myanmar 28; and the Philippines 34 (Transparency International 2021: 2).<sup>7</sup> Borras et al. (2011: 210) underline that land-grabbing activities largely take place where corporations can “exploit corrupt or indebted governments with little ability to regulate the transaction or prevent buyers from targeting the poorest rural communities, expelling people with non-traditional land title from their land”. Unsurprisingly, therefore, several governments in the region have relied – and continue to rely – on mining rent to consolidate their economic and political rule – Gellert suggests the term “extractive regimes” (2010: 28).<sup>8</sup> In Indonesia and the Philippines for instance, EI have played a key role in these countries’ respective development trajectory, notably in the consolidation of the Suharto (Gellert 2010; Robison 2009) and the Marcos (Bello et al. 2004) regimes, both of which were supported by international mining interests.

While mining-related dynamics of dispossession often reconfigure struggles over land in accordance with the globalised politics of extractivism, a range of mining-specific repertoires of resistance have emerged. Within transnational networks, Field identifies a number of inter-related emerging discourses counterbalancing local power asymmetries specifically around mining – discourses referring to the “resource curse”, “Indigenous people’s rights”, “environmental justice and human rights”, and “feminist” critiques of mining (2019: 89–144). Along with their correspondent political scenes, these discourses have also brought into play sector-specific transnational institutions created to manage local extractive conflicts (Szablowski 2007).

Around these discourses, a range of local and international actors such as development banks, mining corporations, and a plurality of non-governmental organisations, have advocated for the creation of various instruments to standardise the management of extractive industries (see Coumans 2012; Dashwood 2013; Kemp & Owen 2017; Lander 2020;

Sethi & Emelianova 2011). These take many shapes whether public, private, voluntary and/or mandatory. For example, the Extractive Industries Transparency Initiative (EITI), a prominent international standard for openness by governments and companies around the governance of oil, gas and mineral resources, has now been adopted by several Asian countries – Indonesia, Mongolia, Myanmar, Papua New Guinea, the Philippines and Timor-Leste. But like several other international instruments, the EITI has at times disappointed for its inability to address the complexity of the “politics” of mining,<sup>9</sup> including falling prey to local and national political elites and corporate interests. In Myanmar, for instance, the reform process initiated in 2011 gradually oversaw significant regulatory reforms in the mining industry, including the adoption of the EITI in 2014. While the reforms were highly successful in injecting significant foreign direct investments in the country’s mining sector (Oxford Business Group 2017), they significantly fell short of curbing the military and other armed groups’ intricate grip on the country’s lucrative natural resources, including the multi-billion-dollar gemstone trade – in 2014, the latter’s worth was estimated to US\$31 billion (Global Witness 2021). And amidst the most recent military coup (February 2021), Myanmar’s EITI membership has been suspended.

At the local/national level, amidst the increasing absence of the state the redefinition of governance practices around the management of local territories has often left impacted populations wondering how to respond and to whom to address their queries around the impacts of mining activities on their livelihood. Borras et al. (2012: 413) point out that two broad types of resistance have emerged: one characterised by the struggle against dispossession through displacement; and the other, by the struggle against exploitation, or in other words, by the struggle over the terms of incorporation. At times complementary but also often contradictory, these types of struggles have triggered a range of repertoire of social mobilisation, opposition, resistance and negotiation tactics around mining activities. These tactics are phenomenally varied, often multi-scalar and strategically deployed on several fronts. Examples include violent and peaceful protests, blockades, efforts to influence Environmental Impact Assessments, participation in formal political arenas, demands for Free Prior and Informed Consent, community organised consultations, litigations, complaints submitted to the ombudsmen’s offices of international financial institutions, calls for mining bans or moratoria, negotiations for compensation, the creation of Indigenous development funds and direct involvement in company’s CSR and community development programmes (Lander et al. 2021; O’Faircheallaigh 2015).

If technical assistance around capacity and the call for transparency have been emphasised to remedy these issues, critics have highlighted that despite the multiplication of various instruments to standardise the management of extractive industries, the latter continue to neglect the politics of mining across the Global South (Campbell 2013; Carroll 2012; Hatcher 2014). In short, and as exemplified by the case of Mongolia in the final section of this chapter, these market-friendly schemes ignore the fact that the sector’s governance is shaped by evolving struggles for power and resources both locally and within the wider global political economy of mining.

### **Territorial Control, Dispossession and Resistance: The Case of Mongolia**

In Mongolia, the fast expansion of large-scale mining activities in the country, as exemplified by Oyu Tolgoi (copper and gold) and Tavan Tolgoi (coal) mines, two mega-mining sites being developed side by side in the South Gobi, has triggered a range of

conflicts over land and water between the corporations and the semi-nomadic communities living in the vicinity of these mining sites. This has led local communities, as well as several national and international non-governmental organisations, to explore a multi-scalar range of repertoires of resistance to challenge, in part or as a whole, the country's mining governance.

Mongolia's recent mining boom was facilitated by the transition to a market economy in the 1990s – the International Monetary Fund (IMF) and the World Bank spearheaded two round of shock therapy reforms in the early 1990s. It is amidst this wave of deregulation and liberalisation that foreign-led large-scale mining was identified as a key sector to generate the country's much needed revenues – Mongolia's budget was no longer supported by the recently defunct Soviet Union (Bumochir 2018). Alongside most of the other source-rich countries in the Asian region at the time, Mongolia reformed its mining governance. Under the guidance of the World Bank and the Asian Development Bank, the country adopted the 1997 Mineral Law and later, the 2002 Foreign Investment Law, two pieces of legislations closely modelled the neoliberal governance and normative framework discussed in the first section of this chapter.

The reform process was highly successful in attracting foreign investors and for the development of the country's large-scale mining sector. By the turn of 2010, Mongolia was seventh in the world in terms of mineral production (Mendoza et al. 2011: 4) and a year later, its GDP was growing at a staggering 17.5 percent, making it the fastest growing economy in the world at the time – nearly twice as fast as China's (Langfitt 2012). Extractive industries have now become central to the country's economy, accounting for a little over a quarter of Mongolia's entire national budget<sup>10</sup> (EITI Mongolia 2021).

Mongolia's commitment to neoliberal modes of governance has not been without issues. The first decade of the mining boom (in the early 2000s) saw plural localised/rural and national level mobilisation strategies, including direct political actions such as mass protests and blockades, as well as efforts focused on the need to adopt new legislation for environmental protection (Byambajav 2012, 2015; Jackson 2015; Lander 2020). Over the years, the Great Khural has attempted to reform some of the most liberalised terms embedded into the country's mining governance in order to increase state revenues (Hatcher 2020b). However, these legislative measures quickly saw international investors shunning the country until such reform attempts were almost altogether abandoned. And with the country's high dependence on mining exports – the sector represents approximately 80 percent of total exports (IMF 2019: 4) – these wave of investment wavering have had a toll on the country's economy, not withstanding the fact that the economy has also been exposed to the whims of globalised mineral prices. Altogether a little over a decade of political economy of mining in Mongolia has led the country into a spiralling debt. In 2017, Mongolia turned to the IMF to obtain a USD 5.5 billion financial rescue package. This is highly relevant because such economic landscape has led the government to renew its commitment to a liberalised mining governance, a process that has been twined with a narrowing of political spaces for contestations around the mining-led economy, as exemplified by the case of Oyu Tolgoi mine.

Oyu Tolgoi, which first started production in 2013, is now one of the largest copper mine in the world as well as the largest source of revenue for the government. However, the mine has been plagued by multiple grievances, both at the local and national levels (Blunt & Sainkhuu 2015; Hatcher & Lander 2022; Lander 2020; McGrath et al. 2012). At the national level, the politics of Oyu Tolgoi have remained a key issue for the Great Khural – Mongolia's

parliament – with increasing pressures to strengthen socio-environmental legislations around mining sites and unremitting debates over mining rent collection/spending (Hatcher et al. 2016). For instance, despite Mongolia’s adoption of international standards around transparency and notably, its adherence to EITI in 2007, Oyu Tolgoi has been plagued by several corruption scandals,<sup>11</sup> and incessant taxation disputes between the government and the mine’s main shareholders (Rhodante et al. 2020).<sup>12</sup>

At the local level, the semi-nomadic communities living in the vicinity of the mega-mine have developed a plural and multi-scalar repertoire of resistance tactics,<sup>13</sup> including middling success in their attempts to trigger Oyu Tolgoi’s CSR and Rio Tinto’s specific corporate standards.<sup>14</sup> However, these communities have struggled to contest and negotiate the shifting boundaries of the mining modes of governance, and amidst the country’s mounting debt – and the government’s renewed commitment to a mining-led economy – local and national political spaces have further dwindled. This is exemplified by the public criminalisation of prominent civil society leaders protesting against the country’s weak environmental laws around mining – and five key leaders were sentenced to over twenty-one years in prison on charges of “environmental terrorism” (see Lander 2020). Crucially, this process impacted the risks that civil society organisations were willing to take, undermining more contentious and litigious strategies to defend the social and environmental interests of communities impacted by Oyu Tolgoi (Hatcher & Lander 2022).

## **Conclusion**

Building on political economy literature, this chapter aimed to survey the land-large-scale mining nexus within the specific context of Asia. The region has been tightly integrated into the global political economy of mining and therefore, all the mineral-rich developing countries of the region have adopted a liberalised mining governance and its attached normative framework. But this specific model of territorial control derived from these regimes, alongside the expansion of the mining frontier, have had profound socio-environmental impacts on the local communities living in the vicinity of large-scale mining sites.

John Ruggie, then UN Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises used the term “governance gap” to describe the rift between the global scope and influence of private enterprises and the regulatory capacity of States, whose reach is traditionally confined to their respective territories (UN 2008). Just as the definition of the “governance gap” and the appropriate ways to close it remain debated in the literature (Bird et al. 2014; Deonandan et al. 2016; Deva & Bilchitz 2013; Ramasatry 2015; Simons & Macklin 2014), the “gap” itself is a fertile ground for normative and institutional innovations. The outcome of the interactions between these multiplying norms and institutions is increasingly difficult to discern (Roy Grégoire 2019b). In this constantly evolving “governance ecosystem” (Sagebien & Lindsay 2011), predicting the outcome of any intervention is difficult – and human rights-based intervention especially so (Roy Grégoire, Campbell & Doran 2017).

As we argued earlier, however, governance initiatives that rely on CSR and SLO models are often removed from regulatory enforcement and continue to expose local communities to deeply uneven power relations. Project-Level Non-Judicial Grievance Mechanisms (PLNJGM), for example, are increasingly being proposed by private companies to address and remedy human rights grievances. Within the framework of the UN Guiding Principles on Business and Human Rights, PLNJGM are presented as a palliative to the insufficient

capacity of states and judicial mechanism to respond to the scope of human rights issues related to business activities (UN 2008; 2011). In practice, however, extractive companies have used PLNJGM to pre-empt victims' access to judicial mechanisms by including legal waivers in private "reparation" contracts, for example. Interestingly, under these agreements, victims typically waive their rights to litigation in all jurisdictions, thus protecting EI from transnational litigation (Coumans 2014). Impact and Benefit Agreements between EI and local communities typically include similar provisions (Roy Grégoire 2020). Rather than addressing imbalances of power by making public institutions accountable, such governance mechanisms consolidate the territorial authority of private actors as adjudicators of "justice" and "human rights" (Roy Grégoire & Monzón 2017). Importantly, these schemes preserve the territorial veto inherent in the mining title and maintain the structure of interests that enables the intermediate practices of accumulation described above.

A number of local, national and international actors have however been involved in contesting these extractive regimes and recuperating a degree of democratic control over natural resources. Heightened conflicts around mining sites have generated political pressure on home-jurisdiction to sanction human rights violations committed by extractive corporations operating abroad (Imai 2017). Some progress in that direction has been registered, notably in the European Union (EU), where several countries have adopted due-diligence legislation making parent companies liable for human rights violations and environmental damage across their supply chains (European Commission 2020). EU officials have committed to introducing similar legislation at the European level (RBC WG 2020). In 2019, Canada established the Office of the Canadian Ombudsman for Responsible Enterprise (CORE), which has the power to review complaints for human rights abuses by Canadian corporation operating abroad (CORE 2019a). There remain many limits to CORE's mandate that hinder its ability to investigate human rights abuses, such as the power to compel testimonies and documents (CNCA 2020), and CORE has acknowledged that "the ability to compel witnesses and documents during investigation would maximise the office's effectiveness as a non-judicial grievance mechanism" (CORE 2019b). More recently, Canada also discussed legislation that would ban imports on goods produced using forced labour, which would impose due-diligence requirements on Canadian companies operating abroad (including EI).<sup>15</sup> Canadian civil society, for its part, is advocating for a wider-ranging human rights due-diligence legislation to be introduced (CNCA 2021).

One key element of these transnational governance initiatives, however, is whether they support and empower human agency at the local level, or rather further contribute to the "domestication" of resistance practices. As noted earlier, it is the disruptive capacity of grassroots mobilisation that make it the target of violence, especially so because it is in a position to address the layered complexity of interests aligned by the extractive governance model. This disruptive capacity must be preserved and protected.

## Notes

- 1 Notable contributions applying the concept of land grabbing to the mining sector in other regions or globally include Aguilar-Støen (2016); Dunlap (2020); Dunlap and Jakobsen (2020); Hausermann and Ferring (2018); Hausermann et al. (2018); Van Bockstael (2019).
- 2 On the mineral fuel front, although the Asia Pacific's shares' of natural gas and crude petroleum production remains relatively low, the region is endowed with sizeable mineral fuel reserves – its production of anthracite coal and bituminous coal accounted for about three quarters of the world's production respectively (in 2015) (USGS 2019: 1.2).

- 3 Oyu Tolgoi mine is jointly owned by the Government of Mongolia (34 percent of the shares) and the company Turquoise Hill Resources (66 percent of the shares). Rio Tinto is a majority owner (50.8 percent) of Turquoise Hill Resources and it manages the operation on behalf of the owners.
- 4 See for instance: Campbell (2004); Hatcher (2014); Lander et al. (2021); Nalule (2020); Roy Grégoire (2019a); Szablowski (2007).
- 5 On the resource curse, see Auty (1993; 2001), Humphreys et al. (2007), Sachs and Warner (1999).
- 6 Rank out of 189 countries (the lower rank shows “Very high human development” and the highest, “Low human development”). The HDI is a composite index measuring average achievement in three basic dimensions of human development (a long and healthy life, knowledge and a decent standard of living). See UNDP (2020).
- 7 The CPI ranks 180 countries and territories by their perceived levels of public sector corruption. It uses a scale of zero to 100 – zero is highly corrupt while 100 is very clean. The average of the 180 countries and territories analysed was 43 out of 100.
- 8 For a discussion on South East Asia specifically, see Hatcher (2020a).
- 9 On EITI, also see Klein (2017).
- 10 In 2019.
- 11 For instance, Bayartsogt Sangajav, the country’s former finance minister, was arrested in 2018 over allegations that he had financially benefited from the sell of Oyu Tolgoi’s shares amidst the signing of the mine’s Investment Agreement.
- 12 The Government of Mongolia holds 34 percent of the mine’s shares while the remaining 66 percent are in the hands of the foreign-owned company Turquoise Hill Resources. Rio Tinto owns a majority stake in Turquoise Hill Resources (50.8%).
- 13 For a detailed analysis of this topic, see Byambajav (2012, 2015) and Hatcher and Lander (2022).
- 14 As one of the largest mining corporations in the world, Rio Tinto, the company managing Oyu Tolgoi, has its own socio-environmental and human rights guidelines while also adhering to a vast array of global principles such as the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises and the United Nations (UN) Global Compact and the Voluntary Principles on Security and Human Rights (Rio Tinto, 2016). For an analysis of the case of Rio Tinto see for instance Seagle (2012) and Hatcher (2014)
- 15 Bill S-211, *An Act to enact the Modern Slavery Act*, introduced in the Senate on February 5, 2020: <https://www.parl.ca/DocumentViewer/en/43-1/bill/S-211/first-reading>. The introduction of the bill coincides with a judgment of the Supreme Court of Canada in *Nevsun Resources Ltd. v Araya et al.*, released on February 28, 2020, in which a majority of the Court decided that Eritrean plaintiffs alleging forced labour (among other wrongs) at a mine in Eritrea against a Canadian mining company could sue the company in Canada (see Norton Rose Fulbright 2020).

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# PHOSPHATE MINING IN DISTANT PLACES

## The Dark Side of New Zealand's Agricultural Economic Success

*Catherine Alexander, Katerina Teaiwa, and Andreas Neef*

### Introduction

The New Zealand economy, right from early colonial days, has been strongly agricultural, built on the back of sheep and beef exports reliant on the growth of pasture. This is an unusual position for a Global North country located in the South Pacific, far away from key markets. Although blessed with a temperate climate and plentiful rainfall, New Zealand soils – particularly under European land management practices – were found to be deficient of key nutrients such as phosphorus, something the early colonial government realised in 1900 following serious agricultural productivity declines (Gale, 2019). Since that time, fertiliser has been used extensively to improve the nutritional quality and agricultural output of New Zealand soils. An essential component of fertiliser is phosphate, a non-renewable resource that is mined, crushed, transported and subsequently spread over New Zealand beef and dairy farms to promote grass growth. The application of phosphate fertilisers is one of a farm's greatest costs but also has one of the largest influences on farm profitability. However, the legacy of phosphate extraction and use to support New Zealand's economy has come at a devastatingly high cost to the lands the phosphate is extracted from.

This chapter aims to expand extractive scholarship in two ways. First, drawing on insights from critical development studies and postcolonial theory, it advances an understanding of the historic and continued role of global extractivism in the economic and political dominance of regional powers in the South Pacific. Second, it offers critical insight into the interchange between continued resource extractivism and climate change migration.

Extractivism is generally understood as an accumulation by dispossession strategy, predicated as a capitalist-dominated growth model reliant on the overexploitation of natural resources destined for export to world markets (Hamouchene, 2021). Hamouchene (2021), citing Acosta (2013), defines extractivism as 'an activity whose social and environmental costs are not included in the prices of products. These are externalised and carried by a society without democratic rights in a transnational entrepreneurial world'.

Extractivism was historically undertaken by European countries under imperial and colonial hegemony to satisfy demand for global resources. Conceptualised under dependency

theory and world systems theory, extractivism facilitates economic drain from the periphery to the core, relying on forms of dispossession, physical and structural violence to extract resources from a territory, despite the impact on local socioecological relations (Chagnon, 2022). Exploiting natural resources was initially framed as necessary for the wealth and wellbeing of populations in host locations – now it is increasingly undertaken by corporations and non-governmental organisations expanding resource frontiers (Tsing, 2005). Extractivism can be understood as both a material and an ideological concept, whereby resources are removed under the guise of ‘development’, continuing the enrichment of wealthy countries and individuals within, at the expense of poorer ones (Morris, 2019). The role of the state is central in establishing and supporting extractivism, and the global boom of primary commodities continues to influence development policies, growth rates and intensification of resource extraction for export purposes. Thereby, through extensive and interlinked commodity supply chains the global South is still supporting consumption patterns of the global North, albeit through private capital.

We add to the discourse on the long-term impact of colonial hegemony, highlighting how racialised concepts continue to be upheld in the prioritisation of access to resources and contending that neo-liberalisation has created global inequalities and production structures that continue and extend the inequalities created by colonisation. We critique New Zealand’s role in phosphate extractivism, identifying that it operates as a form of ‘othering’, assimilating Indigenous peoples to the realm of nature or ‘savagery’, and enabling a distancing from and deprioritising of their needs and interests (Ashcroft, 1998; Said, 1993). This becomes central to positioning the acceptability of resource extraction from faraway lands. This sanctioning of environmental harm and dispossession by the state, coupled with ‘othering’ of those directly impacted, serves to establish a set of discursive power relations that underpin global commodity chains operating in areas with marginalised Indigenous populations. In this way ‘the wealthy nations of the global North continue to rely on extraction to finance economic growth and sustain high levels of consumption’ (Hickel, Sullivan, and Zoomkawala, 2021, p. 1030).

The chapter is structured as follows: in the next section, we lay out the history of New Zealand’s extractive relationship with its Pacific neighbours, highlighting Banaba Island, where 90% of the islands surface was mined for phosphate to support the development of industrial agricultural practices in New Zealand and Australia (Gale, 2019). The mining left behind an ‘industrial wasteland’ (Teaiwa, 2014, p. xiii), requiring the forced relocation of the Indigenous Banabans – an act which has led to inter-generational trauma through alienation from their homeland and loss of livelihood and culture (Tregus, 2021). Next, we examine New Zealand’s sourcing of phosphate from Western Sahara in North Africa, where the Indigenous Sahrawi people have been subject to a brutal Moroccan occupation, resulting in the alienation of 80% of their land and its immense natural resources for nearly 47 years. An occupying power has no legal authority to exploit the natural resources and property of annexed land for the benefit of its own economy. Yet, Morocco continues to exploit Western Sahara for its valuable natural resources, including the world’s largest phosphate deposits (Allan et al., 2016, 2021). Despite international condemnation over the treatment of the Sahrawi and International Court of Justice (1975) and EU Court of Justice judgements (CJEU C-104/16 and C-266/16) opposing the Moroccan occupation and resource exploitation, New Zealand continues to take advantage of this ‘frozen conflict’ in pursuit of phosphate, remaining the only western nation to source phosphate from contested Western Sahara (Western Sahara Resource Watch, 2022). In the final section, we examine the political

economy of ongoing extractivism in the context of climate change, arguing that the silence of New Zealand and EU governments reinforces a form of policy ‘lock-in’, sustaining business-as-usual offshore extractive practices and supporting the agricultural sector which generates the majority of New Zealand’s greenhouse gas emissions (Ministry for the Environment, 2022). Climate migration for low-lying Pacific Island nations thus becomes an accepted outcome for New Zealand’s continued pursuit of an agricultural economy.

This chapter brings together descendants of those who worked to remove the soil and rock from Banaba and those who were forced to move from their homeland in support of New Zealand and Australia’s national interest. The first author spent the early part of her childhood on Banaba – during the days when it was called Ocean Island – as part of a family employed by the British Phosphate Commissioners (BPC), a company set up by Britain, Australia and New Zealand after WWI to exploit the phosphate from Banaba (Ocean Island), Nauru and Christmas Island. On Banaba, this period ended with the departure of BPC employees following the cessation of mining and amalgamation of Banaba into the newly formed Republic of Kiribati. Records from family archives have been used in the research for this chapter. The second author is Banaban, descended from families of the villages of Tabiang and Tabwewa on both Banaba and the new Banaban home of Rabi in northern Fiji. She is a visual artist and Professor of Pacific Studies, and has spent the majority of her academic career researching Banaban history, particularly in the BPC records of the National Archives of Australia. Katerina’s father, John Tabakitoa Teaiwa, was the Chairman of the Rabi Council of Leaders 1996–2001 and the Banaban member in the Kiribati parliament in that period. The third author is German and has conducted research on global land and resource grabbing practices in the context of agri-industrial expansion, tourism development and mining over the past 15 years.

### **The Critical Role of Phosphate in Agriculture**

All plant life is dependent on phosphorus, a non-renewable nutrient created over millennia that has no substitutes. Plants use phosphorous, together with nitrogen and potassium, as an essential component of cell and plant growth, thereby expanding their fertility, increasing yields and, notably for agriculture, promoting grass growth (Cordell, 2009).

Early human agriculture recycled phosphorus through the reuse of human and animal waste into soils (Cordell, 2009). However, the evolution of cities required increasing productivity from agricultural land to support high population densities. The Green Revolution facilitated substantial increases in crop production through the development of new plant types and significant increases in the use of plant nutrient additives, such as fertilisers. Phosphate, an essential ingredient in fertiliser, is itself an essential ingredient in the formation, maintenance and expansion of industrial global agricultural practices and food supply and food security (Cordell, 2009; Teaiwa, 2014). Over 90% of the world’s demand for phosphorus is for food production (Cordell, 2009).

Nearly all of the phosphorus that farmers use today – and that is consumed in food – is mined from a handful of sources of phosphate rock around the world including China, Morocco, Western Sahara, the United States and Russia (Pistilli, 2021). There are geopolitical implications for global food security with the combination of increasing world population, coupled with changing dietary trends including a rising demand for agricultural products, leading to increased agricultural demands for phosphate from a finite supply of accessible phosphate reserves (Cordell, 2009; Pistilli, 2021).



Mineral fertilisers such as super phosphate have been a boon for New Zealand agriculture, enabling the naturally phosphate deficient soils to be developed into pasture growth and then lucrative meat and dairy exports. Even today phosphorus remains so critical to plant growth that without it New Zealand's agricultural production would decline by 'at least' 50% over ten years, resulting in a \$10 billion reduction in the economy (Melville, 2019). Gale notes that without access to decades of cheap high-quality easily accessible phosphate, New Zealand and Australia would not have been able to 'establish the industrial agricultural systems that were fundamental to their demographic, economic and social expansion' and subsequent Global North standing (2019, p. 737). Indeed, agriculture in both countries may not have been viable, or even possible in marginal areas (Gale, 2019). Obtaining a reliable source of phosphate altered their inter-generational development trajectory, a boon for New Zealand and a devastating loss for the Banabans and Sahrawi. The trajectories are altered, seemingly irrecoverably, across multiple generations and continue into the future.

### **Pacific Imperialism – The Case of Banaba Island**

The Banaba story is one of carefully orchestrated separation of a people from their homeland (Teaiwa, 2014) and all of its tangible and intangible resources, over a period of eight decades. At first, this was undertaken through a 'wild west' buccaneer extractivist model of imperialism and later a colonial and neo-imperial hegemony under the guise of successive New Zealand and Australian governments, for the sole benefit of their domestic economies. This model reflected the new imperialism linking Global North demand for commodities and resulted in the complete integration of the Pacific communities into global extractive relationships giving rise to the inequalities we see today (Teaiwa, 2014).

At just six and a half square kilometres Banaba is a small raised coral island located 293 km from Nauru, its nearest neighbour, and 400 km from Tarawa its closest neighbour in the Kiribati group. Rising some 81 m from the sea, Banaba is composed of dolomitic coralline limestone and was covered with a layer of phosphate that had been mineralised and concentrated by tectonic processes of uplift and sinking over millennia to form some of the purest deposits of calcium phosphate known on Earth (International Fertilizer Development Centre (IFDC), 2010). It is almost inconceivable that such a small and geographically isolated island could be the subject of decades of geo-political manoeuvrings and feature so prominently in the economic development of not one, but two regional powers of the South Pacific with the critical support of the British colonial administration. In this section, we briefly explore the difficult phosphate history of Banaba, beginning with the discovery of phosphate on the island in 1900 and culminating with the near total destruction of the island 80 years later.

The discovery of phosphate on Banaba in 1900 is attributed to Albert Ellis, working as a prospector for the John T Arundel and Company of London (later the Pacific Islands Phosphate Company), which had widespread trading, prospecting and plantation interests in the Pacific Islands. This was a time of European imperialist ventures which practised long-term political hegemony to 'locate, identify, occupy and ultimately extract both living and non-living resources' from around the globe including the Pacific Ocean (Cushman, 2013, p. 274). Banaba had at that time been overlooked by imperial conquests and Ellis upon confirming the presence of phosphate on Banaba realised they would have to 'act fast or risk losing these discoveries to a competitor' (Cushman 2013, p. 118).

When Ellis discovered phosphate on Banaba, he found a wholly self-sufficient community, ‘rich in plant and bird life’ with five cultural groupings of approximately 500 people, collective governance systems (Teaiwa, 2014) and strong connections to surrounding islands (Hau’ofa, 1993; Office of Te Beretitenti & T’Makei Services, 2012). The island had supported up to 2,500 Banabans prior to a drought in the 1870s and temporary relocation to Tahiti and Hawai’i after which many returned to the island. Ellis himself noted upon his arrival ‘a scene of impressive pristine beauty rapidly spread out before us’ (Ellis, 1936). Teaiwa (2014, p. 178) notes the haunting resonance of Ellis’ statement, made at the point of the discovery, that Banaban phosphate was more valuable than ‘all the gold mines in the country’, which irreparably altered not only the trajectories of the Indigenous Banabans but that of New Zealand and Australia, then, now and into the future. Together with Nauru, Banaba was the first major phosphate producing island that had significant Indigenous populations at the time of phosphate discovery (Cushman, 2013).

Once mining commenced and colonial power structures were established, the collective organisation of Banaba and Banabans which had existed for generations was fractured, and Banabans were placed under colonial hegemony, effectively disempowered to become ‘second class citizens’ and colonial wards in their own land (Baraclough, 1977; Teaiwa, 2014).

Extractivism’s imperial and colonial hegemonic roots can be clearly seen in the use of state and structural violence to ensure Banaba was mined in its entirety, the landscape degraded to such a point that it is no longer able to sustain a population. From the outset, the negotiation of an agreement to mine the island was, although a standard agreement for the time, an example of the racist component of empiricism. Despite living on an island for generations, with vibrant arts practices, well-structured social and economic relations, a fully functioning society, and a complex network of reciprocal relationships with other Pacific communities (Hau’ofa, 1993), the Banabans were portrayed in the role of native ‘savage’. This can be seen in the terms of the initial agreement, 50 pounds per year for 999 years ‘or trade to that value’ (Cushman, 2013) and the political manoeuvrings whereby the imperial connections of the Arundel company were used to secure the British annexation of Banaba, after the licence to mine agreement was negotiated with the Banabans. This ensured the absence of government oversight to an agreement which was subsequently heavily criticised in mainstream press in respect of the unfair terms and ‘measly’ amounts paid to the Banabans, who received just 0.1% of the profits from the first 13 years of mining (Cushman, 2013, p. 127; Treagus, 2021).

The signing of the agreement set Banaba on its course of destruction, and it is unlikely that the Banaban signatories had any clear understanding of what was to ensue, while Ellis and his colleagues chose not to fully understand how authority functioned on the island (Treagus, 2021). The Europeans sought a king-like figure of authority to represent a Banaban community where men, women and children had land rights (Teaiwa, 2014), a patriarchal move reflecting the framing of Pacific Island societies as less sophisticated than European ones (Treagus, 2021).

Phosphate rock mining on Banaba was undertaken using open-cast mining which involves digging the phosphate rock out between calcified limestone columns which remain as sharp rocky pinnacles. The overall effect of the mined landscape is one of utter destruction, the exposure of the limestone pinnacles removes all soil and the jagged terrain left behind renders the land unusable and culturally unintelligible (Teaiwa, 2014). Initially, the surface was mined by manual methods but later became highly industrial and



*Figure 17.1* Banaba mining field.

Photo credit: C. Alexander.

mechanised, eventually transferring over 22 million tonnes of material from Banaba – to be spread, piece by piece, over farms of New Zealand and Australia (Figure 17.1).

The incompatibility of the environmental damage from large-scale mining and the ability of the island's soils to produce food for a resident population was evident from the beginning. As early as 1912, the *Sydney Morning Herald* could foresee that the interests of mining and agriculture would inevitably require a 'fight for the survival or extinction of the phosphate quarrying industry ... either the phosphate industry has to go, or the whole population of the island, some 500, must be found some other abode' (*Sydney Morning Herald*, 1912). In 1913, the Banaban Fund was established 'for the purpose of purchasing and providing a new home for the settlement of the Banabans when the progress of phosphate mining in Ocean Island should render necessary their emigration from that island' (McAdam, 2013, p. 309). As mining progressed, life-sustaining resources on the island such as coconut and pandanus trees were quickly exhausted or destroyed, requiring freshwater, firewood (Press Association, 1961) and food to be shipped from New Zealand during the mining operations.

The unfair terms of the lease and the likely destruction of the island from mining were apparent to the Banabans, who quickly became aware that 'their lands and only means of existence would gradually disappear, leaving instead of ... palms and pandanus groves, only worked out quarries' (*Sydney Morning Herald*, 1912, as cited in Teaiwa, 2014). Unlike other Pacific Islands with collective land ownership systems, land on Banaba was owned individually (Teaiwa, 2014) and an integral part of the cultural and justice system. Banaba

was ‘not just a place to live, it was the basis of life in every way’ and the Banabans ‘wished to preserve the island for their descendants’ (Treagus, 2021, p. 112).

Banaban resistance to land sales and expansion of mining activity saw tactics such as forcible acquisition, emotional intimidation and manipulation employed, firstly by the Pacific Phosphate Company, latterly by the quasi state-run British Phosphate Commissioners (Cushman, 2013; Teaiwa, 2014; Treagus, 2021). The strategic interests of the Empire were positioned directly to the Banabans, notably in a classic case of manipulation ‘the Empire was “Holding out its hands to them, asking to be fed” written in a letter to the Banabans’ (Williams and MacDonald, 1985, p. 226; Teaiwa, 2014, p. 133; Treagus, 2021, p. 114). These elements of coercion led to a sense of victimhood, injustice and disempowerment. However, Banaban protest led all the way to the British High Court, with a landmark case including 206 days of court hearings and a trip of the entire High Court to Ocean Island (Baraclough, 1977).

The retention of a long-term supply of phosphate to support the development of agriculture in New Zealand and Australia was positioned as a national strategic interest from the start of mining (McAdam, 2013). These strategic interests were capitalised upon in the geopolitical shakeup following both world wars: after WWI, the Australian prime minister, Billy Hughes, after considerable political manoeuvring ensured that Nauru became a British territory and the mining operations at Nauru and Banaba were transferred to the control of the British Phosphate Commissioners, a new tripartite entity established to jointly run the mining industry, with a representative from each country on the commission. This would prove to become a turning point – responsibility for phosphate mining was transferred from the commercial auspices of the Pacific Islands Phosphate Company to an imperial power, Britain, and its two colonies, Australia and New Zealand. Henceforth, the exploitation of the island was undertaken with full political knowledge of the incompatibility of the Banaban situation – the mining of the island would render the island uninhabitable and the Banaban desire to remain self-sufficient and independent in their homeland could not both be met.

WWII saw Banaba taken by Japanese forces to control the phosphate mines and the Banabans subsequently moved to war camps. This point represents another critical juncture of Banaban history; with the island destroyed during the war and devoid of people, the British Phosphate Commissioners (BPC) took the opportunity to ensure that the entirety of the island could be mined by relocating the Banabans after the war to the island of Rabi, 2,000 km south in the Fijian group. Initially this was to be on a temporary two-year basis but later proved permanent, despite Banabans’ desire to return. The separation of the island from the Indigenous Banabans was then complete and over the next 30 years, 90% of the islands surface was mined to create super-phosphate fertiliser for Australia and New Zealand farms. When mining ceased 22 million tonnes of phosphate had been removed, 17.7 million tonnes under colonial auspices with the Banabans receiving a 15% share of the profit (McAdam, 2013, Cushman, 2013, p. 129).

Much has been written about Australia’s role (McAdam, 2014; Teaiwa, 2014; Treagus, 2021) in the exploitation of Nauru and Banaba but what of New Zealand? Ostensibly the smaller partner, what was New Zealand’s role in supporting the exploitation of its Pacific neighbours? While New Zealanders had many employment opportunities on Banaba as part of the colonial administration, decision making and staffing of BPC employees were predominantly Australian, particularly after WWII. At times, however, New Zealand did play a key role in upholding phosphate interests in the face of Banaban protest beginning with

Albert Ellis' role as the inaugural New Zealand phosphate commissioner from 1921 to 1951. Next, we examine New Zealand's role specifically.

Following the colonial government's realisation of soil deficiencies in 1900 (Cushman, 2013), a secure supply of phosphate was seen as matter of national strategic interest in order to expand the economy and feed a growing colony. Use of superphosphate expanded the area able to be farmed into the hill country (Gale, 2019) with the New Zealand government's role in the provision of fertiliser considered by the sheep farming industry as 'a prime maxim of State policy' (The Press, 1956). The dairy industry in particular became almost entirely dependent on top-dressed pasture to maintain productivity (Gale, 2019).

As early as the 1950s, the long-term future of phosphate supplies were raised in the New Zealand Press Association writing:

The long term need for other nearby sources, new fertilisers, or more efficient methods of using phosphate is underlined by the prospect that faces New Zealand when she has to lean heavily on outside supplies. She will swing from a supply of the world's best and cheapest phosphate produced without profit or taxation almost at her front door, to a poorer grade, more expensive supply. 'This' said a spokesman in the industry today, 'would completely alter the economy and the standard of living of the New Zealand and Australian farmer'.

*(New Zealand Press Association, 1956a)*

Such was the strategic value of the phosphate industry to New Zealand and the Empire that Banaba was visited in 1960 by New Zealand government minister of agriculture (Mr Skinner), who acknowledged phosphate to be the 'lifeblood' of New Zealand's primary industry (NZPA, 1960). The late Duke of Edinburgh also visited in 1959, arriving on the Royal Yacht Britannia and, after spending seven hours ashore touring the facilities, noted the operation was a 'good example of how the Commonwealth works together for mutual benefits' (NZ Press, 1959).

At times boundaries between state governance functions and commercial enterprise were blurred due to the strategic national importance of phosphate supplies for the continued expansion and development of agricultural land in New Zealand. This became particularly evident during the 1961 strike over pay rates and working conditions by indentured Gilbertese phosphate workers on the island which led to a request from the Colonial Administration for naval support to act as a deterrent to the escalation of violence (New Zealand Herald, 1961a). Banaba was seen as being within New Zealand's 'sphere of Naval responsibility' (New Zealand Herald, 1961a). Within 12 hours of the request being received, the HMNZS Pukaki was dispatched in total secrecy with sailors, families and next of kin unaware of the destination or whether the sailing was simply an exercise for the newly recommissioned frigate ship (New Zealand Herald, 1961b). The strike was resolved without the Pukaki's direct intervention, but this exercise demonstrates the extremely close relationship during peacetime between sovereign power and extractive industry industrial relations considered to be in the 'national interest'. Further newspaper reports on the incident post-resolution downplayed the 'gunboat diplomacy' tactics, reporting that the government had no intention of using the ship for 'strike-breaking' purposes (NZ Press Association, 1961) but nevertheless the exercise remains an example of the willingness to present military force to maintain security of phosphate supply. Later, Banaban protest over the destruction of their homeland became stronger (see Figure 17.2).



*Figure 17.2* Banaban protest gathering on Banaba, February 1979.

Photo credit: C. Alexander.

The mining of phosphate from Banaba and Nauru is arguably the most defining part of the enrichment of New Zealand's economy, the phosphate translating into meat, dairy and wool, making New Zealand wealthy at the expense of its Pacific neighbours (Teaiwa, 2014). When phosphate mining ceased with Banaban inclusion in a Kiribati state in 1979, New Zealand was presented with a challenge to find the next source of phosphate to fuel its economy. With so few sources of phosphate around the world the answer was, and still is, Morocco.

### **Continuing Imperialism – The Case Study of Western Sahara Phosphate and Morocco**

The Kingdom of Morocco claims 75% of the world's phosphate reserves (Allan, 2016) and with key producers, such as the United States and China, currently retaining their supply domestically to protect food security (Chow, 2022) and trade restrictions on Russia following the Ukraine invasion, Moroccan production is a vital part of the global phosphate market with a near monopoly on a multi-billion US\$ annual trade. However, around 10% of that supply comes from neighbouring Western Sahara (Western Sahara Resource Watch, 2022), a resource-rich and contested land that Morocco has forcibly occupied for nearly 50 years, without legitimate sovereignty. Once again, we find a resource-rich area home to Indigenous people at the nexus of wider geopolitical influences due to the role of phosphate in food production.

The two largest New Zealand fertiliser co-operatives have sourced phosphate from Morocco since 1980 and continue to source phosphate from the disputed Western Sahara

region, despite the humanitarian dimension (Ballance, 2022; Ravensdown, 2022). Hence, the imperial precept of the use of non-renewable foreign natural resources to benefit New Zealand farmers and the New Zealand economy is still evident today in New Zealand's use of phosphate from Western Sahara. In this section, we look at how geopolitical power is used to withhold sovereignty over natural resources, thereby ensuring resource exploitation continues and creating a 'paradox of abundance' where poverty, unemployment, environmental degradation, water pollution take place in natural resource rich areas, 'which are appropriated and exploited through neo-colonial and imperialist relations' (Acosta, 2013; Hamouchene, 2021).

Western Sahara is one of Africa's last remaining matters of decolonisation. It is a piece of desert land about the size of New Zealand and home to the Sahrawi, nomadic tribesmen with a history of resisting colonial rule – first the Spanish and later the Moroccans. The colony was initially established by Spanish imperialists and merchants who developed a series of small, fortified settlements along the coast to benefit from the region's rich fisheries and trade with the Sahrawi tribes (Allan, 2016). The discovery of phosphate reserves saw Spain extend its influence over Western Sahara through provincialisation, deepening colonisation (Allan et al., 2021), and resulting in the exploitation of the Indigenous Sahrawi as a cheap labour force for the phosphate mining and fishing industries (Allan, 2016).

The immense PhosBoucras mine was established in 1968 by the Spanish state mining company EMINSA (later FOSBUCRA) and includes the world's largest conveyer belt (some 96 km long) to transport the crushed phosphate to the Atlantic ports for export (Allan, 2016). Each year between 1.1 and 1.4 million tonnes of phosphate are shipped from Western Sahara, with an estimated value in 2021 of US\$349 million (Western Sahara Resource Watch, 2022).

Pressure from the United Nations to promote self-determination and accelerate decolonisation around the globe began after WWII. Much of Africa completed this process in the period from 1945 to 1960. In 1963, Spanish Sahara was identified as a Non-Self-Governing Territory by the United Nations, with Spain as the administering power. The withdrawal of Spain from Western Sahara looked imminent in 1975, and a referendum was to be held to determine the status of the region. This should have signalled a roadmap to decolonisation and the beginning of independence for the Indigenous Sahrawi people. Instead, the late Moroccan King Hassan II, who had earlier laid claim to the territory, rejected the referendum and, in a pre-emptive move, ordered the settling of 350,000 Moroccan civilians on Western Sahara on November 6, 1975, to force Spain to hand over the disputed region (Corell, 2015). This became known as the 'Green March' and was subsequently followed up with a tri-partite agreement (the Madrid Accords) between Spain, Morocco and Mauritania, whereby the powers and responsibilities of Spain, as administering power of the territory, were transferred to a temporary tri-partite administration. The Madrid Accords awarded Morocco and Mauritania the resource-rich areas of Western Sahara territory, in violation of the 1975 International Court of Justice declaration that neither had territorial sovereignty over the Western Sahara (International Court of Justice, 1975).

Morocco's occupation split Western Sahara and, with successive land grabs, Morocco now controls 80% of the region, including all of the coastal and resource-rich areas. The Indigenous Sahrawi are left with the barren, arid interior – land that is unable to support their people. Over time, Morocco has cemented its occupation with a 2,700 km sand berm, complete with mines, barbed wire and military patrols. Resistance fighting by the Polisario, the political arm of the Indigenous Sahrawi independence movement, against the unlawful

Moroccan occupation resulted in a 16-year guerrilla war which led to the displacement of thousands of Sahrawi to Algerian refugee camps. The United Nations brokered an end to the conflict in 1991, premised on a referendum on self-determination, which never occurred, due to disagreement over the terms and eligibility to participate. This left the final status of the territory unresolved in a ‘frozen conflict’, a position which only consolidated Moroccan interests over time. Consequently, over 180,000 Sahrawi refugees live in Algerian refugee camps today, in harsh desert conditions and reliant on humanitarian assistance for their survival due to the limited opportunities for self-reliance (Allan et al., 2021).

Despite the occupation largely not recognised internationally, Western Sahara’s rich fishing and phosphate resources continue to be illegally exploited by Morocco. The legality of the phosphate extraction rests upon United Nations’ legal advice stating that exploitation activities in Non-Self-Governing Territories such as Western Sahara can legally proceed where they benefit the peoples of those Territories and are undertaken in consultation with their representatives (United Nations Legal Counsel, 2002). Bringing to mind the conception of extractivism in the guise of ‘development’ (Morris, 2019), the Moroccan kingdom asserts that the exploitation is legal on the basis of reinvestment in development projects in the region, which benefit the local ‘population’. However, the benefits have largely gone to Moroccan settlers and the authorities, while the Indigenous Sahrawi ‘people’ have lost sovereignty over their resources.

There have been numerous legal setbacks over Morocco’s claims to Western Sahara, with the EU General Court cancelling trade and fisheries agreements with Morocco that included Western Sahara, on the basis that the consent of the people of Western Sahara had not been obtained (General Court of the European Union, 2021). Awareness raising campaigns by civil society groups on the human rights injustices under the occupation also pressured European investors into divesting from companies buying resources from the area (López-Ruiz, 2021).

The UN Mission for the Referendum in Sahara (MINURSO) sought to reach a negotiated solution with Morocco and the Polisario that respects UN norms of decolonising non-self-governing territories (MINURSO, 2022). This assumed a solution between integration into Morocco or independent statehood. Morocco pressed for the region to have self-governing autonomy; however, this ignores that the Sahrawis would be integrated into an autocratic system with a history of suppressing their nationalism, human rights and political agency.

Morocco continues its policy of using resource extraction, energy production and trade relations to build ‘soft power’ and legitimacy for its rule in Western Sahara (Allan et al., 2021), with tacit support from Europe and America (Mundy, 2022; Allan & Ojeda-Garcia, 2021). This has included deals with the EU over fishing and agriculture and, more recently, energy. In late 2020, an American-brokered trade deal to normalise relations between Morocco and Israel notably included American recognition of Moroccan sovereignty over Western Sahara, placing the US at odds with the international community (AJIL, 2021). The effect of this latter agreement was to ‘unfreeze’ the 29-year stalemate, with the Polisario declaring an end to the UN-brokered ceasefire agreement, signalling a return to armed struggle for self-determination and a complete Moroccan withdrawal from Western Sahara. Since 2020, there have been repeated clashes between Morocco’s military and the Polisario, and broadening diplomatic disputes between neighbours Spain, Algeria and Morocco. The Moroccan precedence on the issue is reflected in a speech made by King Mohammed VI calling the issue ‘the prism through which Morocco views its international environment’ (AFP, 2022).

The 2022 invasion of Ukraine and subsequent international trade restrictions on Russia, a global fertiliser and energy exporter, has seen expanding ramifications across the globe.



The demand for Moroccan phosphate has spiked as countries pivot supply to ensure food security amid rising global fertiliser prices (Bouanani, 2022). These wider geopolitical influences reinforce Moroccan interests in Western Sahara and with continued American support (and latterly that of Spain and Germany via trade relationships) of Moroccan sovereignty over Western Sahara there is no sign of an end to the intensifying geo-political conflict.

Against this backdrop of human rights and sovereignty issues, New Zealand continues its trade for phosphate, becoming the last Western democracy to source phosphate from the Western Sahara (Western Sahara Resource Watch, 2022). The two largest New Zealand farmer-owned cooperatives supply 98% of New Zealand's super-phosphate fertiliser and have sourced over 70% of their phosphorus from the Phosboucra mine in Western Sahara, a Moroccan state-owned company (Mitchell, 2018; Fertiliser Association, n.d.). The trade from New Zealand represents approximately 22% of the phosphate exports from Western Sahara (Western Sahara Resource Watch, 2022). The cooperatives argue that replacing Western Sahara phosphate is difficult because its specific chemical properties are particularly suited to New Zealand soils, being low in cadmium and high in phosphorus (Melville, 2019; Ballance, 2022; Ravensdown, 2022). However, from 2019 onwards, one of the co-operatives, Ravensdown, has significantly reduced its supply from Western Sahara. Superphosphate is the main fertiliser applied to agricultural land, with sheep and beef farms the largest users (Stats NZ, 2021). The farming co-operatives have made significant investments in fertiliser facilities around New Zealand and, in an echo of the statements made by the Minister of Agriculture in the 1950's (New Zealand Press Association, 1956a), state that without phosphate fertilisers New Zealand rural production would fall at least 50% which equates to a \$10 billion per year hit to the economy (Melville, 2019; Ravensdown, 2022).

Once again, the need of New Zealand's agricultural economy is positioned against the human rights of an Indigenous people to exploit the natural resources in their homeland for their own benefit. The New Zealand government generally takes a position to support the United Nations and promote self-determination and it has provided full support to MINURSO. Importing phosphate from Western Sahara has attracted criticism globally and companies in other countries stopped sourcing resources in the region (Western Sahara Resource Watch, 2022). However, New Zealand, India and Mexico continue to source over 92% of the entire trade from Western Sahara (Western Sahara Resource Watch, 2022). Both New Zealand fertiliser companies contend they are acting morally and legally sourcing phosphate from Western Sahara, stating that they are 'not immune' to the humanitarian dimension (Melville, 2019). They contend the issue is for the UN to resolve, relying on the premise of employment opportunities and infrastructure development to benefit the local population (Ballance, 2022; Ravensdown, 2022). However, this position neatly sidesteps the ethical issue of the trade continuing to support a regime via a state-owned company that has used violence and unlawful occupation to exploit the resources of a region with little recourse to the Indigenous people of the land. Unlike the European investment funds, the farmer-owned cooperative governance model is particularly resistant (though not immune) to social pressure.

The position of reputational risk has been tested in the New Zealand High Court. Representatives for the Polisario Front took the NZ Superannuation Fund to court over its investment interests in companies with premises in Western Sahara and New Zealand farms supplied by one of the New Zealand fertiliser companies sourcing Western Saharan phosphate (New Zealand High Court, 2021). The landmark court case found that New Zealand pension fund had acted ethically and responsibly in dealing with companies that use phosphates from

Western Sahara, recognising that a reputational risk remains but potentially giving confidence to investors considering the region as a new source of investments and exports.

### **Discussion and Conclusion**

Extractivism is rooted in the hegemonic order of global capitalism, existing at the intersection of economic growth and environmental protection. Extractivism is not merely a past instance, an echo of colonisation and empirical dominance. Despite the modern era of globalisation the destruction at resource frontiers remains largely invisible to the distant users of commodities (Durante et al., 2021). The continuing role of the state in resource extractivism is crucial to its agency. We argue that colonial and post-colonial New Zealand has practised extractive imperialism with impunity. Colonisation was predicated on exporting agricultural produce and resources, and adoption of European farming methods necessitated reliance on mechanisation and chemical inputs. The intensive use of chemical inputs (fertiliser and pesticides) to sustain crop production is extractivist in terms of the depletion of non-renewable phosphorus inputs. Hickel et al., contend that ‘the wealthy nations of the global North continue to rely on extraction to finance economic growth and sustain high levels of consumption’ (Hickel et al., 2021, p. 1030).

There is an absence of knowledge among the New Zealand public of the relationship with the sources of phosphate used to fertilise our farms, both in a historical sense of the Micronesian islands of Nauru and Banaba and current operations in Western Sahara. The critical role of phosphorus in agricultural production necessitates securing and maintaining a reliable source and has even been deemed a matter of national security. The value of that strategic importance of phosphate to farming and, in turn, the New Zealand economy, obscures the environmental degradation and human rights injustices that have occurred and continue to occur.

We contend that the role of the state is essential in establishing and continuing economic imperialism. In New Zealand, this has extended to granting privileges to certain non-state institutions, such as farming cooperatives. The New Zealand government has legitimised extractivism through emphasising the dependency of the country’s farming sector (and key source of its wealth) on phosphate resources, while downplaying its historic role in the destruction of Banaba, ignoring its responsibility for future rehabilitation and remaining silent on fertiliser co-operatives sourcing phosphate from Western Sahara despite government support of MINURSO. We highlight the political economy of extractivism, establishing not just the strength of the role played by government but also how the state promotes investments in extractivism. Historically, this can be seen in the New Zealand government’s show of force by sending a frigate ship during a workers’ rebellion on Banaba Island in the late 1960s, and in the contemporary context, government silence on human rights issues, despite being at odds with official government policy.

The cases of Banaba and Western Sahara bear all the environmental and cultural traits of resource extractivism at its zenith – appropriation and export of large volumes of material and/or with high intensity and limited processing, leading to irreversible soil depletion, biodiversity and ecosystem loss, climate change, loss of food sovereignty and contamination of freshwater (Gudynas, 2018). There are also cultural, socio-economic and political consequences for the Banaban and Sahrawi people – who both endured forcible relocation from and dispossession of their homeland. In the case of Banaba, this is exacerbated by the inability or unwillingness of former colonisers to support the return of

Banabans to their homeland. Over the years, several mining companies have expressed interest in removing the Banaban phosphate that remains, the most recent proposal in the guise of ‘rehabilitation’.

The world’s population is expected to grow by 2 billion over the next 30 years to reach 9.7 billion in 2050 (United Nations, 2021). Feeding the world requires phosphate, with 90% of the global demand for phosphorus coming from food production. Unless major changes to agriculture are rapidly developed, demand for phosphorus will continue to increase in the future. Countries with supplies and a large agricultural sector, such as the United States, China and Russia, are likely to use them domestically, placing more geopolitical pressure on areas like Western Sahara and Morocco to meet the world’s needs. Over time, global food production will be reliant on trade with Morocco.

Clearly, the trade of phosphate has global geopolitical consequences. The environmental justice, human rights and sovereignty issues brought about by phosphate extractivism are positioned against global food security. However, the extraction and production of phosphates, a key component in agricultural fertilisers, feeds global agrarian capitalism (Cordell, 2009; Teaiwa, 2014; Hamouchene, 2021) which is supported through political, military and economic pressure. Colonial and imperialist hegemony enabled extractivist models to operate modes of accumulation of private capital through dispossession of land and water to gain access to natural resources. The inequalities that arose through imperialism continue to be reproduced by neoliberal nations reliant on the export of their primary commodities, including agricultural produce.

Teaiwa (2014) notes that phosphate mining fundamentally changes the trajectories of dispossessed Indigenous populations, from living sustainable, independent livelihoods on their land for generations to having vastly reduced agency in a global economic system of resource exploitation that limits the benefits accruing to them. Materials for a built and manufactured environment are thus extracted at the expense of the natural environment and remote communities. The costs are paid by these communities and future generations.

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## **PART 6**

# **Blue Grabbing**

**The Global Rush for Freshwater and Marine  
Resources**



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# CASES OF WATER GRABBING IN WATERSCAPE DEVELOPMENTS IN INDIA

*Mansee Bal Bhargava*

## **Introduction**

The transformation of landscapes for urban development is an established phenomenon, accompanied by a well-established literature of land-grabbing activity. The transformation of waterscapes is also well-studied from urban development perspectives, but the accompanying process of water grabbing is understudied. It is crucial to explore the water grabbing discourse in urban/waterscape developments in order to reflect upon its links with the rising water crisis in the form of flood, drought, and asymmetric access to goods and services from water resources.

There are two interlinked concepts discussed in this chapter, water grabbing and waterscape development. Water grabbing refers to a situation where some actors il/legally take control or advantage of water resources from local communities/a country of those that are dependent on the goods and services produced by that resource and ecosystem. In the process, the water shifts from being a common-pool resource to private/public property, which then requires negotiation or payments for appropriation. The goal of the grabber is to establish control of the water resource so as to regulate how it can be used, by whom, how much, how long and with what intentions, in ways that most benefit the grabber. Waterscape developments are as old as Harappan civilisation and have found new meanings in current urban developments in India. While waterscape developments of the past, such as tanks, stepwells, ponds and wetlands were a case of land reclamation to create waterbodies; the current waterscape developments, including riverfronts, lakefronts, dams, reservoirs and canals, are a case of reclamation and redirection of water to create more land for development purposes.

The scholarship of water grabbing has emerged from and is intertwined with land grabbing. There is significant quantity and quality of scholarship of land and water grabbing at the global scale (Franco et al., 2013; Neef, 2014; Neef and Singer, 2015) because of the exchange of resources including food, energy human, money, and even knowledge across nation states. What makes this study interesting is the potential to add the characteristics of local land-water grabbing into the existing body of global land-water grabbing knowledge and, importantly, to reflect upon the resemblance of the two in terms of the systematic legal process of grabbing.



Both the historical and current fundamentals of land-water grabbing contribute to the nuances of water conservation as well as to the water crisis in India. Current waterscape developments explicitly appropriate land from water systems. However, with water as both target and driver, these are also implicit cases of water grabbing. That the value of land outweighs the value of water in urban development contributes to the practice of water appropriation and contestation, in which the grabbing process is ignored to the extent that it systematically and formally enables water grabbing. It is intriguing that the transformation or death of a waterbody in the process of waterfront development goes beyond land/water grabbing to encompass many more interlinked forms of grabbing as discussed here. These interlinked characteristics make water governance complex and challenging by naturalising the water grabbing process and exacerbating the water crisis.

The study looks at various forms of water grabbing that go unnoticed and unaccounted in the guise of overall development, with a focus on waterscape developments. The study of waterscape developments involving riverfronts and lakefronts in the city of Ahmedabad in India highlight water grabbing as a common process of appropriation, privatisation, commercialisation, impoverishment, and financialisation of land, water, other natural resources, and their value. The study argues that waterscape developments play a role in pushing cities towards more droughts and floods spatially, as well as exacerbating societal conflicts over ownership, access, equity, gender, etc. due to discrimination.

The main body of the manuscript discusses various physical-social-institutional characteristics of waterscape designs and developments where water grabbing is naturalised. The characteristics highlighted are groundwater extraction; imported water; designation and delineation; deepening, desilting, and dredging; wastewater discharge; life in/on the water; drainage courses; stepwells and borewells; and value grabbing. These interlinked characteristics set the contextual environment based on whether actors (grabbers) take the actions (grabbing) explicitly or implicitly. The study cannot claim to diagnose avenues for averting water grabbing, it advocates the need for studying more local water grabbing cases to draw the attention of decision/policy makers and designers/planners and for building a robust framework for critical analyses. The study concludes with a discussion on the need for governance tools to address water grabbing and for water sensitive design/development geared towards water ecosystems rather than water infrastructure as a way to avert water grabbing, thus reducing the water crisis and moving towards water resilient cities (Bhargava, 2021a).

### **Scholarship on Water Grabbing**

Water conflicts and water wars, evident since antiquity, suggest that water grabbing is an ancient phenomenon, making water a long-contested resource. Water grabbing is a situation when powerful actor/s take control of or reallocate the benefits of a water resource at the cost of previous (local-vulnerable) user/s whose livelihoods are dependent on that water resource. The situation involves capturing the decision-making power around water including deciding how and for what purposes that water resource will be used now and in the future (Mehta et al., 2012; Franco et al., 2014; Dell'Angelo et al., 2018).

This broad definition, while encompassing, requires further nuance based on the social-ecological context of the case. These might, for example, be between nation states (Gasteyer et al., 2012); agricultural and industrial (Wagle et al., 2012) urban and rural (Houdret, 2012); private-public (Vélez Torres, 2012); big businesses, powerful governments, and local/

Indigenous/rural communities (Mehta et al., 2012); upstream and downstream (Arduino et al., 2012); land and water (Sosa and Zwartveen, 2012); or water and energy (Islar, 2012). These provide examples of visible water grabbing. Virtual water grabbing portrays consumptive disparity (Hoekstra and Mekonnen, 2012), a popular literature on environmental injustice which also accrues to the aforementioned other types of unjust water grabbing by the rich over the poor (Bhargava, 2022). This virtual water grabbing can be argued as the genesis of visible water grabbing approaches in the socially unequal and unjust access to water.

A large part of water grabbing scholarship highlights the intersectionality with land grabbing practices (Prieto López, 2021; Rulli and D'Odorico, 2013). While the concept of land grabbing has a broad consensus among scholars, there is ambiguity in the interpretation and application of the 'water grabbing' concept. A common thread in the different interpretation and application is the aspect of power imbalance and injustice that represents 'grabbing'. The notion of 'accumulation by dispossession' (Harvey, 2003) sets land grabbing as a backdrop to water grabbing. There is a 'grabber' and the 'grabbed', reflected through dynamics of unjust encroachment, based on the power imbalance between the lost and the won (Dell'Angelo et al., 2018). Further the notion of 'control grabbing' shows how land grabbing is used as an access tool (Ribot and Peluso, 2009) for water grabbing and green grabbing (Fairhead et al., 2012). Mollinga (2008) thus argues for seeing water use as a politically contested process and water control as the 'heart of water resource management'. The fact that it is difficult (if not impossible) to grab water without grabbing land (Woodhouse, 2012) makes it important to understand the interconnectedness of land and water grabbing.

Much of the water grabbing scholarship is on global water grabbing phenomena and is linked to the land and food nexus where rich countries are appropriating the poorer countries' resources through land and water grabbing, for example, transboundary water management (Rulli et al., 2013). The global land-water grabbing discussions transcend transboundary agriculture, industries, land, and water transactions (Messerli et al., 2014; Dutta, 2021) which poses a question about whether the driver of land grabbing is a desire for water rather than for land itself (Skinner and Cotula, 2011; Franco et al., 2013; Adams et al., 2019). Likewise, the interconnectedness of land grabbing and water grabbing (Hertzog et al., 2012), when viewed in the context of urban waterscapes, leads to a question of whether land developments are driving the water grabbing or whether land grabbing is used as a tool for water developments (Wagle et al., 2012; Birkenholtz, 2016).

Literatures reveal that legally bounded water grabbing happens all the time globally, as well as locally. While the global-scale literature is organised, the numerous local studies require more meta-studies to confirm their resemblance to the global phenomena, whereby water grabbing rests on '(il)legal appropriation' where the gain in access to water resources are exploited by powerful actors using '(il)legitimate dynamics' laid out as in/formal rules. The case of the waterscape developments in Ahmedabad highlights this (il)legal and (il) legitimate water grabbing process in the guise of overall development, which ultimately adds to the dispossession of water resources and allied social-ecological destruction that factors deeply in the growing water crisis. There is a growing recognition that water grabbing involves tangential divergence from traditional patterns of settlement, besides the disregard and dismantling of statutory land-water rights, fundamental human rights and a plethora of social-ecological impacts. This systematic water grabbing at local level requires greater study of scientific and development discourses in India. The scholarship in local water

grabbing also requires attention to the influence of global water grabbing phenomena on local water governance, and local water grabbing processes on global water governance.

## **Characteristics of Water Grabbing**

### ***Groundwater Extraction***

Groundwater extraction represents a classic case of water grabbing in waterscape developments and is at the core of water crises in the city/country. Groundwater, an invisible entity, is an appendage to land (IRMED, 2008). The cultural perception that a right to groundwater comes from the right to land is drawn from the age-old easement connected to land that the one who owns the land, owns the groundwater underneath. As per the provisions of the Easement Act 1882 and the Transfer of Property Act, 1882, a landowner has a right to groundwater beneath the owned land parcel (property right) as it is considered to be an easement of land with an exception if the groundwater is passing through a defined channel. This easement is here to stay as recently the national government, through the Central Ground Water Board, levied a tax-cum-fine for groundwater extraction based on the land holding (CGWB website). Though the power to regulate groundwater lies with the state government, it is a remote and poor regulator, from the smallest scale of a single plot, up to and including monitoring of local governments that extract groundwater to supply to the city or even to fill up rivers, lakes, and ponds, such as those that are developed as waterfronts.

Post green revolution and industrial revolution, the groundwater in the country has been key to the economic and spatial growth of its cities. Rapid urban development, an increase in demand for both industrial production and domestic consumption, and the availability of cheap electricity and technology have resulted in unprecedented and unregulated extraction of groundwater. Every landowner, including the local government, who can afford energy and technology owns a borewell/tube well or even a pond, making groundwater grabbing a normal social practice. This culture transcends into all the waterscape developments. For example, much of the urban development-induced land-use is modelled with groundwater as a source of water supply (partly by municipal supply) with an unsaid/unwritten expectation of an unlimited supply – an idea which is indeed now demystified by the rising water crisis.

Despite the alarming conditions resulting from groundwater depletion and contamination, the push for economic and spatial growth continues to exploit groundwater, placing India among the most water-stressed countries with 21 cities to go ground zero soon, among which Ahmedabad is one (Niti Ayog, 2019). The groundwater table in Ahmedabad in 2021 was, on average, 67 metres – the third deepest in the country. This was after the city observed an improved groundwater table over the last decade, attributed to the filling up of lakes and the river with water imported from Narmada River, which is another water grabbing approach discussed further. Among the least noticed impacts of depleting groundwater is land subsidence. According to the Institute of Seismological Research study in 2021, in parts of Ahmedabad land is sinking at a rate of 2 to 25 millimetres every year, with water wells subsiding at a rate of 8 to 9 millimetres every year.

There is a focus on groundwater recharge under the national ‘Jal Jeevan Mission’, ‘Catch the Rain’, and ‘Atal Bhujal Yojna’ schemes through deepening of lakes and ponds, construction of percolation pits, roof water harvesting, and so forth. However, these methods

of recharge require more scientific rigor. For example, filling up waterbodies with groundwater is the worst practice, but is done because having a body of impounded water has become a prerequisite for waterfront developments. Slow recharge and fast groundwater extraction is unlikely to yield the desired results of recharge. Recharging without treatment results in more pollution of the groundwater.

Groundwater grabbing remains an open access issue facing a tragedy of the commons (Hardin, 1998; Feeny et al., 1990). Until the groundwater crisis factors in economic and spatial growth, groundwater grabbing will remain an implicit phenomenon in urban development. Since the water is fluid underneath with no correlation to the land above, some radical decisions on land easement of water are crucial.

### ***Imported Water***

Most of the water supply in large urban centres like Ahmedabad are imported from large water infrastructure systems dependent on dams and distributed through canals and pipelines. On one hand, the importing of water creates new economic opportunities for the city; on the other hand, water grabbing from rural and hinterland areas results in water crises in rural and forest areas, affecting agriculture and biodiversity which needs to be factored in the city's growth opportunity. With urbanisation and rural distress, the concerns and conflicts of shared water are here to stay. The water transactions between rural/hinterland and urban areas have forced both places into a vicious cycle of water crisis (Khagram, 2002).

Land-induced water grabbing through damming a river and expanding the submergence of land parcels in rural areas and hinterlands brings manifold distress to rural/Indigenous communities. People struggle for decades, first for their lost right to the water-submerged land, second by the curbing of their right to water to meet their basic water and irrigation needs (Khan, 2012). These distresses have been making rural/Indigenous communities less interested in farming/forestry over the years, even pushing many people to leave and opt to migrate to the cities for livelihood opportunities, further adding to the stress on cities (Basu, 2012; Verghese, 2006). Importantly, these distresses demotivate them from continuing with community water conservation and management practices that existed for centuries among their ancestors, leaving the government to take the full responsibility.

A city dependent on water from locations far outside their geo-spatial-administrative boundaries has multiple layers of water grabbing in a system that is bound to be unsustainable, as in the case of Ahmedabad. The Dharoi dam and the Narmada Canal are the two main sources of water for the city. The Narmada Canal is part of a larger irrigation network coming from the Sardar Sarovar Dam, built by damming the river Narmada (D'Souza, 2002), which crosses the Sabarmati River a few kilometres upstream from the city. There are three major Water Treatment Plants, namely Kotarpur, Raska, Jaspur, seven French wells and 600+ borewells (AMC website) that supply water to the city. Given the ground water depletion, the city water supply largely depends on imported water from areas located as far as 65 kilometres upstream of Sabarmati River to 1100 kilometres of Narmada River flowing from Madhya Pradesh.

Like groundwater, this freshwater is also used to feed the riverfront and the lakefronts, posing a serious question about water management. The planning and development of cities has ignored the presence of local waterbodies, impacting their conservation and management in the long run, as evident from the polluted and diminished water spread areas of the river, lakes, and ponds in the city. Similarly, wastewater management has become an add-on,

instead of being integrated into overall development, resulting in the rivers, lakes and ponds becoming natural places for wastewater disposal. These are also types of water grabbing, as discussed below.

### ***Designation and Delineation of the Waterbodies***

Designating and delineating waterbodies are standard to land-induced water grabbing, influencing other waterscape development characteristics. In the past, waterbodies such as lakes, ponds, tanks, wells, and stepwells were constructed by reclaiming land parcels, whereas now waterbodies and edges are reclaimed as land parcels through designating and delineating. This is how several waterbodies have been lost and water spread areas reduced today.

The designation (declaring the identity) of waterbodies is done according to the size and depth of the waterbodies, and according to prior designation by the government survey/revenue/environment records. The way designation is managed locally directly links to land-induced water grabbing processes. For example, mandating the designation of urban lakes according to the National Lake Conservation Plan (MoEF, 2004) (amended to National Plan for Conservation of Aquatic Eco-systems' in 2013 (MoEFCC, 2019) led to the loss of several lakes from many cities, including Ahmedabad. After the policy took effect, 122 urban lakes were designated in Ahmedabad as opposed to the 630 lakes recorded in earlier studies (Bal, 1999; Jagani, 2004). With local guidelines for designation of urban lakes unknown, the depth of waterbodies and absence of water may have played a role in the de-designation of the lost lakes. Thus, a policy that was meant to protect and conserve the lakes failed to protect even their existence and Ahmedabad lost nearly 510 lakes in the designation process, with their fate now dependent on the land-use allocation. A closer look at one case in the city is the cluster of five ponds in Thaltej which existed in the 1990s (Bal, 1999) but has been reduced to two today (Bal, 2015), one of which is under pressure to be reclaimed to build a metro station. This is because only the larger of the five was designated as a lake. This represents a classic land-induced water grabbing situation because a lake lost is land gained. Similarly, loss of natural drainage courses (and small streams) due to the lack of proper designation results in their transformation into land parcels for development, as discussed further. Further, the view of the full Sabarmati River is lost to the small stretch of riverfront due to the designation process discussed below. The model of delineated waterfront developments continues in the absence of any studies raising alarm about it. For example, 45 more lakes and another five kilometres stretch of the riverfront development project are approved in line with current design and development to create waterfronts.

The delineation (defining a physical legal land boundary) of waterbodies is an integral part of land-use based waterscape developments. The design and development of the riverfronts/lakefronts highlight the land-induced water grabbing process. Manipulating the river/lake edge to create waterfronts is a common phenomenon in waterfronts. The realignment of edge condition, called delineation, includes changing the line of the water with respect to the full tank level, changing the slope of the edge, hardscaping of the soft natural edge, changing the landscape, and so on. The water edge is the most vulnerable to change (Ast et al., 2013). For example, the width of the river in the Ahmedabad city varied from 300 to 425 metres but was channelised to a constant width of 263 metres in the constructed riverfront. In this process, around 204 hectares of land was reclaimed along both banks of the 11.5 kilometres stretch (Sabarmati Riverfront website). The production of land is justified for the economic development of the place, as the land is meant for real

estate development which will recover the cost of the riverfront project. Similarly, in the case of all of the lake developments, the water submergence area is reduced, and the edge reclaimed for recreation in the form of parks and promenades. The edge/embankment of the riverfront/lakefront developments are concretised with the justification of addressing soil erosion, safety, and clean water.

On the Sabarmati Riverfront, it is clear that the land parcels reclaimed for real estate have designated new land-uses and it can thus be assumed that the delineated river area is reduced from before. It is unclear whether the stretch of land along the river that has been developed as a promenade is designated as river or open space. Apparently, the land reclaimed around the lake for lakefronts still stand as a designated area of lake. With the spread of the water area reduced by delineation, retention of the original water impounding capacity to address flooding justifies deepening of the leftover land of the waterbody, which is another form of water grabbing discussed further. This severely impacts biodiversity which is also a kind of grabbing as discussed below.

### ***Desilting, Dredging, and Deepening***

Desilting, dredging, and deepening are an integral part of waterscape developments. There is a direct grabbing of sand/soil in the interlinked excavation in the name of desilting and dredging followed by deepening. Riverbed mining, considered illegal, has long continued to occur in the city building process and seems unstoppable, with the impetus on development of large infrastructure, especially roads, bridges, public amenities, and so on. Lakebed mining is legitimised under the desilting, dredging, and deepening process for waterfront developments in the guise of rainwater harvesting.

The logic of deepening, desilting, and dredging to increase the water impounding capacity of the reduced area of the waterbody, and for faster percolation of water to the ground for recharge, contradict each other and are thus illogical. The waterbodies struggle to hold water for a longer duration than before and fail in the purpose of natural cleaning while percolating.

The lost soil, aquatic life, stones, and minerals from the bed in the deepening process also result in loss of the natural cleaning processes of the water. For example, the Sabarmati Riverfront was created by deepening the river and soil produced was used to reclaim the edges. The riverbed was deepened many times over to match the water quantity of its peak flow. Similarly, in all the 20+ lake developments that have taken place so far and the further 45+ planned for the city, a major component of the project is desilting and dredging for the purpose of deepening and by in/formal reclamation of the edge. Both the river and the lakes struggle to hold water for longer periods than before, and the water visibility period has reduced over the years.

In the guise of desilting, dredging, and deepening, the reclamation of land on the edge and creation of island/s are seen as natural processes. It is critical to diagnose whether deepening is planned in order to make the edges, or whether deepening is a result of building the edges. Of concern is that a lot of extra soil/sand is also being imported from other far locations to fill the edge reclamations. So, there is land grabbing and water grabbing happening simultaneously at two locations, which means the physiography and the associated ecology are tampered with at both locations. The processes of desilting, dredging, and deepening are brutal, causing huge ecological impact to the water body and its surrounding, as discussed further.

### ***Wastewater***

In waterscape developments, the disposal of untreated or partially treated wastewater into rivers, lakes, and ponds is justified for the availability of year-round water. The discharge of sewage, industrial effluent, and urban runoff, without substantial treatment, results in contamination of both surface water and groundwater (Nihalani and Meeruty, 2021). For example, Ahmedabad has nine Sewage Treatment Plants and 45 Sewage Pumping Stations, yet the water accumulated in the river(front) stretch is among the most polluted in the country and world because of untreated/partially treated wastewater disposal (Qureshimatva et al., 2021). Similarly, the lakes that are un/developed like the Vastrapur, Memnagar, Asarwa, Thaltej, Prahlnadnagar, and so forth are polluted cesspools because of wastewater (and solid waste) disposal (Bal, 2015). The mixing of wastewater (and solid waste) with the freshwater of the waterbodies increases the burden of treatment. This is further challenged by the scale of operation and maintenance of the centralised treatment plants. Together, they result in most treatment plants becoming inefficient or dysfunctional before their designed expiration, providing little respite from pollution for the water bodies. Mechanisms for a decentralised treatment and management approach to reduce the waste load is yet to be promoted. The untreated/partially treated wastewater disposal into the waterbodies is a direct form of water grabbing in the sense that polluting the freshwater, groundwater, and soil results also in the grabbing of rights to the ecosystems, as discussed below.

The waterbodies in the city are struggling to host healthy ecosystems resulting in impacts to human health. Epidemics like dengue, malaria, dysentery, and other are on the rise due to apathy regarding the unattended stagnant, polluted water in the waterbodies. Even traces of coronavirus were found in the waterbodies, raising concerns (Kumar et al., 2021). From time to time, the wastewater discharge and water pollution are brought to the notice of the courts by citizens filing cases. The High Court of Gujarat, using the ‘Public Trust Doctrine’,<sup>1</sup> has repeatedly directed and warned the local development and pollution authorities to address the water pollution (Preet, 2022) and has penalised polluting industries. Pollution of water also infringes the fundamental Right to Live (Article 21 of the Constitution) and the Duty to Protect the Environment (Article 51 A(g)). These legal rights appear to be too little and ineffective.

### ***Life in/on Water***

By desilting, dredging, deepening; edge development; stopping the flow; polluting the water, and so on, waterscape developments are, in many ways, grabbing the right of the natural water ecosystem (also referred to as biodiversity) to sustain itself. In other words, they are grabbing the right of other beings to survive. Changing the depth of a waterbody alters the ecosystem. For example, many ponds are transformed into lakes by deepening them. In that process, the topsoil of the lakebed, which is rich with nutrients on which aquatic life thrives, is lost. In addition, the ability of the waterbody to hold water that is gradually percolating into the ground is lost.

In a natural setting, the land-water interface – known as the ‘water edge’ – houses the richest ecosystem but is the most vulnerable to change resulting from frequent human interface. It is also the main focus of development activity (Ast et al., 2013). The natural edge harbours a host of aquatic, amphibian and land-based flora and fauna. In the past, only portions of the water edge were constructed to delineate the inlets and outlets, and to

create a space close to habitation where water is accessible for daily use, that has been retained from erosion. The built edges were articulated as sluice gates, pavilions, platforms, and *Ghats* (stepped walls), which acted as important public realms for the everyday life of the local community and travellers. Religious and social-cultural buildings were also integrated into these spaces to enhance social interactions and identity of the place. The rest of the edge of the waterbodies were left natural, to receive water from the catchment and where other life forms thrived. In the new waterfronts, the edges are grabbed by uniformly/monotonously hardscaping/concretising with retention, walls and pavements leaving barely any space for soft landscape with a soil base. The downscaled planter spaces in the hardscapes are often planted with exotic species that offer preferred aesthetics and low maintenance from mortality, wilderness, littering, etc.

Concretising the edge hugely compromises the lake ecosystem forever. The riverfronts/lakefronts confine the waterbody through construction that regulates the inflow and outflow, and which also influences water pollution to a large extent. Water stagnation compromises the ecosystem, encouraging the growth of invasive species like *Eichhornia Crassipes* (water hyacinth) and *Clarias Gariepinus* (African catfish) that restrict the growth of other species.

The systematic dislodging and disturbing of the ecology in waterscape developments that results from land and water grabbing have a manifold impact on the waterbody and the surrounding environs. For example, concretised waterfronts and gated public spaces become inaccessible to land animals, including cattle and dogs, that were previously regular visitors to the water; changes to the fish population lead to changes in the bird population that frequent the water; and there are many more examples. This is happening because the waterbody is considered to be merely a body of water available for human appropriation and not an ecosystem with which to coexist and flourish. Thus, it is appropriate to say that water grabbing impacts biodiversity grabbing.

### ***Drainage Courses***

The misappropriation of natural drainage courses (and small streams) for alternate use and mismanagement are among the more unique and unrecognised forms of water grabbing. Acting as a lifeline, natural drainage courses interconnect waterbodies. This is not recognised in land-use based city planning which treat rivers, lakes, and ponds as stand-alone entities.

The designation of natural drainage courses as a land parcel and also as a wasteland, in the planning and development process, enables their grabbing. For example, the Dadhichi stream that formed a wetland at the mouth of Sabarmati River (near Gandhi Ashram) has been reclaimed into land development because it was not designated as a waterbody to be protected and conserved. Similarly, an unnamed natural drainage course was converted (constructed) into the Kharicut Canal. The administrative divisions of the waterbodies, between the multiple local and national authorities, then further detach the waterbodies from each other and from natural drainage courses. Most of the natural drainage courses in the peri-urban areas have custodianship under either district collector, or state agriculture/irrigation departments, whereas those in the city are dealt with simply as land parcels by the local authorities. Most of them are encroached upon and reclaimed for the construction of all kinds of buildings and infrastructures by civil society and businesses, as well as by the government, while those remaining are clogged with solid waste and wastewater. Misunderstanding of the value of



natural drainage courses has led to their being renamed as drains (Bhargava, 2020). To address the dirty drains, further wrongs take place, such as concretising them into open/closed drains and box drains to carry stormwater and/or wastewater which contributes to the apathy that enables water grabbing. When the drains go underground, they are simply out of site/sight and lack attention from civil society and government.

The original purpose or role of a natural drainage course is to channelise the water, allowing it to collect in rivers, lakes and ponds, holding water while it percolates slowly into the ground for aquifer recharge while also being host to rich biodiversity in shallow wetland/marshland. Water in newly constructed drains is unable to flow to the nearby waterbodies, or to percolate into the ground, leading to struggles with either shortage or excess water flow in the summer and monsoon respectively, adding to the city's problems with drought and flooding. Loss of biodiversity is even further from consideration for drainage developments. Water that is trapped in drains with no/low substantive use is certainly grabbing the right of water to be clean and to flow naturally. For example, in Ahmedabad all roads (like the Hebatpur-Thaltej, Bodakdev-Vastrapur roads), open drains like the Kharicut Canal, and drainage infrastructure like several box drains along the roads are nightmares during monsoon and smelly in summer. After losing many of its lakes, the Interlinking of Lakes project was piloted in Western Ahmedabad with the purpose of collecting rainwater through diverted rainwater drains into the lake; using the overflows of other lakes through the linking of diverted drains during monsoon; recharging groundwater through percolation wells in public spaces and lake beds; supplementing water deficits in lakes in summer by supplying water from the Narmada Canal; and discharging excess water in the lakes during the monsoon into the Sabarmati River. The pilot project to connect the 11 lakes proved challenging. Firstly, water from Narmada Canal was drawn into the lakes to keep the lake wet, and secondly, water from the lakes never reached the river because the latter is at a higher slope than the lakes that were selected in the pilot project. Within 10 years of the project, the diverted drains had become dysfunctional, making the whole project a waste (Bhargava and Baviskar, 2021).

### ***Stepwells and Borewells***

Traditionally stepwells and borewells, located close to the lakes and ponds, were an integral part of the water system. In addition to performing the function of aquifer recharge, the stepwells were architectural marvels as community spaces. The borewells too were community goods fulfilling basic community functions. People would manually fetch water from the stepwells and borewells. With new developments around the stepwells and borewells and depleting groundwater, the rainwater fails to reach them and thus the inherent function of recharging the aquifer is lost. With the original identity grabbed, the stepwells/borewells have lost their functions and have either deteriorated or been restored as monuments, but with poor maintenance.

For example, the Mata Bhavani stepwell adjacent to the Asarwa lake was once the lifeline of the Asarwa village community in the summer when the lake used to dry out. Today, the stepwell is a private property with temples inside. The well of the stepwell is covered to avoid accidents. A sewage treatment plant is built near the Asarwa lake that regularly discharges treated water into the lake but barely manages to keep the lakebed wet let alone recharge the stepwell, and even if did, it would be polluted water recharge. As with the stepwells, there are several borewells that are in a state of deterioration in the city.

Local authorities have commenced a mission to rejuvenate the city's stepwells and borewells by cleaning them and channelising water to them. However, the water is either diverted from Narmada River or drawn from groundwater, both of which are wrong practices and are a type of water grabbing. It is challenging to revive the stepwells and borewells because the water catchment is lost, and the lakes barely receive any water to recharge the aquifer to sustain water in the stepwells/borewells. The defunct and dried up stepwells and borewells testify to the unavailability of water at a comparable level to when they were constructed and thus is a kind of groundwater grabbing. The absence of water makes the stepwells/borewells dysfunctional and prone to deterioration.

### ***Value Grabbing***

The aforementioned grabbing characteristics have value grabbing at their core. Over time, the value of water changes to reflect changes in the nature of the waterbody or changes made to it by various demands and desires. The waterfront developments justify efforts to assert a new image of the place and provide a renewed identity to the waterbody by providing economic generation to the surrounding area and city. At the same time, the design and development of the riverfronts/lakefronts contain implicit image grabbing through the compromised value of land, water, and other aspects. For example, the 371 kilometres long Sabarmati River that flows from Rajasthan to the Arabian sea has its identity grabbed by the mere 11.5 kilometres of riverfront project limited to the Ahmedabad city area. In the people/policymaker's imagination and even in the digital world (e.g., in Google Search), the river's image is now ascribed more to the riverfront than the entire stretch of the river spanning both upstream and downstream, where it touches several villages and towns. Further, the amount of funding used for the riverfront project (estimated USD 180 million that is 1,400 crores<sup>2</sup> Indian rupees spent between 2002 to 2012) (SRFDCL website) exceeds by several times the amount spent in the same period on the conservation and management of the remaining 360 kilometres stretch of the river. In addition, the Dharoi dam located upstream and providing the early source of water supply to the city faces neglect with more focus on the riverfront and the Narmada canal.

Value grabbing is preceded by power grabbing over the river. For example, a special administrative/legal arrangement was created to facilitate the waterfront development under a Special Purpose Vehicle (SPV) and a new organisation was created. Sabarmati River Front Development Corporation Limited was established under Section 149(3) of the Indian Companies Act, 1956 with seed capital and responsibility for developing the riverfront on a Build, Maintain, Operate and Transfer (BMOT) basis (SRFDCL website). The SPV model was used to avoid the delays associated with municipal decision-making. The riverbed land, held by the Government of Gujarat, was transferred to the Ahmedabad Municipal Corporation (AMC), which, in turn, provided development rights to SRFDCL for land reclamation. In the process of land transaction, the water was totally neglected. Over time, the SRFDCL designers-decision makers exercised immense power and superseded/exploited the local administration to implement the project. Even the Environmental Impact Assessment (EIA) was compromised with the national Ministry of Environment, Forest and Climate Change given no control to regulate.

The waterscape developments escalate the monetary value of the surrounding land parcels and the real estate prices increased. The value of a developed waterbody accrued to the surrounding property value, changing the socio-economic status of the area. Whereas

the cost of waterscape developments is incurred by the government, most of the benefits are accumulated by the private developers/property holders. The exclusive riverfront/lakefronts in Ahmedabad have also ended up excluding a large section of the poor population, many of whom were migrants who had earlier appropriated the space and were displaced after its development, with few people getting fair compensation. However, the increased land value is virtual unless exploited. For example, the properties around the developed lakes and riverfront have benefitted with increased value; however, the land newly created from the river has been awaiting purchase since the riverfront opened in 2012. Thus, the riverfront project is in principle a huge financial loss.

### **Discussion and Ways Forward**

While the phenomenon of contestation and appropriation of water is old, it is receiving renewed attention with the rising water crisis globally and locally. The water grabbing characteristics at the local-scale waterscape development found here helps to better understand the nuances of the established scholarship at the global scale of water grabbing. Local water grabbing occurred legally and legitimately through initiatives in and around the waterscapes, in the guise of urban development and waterbody conservation and management. Thus, it was systematic, as it is globally. The Ahmedabad case clearly demonstrates an implicit water grabbing pattern in its evolution from a walled city on the banks of a river; to a city of villages with lakes for centuries; to the 630 lakes identified in 1997–98; to piloting the interlinking of 23 lakes through an underground drainage system and initiating development of the 11.5 kilometres of riverfront in 2005; to the 410 lakes de-designated and 122 lakes designated in 2010; to the current plans for 45 lake developments and extension of the riverfront by 5 kilometres. The local water grabbing highlights characteristics like groundwater extraction; imported water; designation and delineation; deepening, desilting, and dredging; wastewater discharge; life in/on the water; drainage courses; stepwells and borewells; and value grabbing.

An important learning from the study is that land and water grabbing go hand in hand, and that value grabbing is embedded in the grabbing process. Though the value of water is impounded on the land, it was observed that the escalation of land value was attributed to the state of the water. What is concerning is the weakness of the water dimension in urban planning, development, conservation and management. This case study provides a widened lens of water grabbing as a land economy development-driven process. It demonstrates that the fluid nature of water and its fluctuating demand and availability over time and space makes it challenging to qualify the nature of grabbing, let alone quantifying (mis)appropriation and reallocation, alongside the diverse impacts it has across scales and over time. Water does serve a particular purpose in terms of production of value, for which other resources are required such as land, human, financial, time, and biodiversity. Their combinations are augmented by the fragmented interpretations, negotiations, and enforcements of policies and laws that make the water grabbing process highly intuitive, yet invisible, and thus it is termed ‘an implicit process in the urban (land-use) development’ throughout the study.

An important concern is that waterscape developments undermine the conservation and management of waterbodies in an engineered rather than natural state. This is a direct reflection of the same process of value grabbing of ecosystem into infrastructure, from necessary and ritualistic values to unnecessary aspirational and aesthetic values accrued by the few, for the few. The very exclusionary, extraordinary, extravagant waterfronts

approach excludes the vulnerable in society, as well as local biodiversity. The transformation of the water ecosystem is not factored into the development economics of the waterscapes, which makes the latter a Faustian bargain (Thiel, 2019).

There is a continued focus on waterscape developments for overall development across the country, despite the rising water stress. If water grabbing through waterscape developments is not factored into situations of water stress, disasters are inevitable. If waterscape developments do not surpass the land economics development syndrome and realign with ecological needs, then minimising the climate risks of water crisis will remain a distant objective. As long as the issue of water grabbing goes unnoticed, climate resilience and blue-green infrastructure initiatives will remain short-termed economic and political gains but with long-term environmental loss. A critical appraisal of the Ahmedabad model of waterscape development is necessary to avert its continued appreciation and adoption. The Ahmedabad riverfront development provides a model for other rivers passing through cities like Pune, Nagpur, Vadodara, Bilaspur, and so on (Bhargava, 2021).

It is hoped that this compilation of water grabbing characteristics will raise the alarm at a time when all efforts towards building climate resilience and improving blue-green infrastructure are forthcoming. Yet water grabbing continues systematically through the institutions involved, and ignorantly by the individuals involved. It is a matter of urgency to find ways to avert water grabbing, and to deal with waterscape developments more sensitively. The local-national governments' awareness of water grabbing is crucial to halt the repetition of mistakes based on the economic model of urban/waterscape development, and to focus on social-ecological wellbeing, simply by charting more equitable local actions for attaining global (sustainable) development goals. Inspired by global water grabbing scholarship, this study hopes to develop interest in further studies of local water grabbing cases, which are manifold and have huge local impacts on individuals, communities, and even institutions. This is a tragedy that is creating a widespread dilemma. Land-use-induced water grabbing, in which value grabbing is embedded, needs serious rethinking before we run out of water to run cities.

### Notes

- 1 The 'Public Trust Doctrine' of the Indian Constitution rests on the principle that certain resources like air, sea, waters, and the forests have such a great importance to the people as a whole that it would be wholly unjustified to abuse them or reduce its safe access to all.
- 2 Crore is an Indian denomination of currency. One Crore equals ten million Indian Rupees.

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# THE HISTORICAL ASSEMBLY OF OCEANIA'S DEEP-SEA MINING FRONTIER

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## Introduction

Growing recognition of the ocean as a critical global conservation concern is increasingly pitted against a 'blue economy' agenda that casts it as a new economic frontier, ripe for exploitation and industrialization (Campbell et al. 2016; Barbesgaard 2018). These tensions coalesce around the current global rush to explore, enclose, and ultimately extract the mineral wealth of the deep seabed, which includes 'strategically important' rare earth elements and minerals that are deemed essential to meeting the battery demands of the carbon transition (Zalik 2018). The Pacific Ocean has long been at the forefront of this global deep-sea mining (DSM) frontier. In recent times, the region has experienced a marked intensification in DSM exploration, regulatory, investment, and techno-scientific activities, as well as growing civil society and state-based resistance (Slatter 2020).

The stakes are extremely high for Pacific nations. DSM offers the potential to generate much needed revenue for the region's 'large ocean states' (SPC 2012), but its largely unknown impacts could cause irreversible damage to marine biodiversity (Niner et al. 2018), threaten coastal livelihoods and the region's lucrative tuna fishing industry (Chin and Hari 2019), and imperil Pacific peoples' unique cultural connections to the ocean (Hau'ofa 1994; Blue Ocean Law and PANG 2016a & 2016b; DSMC et al. 2019). Some Pacific Island nations have been asserting their sovereign rights to mine within their own ocean jurisdictions, and have recently adopted laws to do so, while others have been calling for a moratorium on DSM activities. At the same time, Pacific civil society actors have been running vocal anti-DSM campaigns that are linked to both community-based activism and global campaign networks. Their efforts are set against the equally vociferous proponents of the DSM industry, who claim DSM provides a more environmentally and socially benign means to produce the minerals required for a climate-friendly "fourth industrial revolution".

Drawing upon scholarship on 'resource-making' and 'resource frontiers', this chapter presents an historical perspective on the place of the Pacific region in the ongoing 'assembly' of the global DSM frontier. By situating the present rush for the Pacific's seabed minerals in the deeper scientific, political and economic history of the region's DSM industry, we seek to shed light on some of the relational, spatial, and temporal dynamics of this "quintessential resource

frontier” (Zalik 2018, p. 343). We are particularly interested in tracing the ways in which deep-sea mineral deposits have moved along spatial and temporal continua of ‘becoming’ resources but have thus far remained confined within a “liminal resource category” that has been characterised by intensifying “ontological politics” (Kama 2019, p. 5). We suggest that while these ontological politics have broadly mapped onto longstanding fault lines in the “social construction of the ocean” – a Western/capitalist construction of the ocean as placeless and asocial on the one hand, and an Indigenous Pacific construction of the ocean as social and ‘placeful’ on the other (Steinberg 2001; Hau’ofa 1994; Underhill-Sem 2020) – each successive shift in resource-making efforts in relation to DSM has been characterised by marked discursive inflections in how seabed mineral deposits have been constructed by the main actors engaged in struggles over the DSM frontier. We will show how these inflections have been shaped not only by shifting political-economic, regulatory, and techno-scientific conditions but also by the material properties of the different mineral deposits that have been the subject of resource-making efforts, as well as those of the deep-sea environments in which they occur.

Drawing upon extant scholarly research and extensive grey literature, our analysis takes place over three distinct historical phases, beginning with the emergence of an economic interest in the deep seabed in the mid-20th century. During this phase, polymetallic nodules – one of the three types of deep-sea mineral deposits that have been the subject of resource-making – were the focus of considerable state and corporate efforts to realise a DSM industry in the seabed beyond national jurisdiction (known under international law as the ‘Area’). Following the conclusion of the third and final United Nations Convention on the Law of the Sea (UNCLOS III) negotiations in 1982, the second phase we delineate was marked by a shift in the DSM frontier from the Area to the seabed within Pacific states’ Exclusive Economic Zones (EEZs) and territorial waters. This was driven by dissatisfaction over the status of international law governing the Area, uncertainty over the economic viability of mining nodules, the promise of relatively stable national legal regimes, and the discovery of new, shallower seabed mineral deposits within EEZs known as seafloor massive sulphides (SMS) and cobalt-rich ferromanganese crusts. Finally, beginning in the early years of the 21st century, we chart the third and ongoing phase in the assembly of the Pacific DSM frontier. Although resource-making efforts in this phase have continued to focus on SMS deposits within EEZs, on the whole there has been marked re-orientation back towards polymetallic nodules in the area. This shift has been informed by growing certainty of international seabed mining legislation, the increasing technological feasibility of deep-water exploitation, growing concerns about environmental impacts of mining shallower deposits, and deepening civil society resistance, as well as the emerging rationale of sustainable ‘blue growth’ amidst an upward turn in commodity prices.

Across these phases of historical analysis, we illuminate the physical, social, political, and economic processes through which different seabed mineral deposits have, in different places and at different times, teetered on the edge of ‘becoming’ resources. We draw attention to the role of regulation, at multiple scales, in shaping the Pacific DSM frontier in ways that have aligned with the interests of corporate actors and powerful nation-states. And, following Childs (2019), we demonstrate how the differing ‘materialities’ of different types of deep-sea mineral resources have informed the shifting discursive strategies of both industry actors and their civil society opponents. The current phase in the assembly of the Pacific DSM frontier is especially informative here, with a clear shift in industry rhetoric towards the ‘inertness’ and ‘lifelessness’ of the abyssal plains in which nodules occur, the ‘greener’ technological processes involved in their exploitation, and the pressing necessities of the global energy transition.



Alongside this, the discourses of Pacific civil society actors have shifted from an earlier focus on local- and national-scale social and environmental impacts, to a growing emphasis on the ‘oceanic scale’ expressed in terms of both Indigenous Pacific ontologies of the ocean and earlier episodes of Pacific-wide solidarity in the face of foreign threats.

The remainder of the chapter is structured as follows. The next section fleshes out our conceptual approach by introducing the concepts of resource-making and resource frontiers, and briefly reviewing how they have been employed in a growing critical literature on DSM. We then turn to an overview of the current state of play in relation to DSM in the Pacific, before detailing the three historical phases outlined above, with greatest attention given to the second and third of these. We conclude the chapter by recapitulating our key arguments and reflecting upon what lessons might be learned from the history to date of DSM in the Pacific, both for policy and for scholarship.

### **Liminality, Ontological Politics and the Making of Deep-sea Mineral Resources**

A key insight from research in resource geography and resource anthropology over the past decade or so is the understanding of resources as relational and fluid categories: a particular ‘natural’ substance or material only becomes a resource when society makes it so (Bridge 2009). Hence, the concept of ‘resource-making’: components of the non-human world must be rendered by society into legible and exploitable resources, and, just as society makes resources, so too can it ‘unmake’ them (Bridge 2009, 2011; Li 2014). It is also explicitly recognised in this literature that society is by no means a homogenous category, and that competing societal interests and worldviews further contribute to “the fluid, dynamic quality of resources” (Bridge 2009:1220). The final key insight from this scholarship is that materiality matters: the bio-physical and geological properties of non-human substances shape, in fundamental ways, the political-economic and techno-scientific processes by which they are transformed into resources (Bakker and Bridge 2006; Bridge 2011; Richardson and Weszkalnys 2014). In short, then, a ‘natural resource’ is the product of social processes that are in turn influenced by the materiality of the substance itself; and the ‘resourceness’ of any given substance is by no means assured as it remains contingent on heterogenous societal forces.

These ideas come together in the concept of the ‘resource frontier’: spaces where the human and the non-human interact—and social actors compete for authority and legitimacy—in the reordering of institutions and the production of new patterns of resource access and control (Tsing 2003, Bakker and Bridge 2006, Sikor and Lund 2009, Li 2014). The seminal work of Tsing (2003) and Li (2014) has shown how such frontiers are ‘assembled’ through law and policy-making, the production of technical and scientific knowledge, investment and financing, and the discursive strategies of the actors that compete over them; all of which are also subject to the agency of the non-human world including, but not limited to, that of the substance that is the subject of these efforts.

Writing about the “resource-making controversies” that ensnare unconventional fossil fuels – where we see some striking similarities with DSM – Kama introduces the concept of a “liminal resource category”: a substance whose “‘resourceness’ is still in the process of being assembled via multiple competing efforts to test the viability and desirability of exploitation” (2019, p. 337). We find this a useful lens to apply to deep sea mineral deposits: at different times and in different places, particular mineral deposits have come close to becoming resources, but their resourceness has remained provisional, and the DSM frontier remains to be fully assembled.

Kama anchors the concept of resource liminality in the suggestion that competing efforts to make or unmake resources can be understood as a particular form of “ontological politics”. From this perspective, resource-making is entangled in questions of who claims the “epistemic and political authority” to define a resource, the conditions in which these efforts succeed or fail, and, crucially, the “ways resources come to matter in association with the generative capacities of geological materials themselves” (2019, p. 337). In foregrounding the material, discursive, and performative dimensions of resource-making, ontological politics provides another useful lens through which to examine the assembly of the Pacific DSM frontier.

There is a nascent body of work that has been applying the concepts of resource-making, materiality, and resource frontiers to DSM, including some studies that have focused on the Pacific. This work has focused on the geopolitics of regulation in the Area (Zalik 2018, Ranganathan 2019); the ways in which the materiality of the deep-sea environment has been mobilised by both DSM firms and Indigenous community-led resistance groups to construct competing discourses of DSM in the context of the Solwara 1 DSM project in Papua New Guinea (PNG) (Childs 2019, 2020); the role of unpredictable interactions between different actor-networks in the recent unravelling of the Solwara 1 project (Filer et al. 2021); the need to extend beyond the conventional focus on state-led processes of territorialisation to consider “the shifting temporalities of deep-sea resource making” (Childs 2018:3; also see Le Meur et al. 2018); the different geographies and actors that shape the geopolitics of DSM (Childs 2022); and, finally, the “open-ended, reversible and sometimes incomplete process” of resource-making demonstrated by the history of nodules and the UNCLOS III negotiations (Sparenberg 2019:843). This chapter builds upon and extends this literature by providing the first comprehensive account of the history of resource-making controversies in the Pacific DSM frontier.

### **DSM in the Pacific: The Current State of Play**

The Pacific Ocean is home to 22 states and territories that have a combined jurisdiction over 28 million square kilometres of ocean through their EEZs (Govan 2017) (Figure 19.1). The ocean is of paramount importance for the Pacific’s ‘large ocean states’. For some, it provides the primary source of national revenue in the form of access fees for commercial fishing, while coastal fisheries are a mainstay of community livelihoods in many parts of the region (Hilmi et al. 2016). Beyond its economic importance, the ocean has long been central to Pacific identities, social relations, and worldviews (Hau’ofa 1994; Teaiwa 2018). Reflecting this broadly shared oceanic identity, the Pacific Islands Forum Secretariat (PIFS) has recently adopted the ‘Blue Pacific’ and ‘Blue Pacific Continent’ as central narratives in its regionalism agenda; and, collectively, the Pacific increasingly casts itself as an “Indigenous oceanic region” in global negotiations on oceans governance (Gruby and Campbell 2013).

Since the discovery of manganese nodules between Tahiti and Hawai’i in the late 19th century, the Pacific Ocean has been at the forefront of global DSM exploration activities (Zalik 2018; Sparenberg 2019). All three types of mineral deposits of commercial interest were first discovered and assessed in the Pacific Ocean (see Table 19.1). Moreover, the Pacific became the site of the world’s first ‘domestic’ DSM exploration licence, granted by the government of PNG in 1997 to the now defunct Canadian mining company, Nautilus Minerals (Filer and Gabriel 2018). Nautilus was subsequently granted the world’s first commercial DSM mining lease for their Solwara 1 project in PNG in 2011; however, this

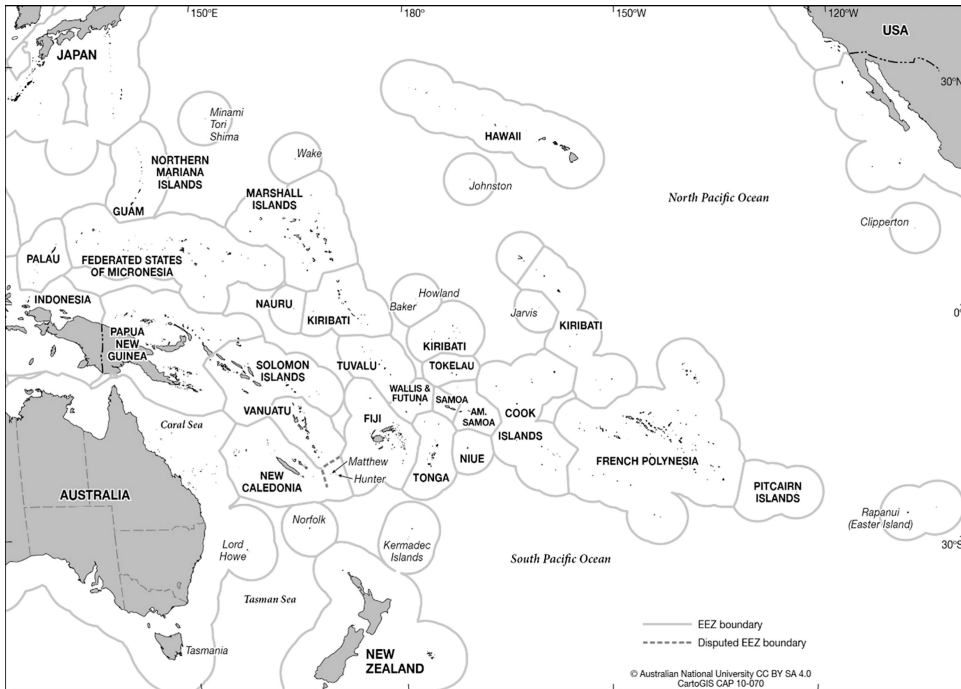


Figure 19.1 Pacific Island Countries and Territories showing exclusive economic zones. (Source: CartoGIS Services, College of Asia and the Pacific, The Australian National University).

project now seems unlikely to proceed following Nautilus’ bankruptcy and liquidation in late 2019 (Filer et al. 2021).

The granting of the exploration licence to Nautilus opened the way for other Pacific states to follow suit. Exploration licenses, thought to number in the hundreds, have since been granted to Nautilus and several other DSM companies in the EEZs of six Pacific Island countries: PNG, Solomon Islands, Vanuatu, Tonga, Fiji, and the Cook Islands (DSMC et al. 2019). In another first, Nauru became the world’s first developing state to successfully sponsor an application for DSM activities in the area in 2011, partnering with DSM company DeepGreen Metals Inc (founded 2011) to explore for nodules in the Clarion Clipperton Fracture Zone (CCFZ) (Figure 19.2). They have since been joined by Tonga (in 2012), Kiribati (in 2015) and Cook Islands (in 2016), as well as a host of other states beyond the region, whose exploration licences in the CCFZ and elsewhere in the Pacific make up the majority of all such licences issued by the International Seabed Authority to date – 23 out of a total of 31 licences at the time of writing (ISA 2022).

The Pacific Ocean is the most prospective region in the world for DSM (Figure 19.2). All three types of deep-sea mineral deposits occur in greatest abundance and highest concentrations in the Pacific (SPC 2012, Miller et al. 2018). Table 19.1 provides a summary description of each of these mineral deposits in terms of their mineral composition, the geophysical contexts in which they occur, and their geographical and jurisdictional distributions.

Table 19.1 Three main types of deep-sea mineral deposits subject to commercial exploration (SPC n.d.)

Mineral Deposit	Geology	Commercial Interest	Distribution within Pacific EEZs
Polymetallic Nodules (Nodules)	Potato-sized accretions of iron and manganese oxides that form around a central particle over millions of years. They occur in the greatest abundance at depths of ~4000 m–6000 m, namely on abyssal plains.	Manganese, nickel, copper, cobalt, and rare earth elements	Kiribati, Cook Islands, Tuvalu, and Niue.
Cobalt-Rich Ferromanganese Crusts (CRC)	Solid mineralised encrustations that form on sediment-free substrates on seamounts of mid-ocean ridges at depths of ~400 m–4000 m. Some crusts have been forming for 70 million years.	Cobalt, nickel, copper	Kiribati, Tuvalu, Samoa, Marshall Islands, and Federated States of Micronesia
Seafloor Massive Sulphides (SMS)	Highly mineralised deposits formed as heated seawater rises through the permeable seafloor, leaching minerals from the surrounding rock. SMS occur at depths of ~1000 m–4000 m and, due to their formation, are associated with both inactive and active hydrothermal vents at oceanic spreading centres, oceanic ridges and in back-arc basins.	Copper, gold, zinc and silver	Papua New Guinea, Vanuatu, Solomon Islands, Fiji, Tonga, and Palau

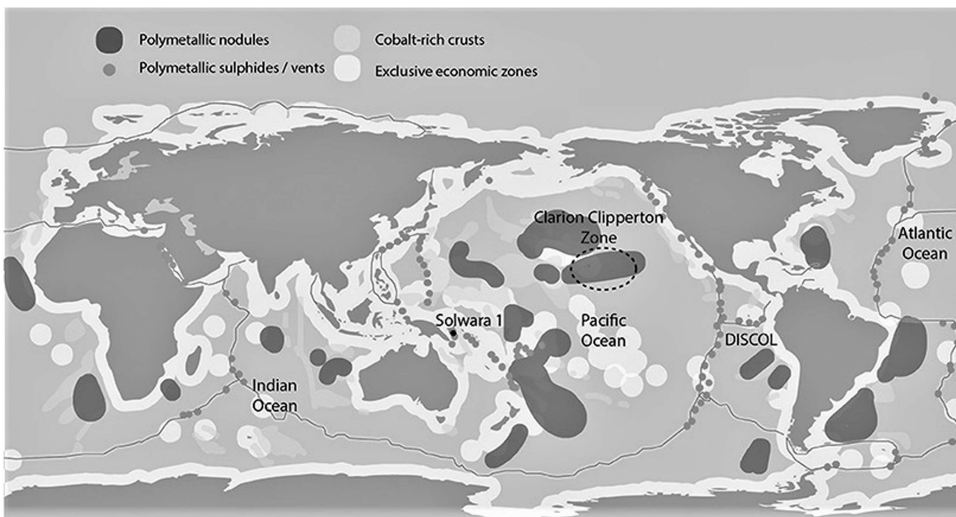


Figure 19.2 Global distribution of the three main types of commercial deep-sea mineral deposits. (Source: Miller et al. 2018).

### **Phase One: Polymetallic Nodules in the International Seabed Almost Become Resources**

In attending to the origins of the DSM frontier in the Pacific, we briefly sketch how polymetallic nodules came to be entangled in considerable resource-making efforts among state, scientific and corporate actors from the mid-20th century to the conclusion of UNCLOS III in 1982. We pay particular attention to contestations around UNCLOS III and the concomitant emergence of what Ranganathan (2019) describes as the “legal imaginary” of the seabed and its resources.

In the years following WWII, state and corporate actors turned to the deep seabed as a potential source of valuable and “strategically important” minerals such as nickel, copper, and cobalt (Payoyo 1997). Increasingly sophisticated techno-scientific methods were revealing the abundance of nodules on parts of the ocean floor to be an enormous repository of these minerals (Payoyo 1997). At the same time, perceived uncertainties over the supply of these minerals were intensifying among industrialised states, driven by political threats to continued resource access and the geologic reality of declining ore-grades (Sparenberg 2019). These anxieties articulated with a commodities boom across the 1960s and early 1970s, and a growing number of enthusiastic economic analyses of the feasibility of commercially exploiting nodules (see Mero 1965), to make the prospect of DSM attractive to both state and corporate actors (McKelvey 1986; Sparenberg 2019).

Between the late 1960s and early 1980s, several multinational consortia involving branches of the global arms and oil industries, as well as national oceanographic institutions and agencies from industrialised states, sought to bring nodules into commercial production (Zalik 2018). Their efforts involved hundreds of research cruises exploring the economic geology of deep seabed in general, and nodules in particular, as well as the development and testing of commercial nodule recovery systems (Glasby 2000; Hein 2004). The overwhelming majority of these activities centred on the Pacific.

These activities not only contributed to the evolving techno-scientific construction of the deep seabed’s commercial value but came to be entangled in significant legal developments in international law. The rapidly intensifying efforts to exploit nodules raised important and divisive questions over who controlled the rights to access, enclose, and ultimately exploit the seabed (Payoyo 1997). Responding to these concerns, calls were made for the seabed beyond national jurisdiction to be recognised as the “common heritage of [hu]mankind” (CHH); that is, “immune from national appropriation and administered by an international body to ensure that its resources were exploited for the benefit of all states, especially developing ones” (Ranganathan 2019, p. 582). Emanating from international legal bodies and state actors in the Global South, such calls led to the initiation of UNCLOS III in 1972 (Payoyo 1997; Ranganathan 2019).

Questions over the ownership of the seabed came to define the UNCLOS III negotiations. While contestations emerged along axes of geographically uneven development, the final text of UNLCOS III largely reflected the interests of the Global South (Payoyo 1997; Ranganathan 2019). It designated the seabed and its resources beyond national jurisdiction as the CHH and made provisions for the creation of an International Seabed Authority (ISA) with wide reaching competences to license, regulate, and even engage in DSM through an operational arm. Furthermore, the DSM provisions made significant allowances for assistance to be given to developing states to engage in or benefit from DSM (Ranganathan 2019).

Despite the codification of the CHH principle, and the efforts to organise mining along redistributive lines, Ranganathan argues that UNLCOS III nevertheless constructs the seabed as a “series of extraction sites” above all else. In doing so, Ranganathan shows how UNCLOS III also enshrines a particular “extractive imaginary” that presupposes the question of whether to mine the seabed at all (Ranganathan 2019). Such a configuration, he points out, “has relied on – and continues to draw legitimacy from – a construction of the seabed as socio-culturally, economically and ecologically disembedded” (Ranganathan 2019, p. 577). Turning over the seabed to the extractive interest of states and corporations, this emergent construction was further consolidated under the Implementing Agreement of 1994, which replaced the most onerous provisions for assisting and compensating developing states with a commitment to market-oriented approaches (Zalik 2018, Ranganathan 2019).

### **Phase Two: Resource-making Efforts Shift to Seafloor Massive Sulphides within National Jurisdictions**

As UNCLOS III ended, changes to the “nature and affordances” of nodules resulted in a dramatic reduction in nodule exportation activities and the dissolution of the major DSM consortia (Sparenberg 2019). In addition to the dissatisfaction over DSM provisions in UNCLOS III, increasingly conservative revisions were being made to both the potential value of nodules and the feasibility of exploiting them (Glasby 2000). Furthermore, important changes to the political and economic conditions that had sustained corporate and state actors’ resource-making efforts significantly diminished the attraction of mining nodules (Sparenberg 2019). These included a prolonged depression in mineral prices globally, and the growing realisation that land-based mining would be able to meet demand for strategic metals for at least several decades (Glasby 2000).

Yet, far from being “unmade”, nodules remained at the threshold of “resource-ship”. They featured significantly in international negotiations as states and corporations sought to protect their investments in techno-scientific knowledge and technical capabilities. Moreover, nodules were the only seabed mineral specifically identified in UNCLOS III’s DSM provisions and there was an expectation that, if legal regimes changed and economic conditions ameliorated, mining them would become possible (Sparenberg 2019). To this end, certain corporations and states worked toward securing “pioneer status” in the Implementing Agreement of 1994 (Zalik 2018), and nodules remained, albeit less immediately, on the threshold of “resource-ship” (Sparenberg 2019).

In this section, we demonstrate how resource-making efforts within the global DSM frontier did not dissipate, but came to focus on new, hitherto unknown marine geophysical phenomena, CRC and, especially, SMS. With a particular focus on SMS, we chart the intense resource-making efforts that occurred across the Pacific within specific national jurisdictions, as well as the emergence of networked Pacific resistance to DSM. We show how resource-making contestation was shaped by the specific materialities of the “resource” in question in ways that inflected divergent constructions of the ocean as “placeless” on the one hand and “placeful” on the other.

That SMS and CRC attracted significant resource-making attention was in large part due to their geophysical location vis-a-vis the emergent UNCLOS regime. SMS in particular were found to occur in relative abundance within newly established areas of national jurisdiction, especially in the Pacific (Miller et al. 2018). Here they not only occurred in

shallower waters but also were seen to be governed by more attractive legal regimes than those deposits existing the Area. Furthermore, many Pacific States were newly independent or in the process of decolonising at the time, giving departing colonial powers the opportunity to link efforts to explore and ultimately exploit of SMS and CRC resources under the banner of economic development (e.g. Watt and Doyle 1980, p. 325). It was hence that the Committee for the Coordination of Joint Prospecting for Mineral Resources in South Pacific Off-shore Areas, a UN sponsored body that would later become the South Pacific Applied Geoscience Commission (SOPAC), sought to promote geophysical research on marine shelves in Pacific states' EEZs (Hoagland et al. 2010). In 1985, they launched a 20-year mineral prospecting programme in collaboration with 12 Pacific States and the Government of Japan (Hein 2004; Nobuyuki 2005). The Japan/SOPAC Deep-sea Mineral Resources Study Programme conducted 21 cruises and was "extremely successful in confirming the resource potential of the Pacific region" (Nobuyuki 2005, p. 21). Their efforts sat alongside a plethora of other research and prospecting activities aimed at identifying and defining SMS and CRC deposits.

As they revealed an increasing number of mineralisations across the Pacific, these exploratory efforts attracted serious commercial interest, especially for SMS. The discovery of a "bonanza" SMS orebody in PNG national waters in 1991 saw the emergence of DSM company Nautilus and its sustained efforts to develop the world's first commercial DSM operation, as well as a broader push to enclose areas of the Pacific seabed for SMS exploration purposes (Broad 1997; Binns and Scott 1993; DSMC et al. 2019).

Using data covertly seized from Australia's Commonwealth Scientific and Industrial Research Organisation, Nautilus filed a claim to the PNG Government for an offshore mineral exploration licence covering the deposits in 1993 (DSMC et al. 2019). At the time, no Pacific states, including PNG, had any policies, legislation, or regulations specifically related to offshore mineral exploration and exploitation.

In 1997, Nautilus was granted the world's first DSM exploration licence under PNG's Mining Act (1992), prompting a rush to exploit regulatory gaps elsewhere in the Pacific (Filer and Gabriel 2018). Nautilus and other emerging DSM companies began to accrue vast areas of exploration tenements for SMS in Tonga, Vanuatu, Fiji, and the Solomon Islands (DSMC et al. 2019). By 2010, Nautilus' exploration tenements alone – granted and under application – exceeded 600,000 km<sup>2</sup> (Nautilus 2010).

Despite this spectacular process of enclosure, the most intense resource-making efforts centred on just a handful of deposits. Here, a range of techno-scientific methods were deployed to define their extent and quality, as well as the physical environments in which they were situated. Resource-making efforts also encompassed the discursive practices into which specific "materialities" of the deep-sea revealed by these techno-scientific activities came to be scripted. As Childs (2019) details with reference to Nautilus' Solwara 1 tenement, these materialities were put to work in annual reports, environmental impact statements (EIS), and stakeholder consultations in an effort to justify mining SMS. Also drawing on interview material, he specifically identifies three, interrelated materialities that Nautilus strategically deploys: the deep sea's remoteness, its dynamism, and the minimal spatial and temporal footprints of the proposed mining activity.

With respect to the seabed's remoteness, Childs draws attention to Nautilus' emphasis on the "placelessness" of their mine site, its isolation from society (2019, p. 2). This argument, he shows, is mobilised through invocations of seabed's depth, the stratification of the water column – "deep water is colder and denser" and therefore does not mix with other layers

(Nautilus 2014, p. 25) – and the fact that “no one lives at the proposed extraction site” (Nautilus 2014, p. 25).

While the seabed's remoteness serves to contain the impacts of mining beyond society, its dynamism is simultaneously invoked to render those impacts insignificant. Here Nautilus makes specific reference to the “natural turbidity, elevated metal concentrations and ... extensive sediment deposits” produced by volcanic activity in the immediate vicinity of the mine site (2010, p. 24), as well as the power and persistence of such activity (Childs 2019, p. 6). This is accompanied by Nautilus' claim that their mining activities will take place within a limited spatial and temporal frame – a position frequently qualified through comparisons with terrestrial mining activities and without reference to the volumetric qualities of the ocean (Childs 2019, p. 6–8).

Nautilus' discursive constructions of the seabed and surrounding ocean did little to persuade an emerging network of local actors critical of DSM (DSMC et al. 2019). The same year that Nautilus released their EIS (2008), the Bismarck-Solomon Sea Indigenous Peoples Council (BSSIPC) was formed, committing themselves to halting the development of Solwara 1 and DSM more broadly (SPC 2012; Filer and Gabriel 2018). In a statement entitled ‘The Karkum National Sea Bed Mining Statement’, the BSSIPC countered Nautilus' claims of the seabed's disembeddedness writing: “Our livelihood and culture is based around these oceans and it is an inseparable part of our culture, identity and way of life” (Schertow 2008, n.p.). In doing so, they mobilised what Childs (2019, p. 8), drawing on fieldwork with the Tolai people of the Duke of York Islands, describes as a “relational ontology” in which “‘beings’, ‘spirits’ and ‘nature’” are “co-shapers of graun (the world)”.

The BSSIPC's and other local actors' assertions that the seabed was inextricably woven into the fabric of their cosmology was one taken up by alongside scientific critiques of DSM among a “growing coalition of actors” speaking out against DSM “to different local, national, regional and global constituencies” (Filer and Gabriel 2018; Filer et al. 2021). Independent reviews of Nautilus' EIS (Steiner 2009; Rosenbaum 2011; Luick 2012) appeared alongside films and other artistic media critical of DSM, newspaper coverage, petitions to ban DSM, and statements from local and national politicians and faith leaders (Filer and Gabriel 2018).

### **Phase Three: The Return to Nodules in the Area**

Tracing the entangled regulatory and commercial developments in DSM that occurred across the Pacific in the second decade of the 21st century, this section focuses on the reorientation of resource-making efforts back to the Area. We emphasise the shifting discursive practices of both DSM firms and their opponents, again highlighting marked inflections informed by the differing materialities of SMS and nodules and the environments in which they occur, and the geographical scale at which their exploitation is envisaged and resisted.

Echoing the world-historical context of the 1970s, renewed interest in mining nodules was driven by a sustained period of growth in commodities markets and growing concerns among industrialised states over high import dependencies and supply risks (SPC 2012; Sparenberg 2019). Rare earth elements and other minerals deemed crucial to sustaining growth in the green- and high-technology industries were seen to be caught up in politically risky supply chains or otherwise subject to supply constraints (SPC 2012; Sparenberg 2019).



Nodules, with their deemed-to-be-high concentrations of such minerals, were thus once again caught up in significant state and corporate efforts to bring them into “resourcehip”.

In 2008, the same year that the EU announced their “Raw Materials Initiative” (in which DSM featured prominently), then chief executive officer (CEO) of Nautilus, David Heydon, established two wholly owned subsidiaries, Nauru Ocean Resources Incorporated (NORI) and Tonga Offshore Mining Limited (TOML). The express purpose of these companies was to gain the sponsorship of Nauru and Tonga respectively in applying for nodule exploration licenses in the CCZ (DSMC et al. 2019). In 2010, Heydon founded his own DSM company, DeepGreen, which took control of NORI. The following year he signed a 15-year contract between NORI and the ISA to conduct nodule exploration activities in a 75,000 km<sup>2</sup> tenement in the CCZ. Shortly after, TOML’s application was accepted and a contract for a tenement of the same size was signed between Nautilus and the ISA (DSMC et al. 2019).

In light of these developments, and the ongoing rush for SMS exploration tenements, SOPAC strengthened its calls for a regional approach to regulation. By 2011, having been subsumed by the Pacific Community (SPC), they had secured the support of the EU to develop the SPC-EU DSM Project aimed at improving Pacific countries’ governance and management of deep-sea minerals in accordance with international law (SPC-EU 2021). The stated rationale for the project included Pacific states’ shared characteristics and interests; the potential for DSM projects to be multijurisdictional; and the fact that a “stable, clear and consistent regional framework [would] encourage development and investment” (Lily 2011, p. 3). The steering committee comprised representatives of SPC, the EU, EU companies interested in DSM, several oceanographic research units, universities, NGOs, senior members of the ISA, Pacific governments, and both Nautilus and DeepGreen (SPC 2012).

Within just a year the project produced a Regional Legislative and Regulatory Framework (RLRF) on DSM (SPC 2012). This was followed by workshops and consultations aimed at developing a suite of national seabed mineral laws across the region in line with the RLRF. Among these regulatory developments were the Fiji International Seabed Mineral Management Decree (2013); the Tonga Seabed Minerals Act (2014); the Tuvalu Seabed Minerals Act (2014); and the Nauru International Seabed Minerals Act (2015). Given their common origin, these laws were strikingly similar. Moreover, each expressly sought to fulfil state obligations under international law in order to enable Pacific states to sponsor mining activities in the Area without assuming liability (Blue Ocean Law and PANG 2016b; Lily 2018). The degree to which they have effectively limited state liability, however, remains subject to debate (Sloan 2019).

In the context of the evolving DSM frontier and its entangled resource-making processes, the SPC-EU DSM Project can be seen as clear example of governments and industry seeking to “delineate specific pathways to exploitation” (Kama 2019, p. 339). While falling short of openly advocating for Pacific governments to participate in DSM, the project played a crucial role in providing “facilitative services” that helped both to construct deep sea minerals, especially nodules, as resources with the potential for exploitation, and to establish the necessary conditions for capital investment that would realise that exploitation (Mallin 2018, p. 249). These efforts have been extended by specific industry actors, most notably DeepGreen.

Building on rhetoric that DSM offers an important economic opportunity for Pacific states (e.g. SPC 2012), DeepGreen posit mining nodules as “necessary” to meeting the projected demand for the minerals required for the “green transition” (DeepGreen 2021a). For DeepGreen, DSM is portrayed not simply as a competitor to terrestrial mining, but

rather its necessary successor by virtue of a number of bundled material and social factors. Many of these arguments are already familiar, having come to the company by way of David Heydon, and later other Nautilus executives that joined DeepGreen (DSMC et al. 2019). For example, echoing Nautilus' emphasis on the seabed's remoteness, DeepGreen has consistently affirmed that there will be "no disruption to Indigenous peoples or any community" because mining will occur "far offshore, in international waters, in the deep ocean, where no one lives" (DeepGreen 2021b). Moreover, just like Nautilus, DeepGreen frequently invokes the nature and affordances of both the seabed and the nodules themselves to construct mining as socially and environmentally harmless.

However, in contrast to Nautilus' appeal to the seabed's dynamism, DeepGreen emphasises its lifeless quality in order to make favourable comparisons between DSM and terrestrial mining. Unlike the biodiversity "hotspots" threatened by terrestrial mining, the seabed in which nodules occur is constructed as the "largest desert on earth" (DeepGreen 2021a). It is "perpetually dark", highly pressurised, and populated with minimal "living matter" (DeepGreen 2021a). It is also so enormous as to be wholly unthreatened by DeepGreen's activities, with the mine site representing just "a fraction of the ocean floor" (DeepGreen 2020a).

Coupled these visions of the seabed, nodules themselves are framed in particular way. Far from demanding what DeepGreen frequently positions as the violent attempts to access terrestrial ore-bodies, nodules are simply "waiting" to be exploited, "sitting", or "lying" "unattached to the seabed" (DeepGreen 2020b). This allows DeepGreen to employ all manner of softened language to describe their future extractive activities. With their technologically sophisticated machines, DeepGreen is able to "deftly collect", "gather", "harvest", or simply "pick up" nodules from the seafloor (DeepGreen 2018a; DeepGreen 2020a).

There is also a politics of time at play in DeepGreen's discursive practices. The ecological threat posed by terrestrial mining and the broader existential threat of climate change are used as the justification for DSM needing to happen *now* (Slatter 2020; DeepGreen 2020b). Not only will DeepGreen be meeting metal demands for the green transition, and thereby contributing to addressing climate change, but also they will be doing so with minimal emissions and in ways that do not threaten biodiversity. To DeepGreen (2020b), a world without DSM is a world where "nature disappears, humans suffer, earth suffers", all at the hands of terrestrial mining and climate change.

It is unsurprising, given this discourse, that DeepGreen seeks to elevate its resource-making activities beyond mere commercial gain. For example, promotional materials describe the company's exit from mining a decade after exploitation begins, when there will be enough metals produced for a circular economy to take hold (e.g. DeepGreen 2020b); and, in a promotional video entitled "Deep Green: Metals for our future", CEO, Gerard Baron, states the company is on a "quest for a more sustainable planet". "It's a big responsibility on our shoulders", he continues, "we need to make this happen" (DeepGreen 2018b). In mid-2021, they took a series of important steps toward this goal.

On June 25th, 2021, the president of Nauru, Lionel Aingimea, triggered an obscure clause in the Law of the Sea, Article 15, that gives DSM corporations a seemingly clear path to extraction, regardless of the state of international regulations (Watts 2021). The so-called "two-year rule" has set a deadline of two years for the ISA to finalise the exploitation regulations for the area. If no regime can be agreed upon by the end of this period, the ISA council must accept and consider any application to commence mining in accordance with the best-available regulations (Watts 2021).

While it does not guarantee a path to mining, the trigger was significant, not least in its timing. DeepGreen was seeking to undergo a merger that would see it listed on the New York stock exchange as The Metals Company. In an attempt to replicate Nautilus' first steps towards spectacular accumulation nearly a decade prior, the move was expected to bring the company nearly 2 billion dollars in capital investment (TMC 2021). Underpinning that figure was DeepGreen's claim that it could start mining "the world's largest and highest-grade estimated source of ... battery metals" as soon as 2024 (TMC 2021). A guarantee that regulations would not hinder their ability to deliver on this promise was viewed as a means to boost the confidence of potential investors. As Barron put it in a presentation to investors prior to the launch of TMC (Barron 2021):

When people look at the risk when it comes to permitting, the only risk is delay. Article 15 really does help deal with that factor as well, in that, a member state could lodge this ... [and] basically draw a line on the time slippage.

Although the degree to which DeepGreen pushed Nauru to trigger the "two-year rule" is unknown, Nauru firmly rejects any assertion the decision was not their own. Instead, they have sought to align their actions with DeepGreen's claims of DSM's sustainability and the moral imperative to mine. "Nauru has proudly taken a leading role in developing the international legal framework governing seafloor nodules in the international seabed area", a government statement reads, and "we have a duty to the international community to carry out this request". This would not only "bring ... certainty for the benefit of all stakeholders", the statement went on, but also "ensure that polymetallic nodules are considered as part of the solution for the global transition from fossil fuels and towards renewable energy" (Government of Nauru 2021). Yet, despite the assurance of an activated "two-year rule" and Nauru's efforts to legitimise the industry, DeepGreen's merger in September 2021 suffered a 500 million dollar shortfall in investment and saw a class action lawsuit levelled at the company (Bryant 2021; Watts 2021). Their prospects, as of late 2022, do not appear to have brightened and they remain the target of considerable controversy, especially in the Pacific.

DeepGreen's resource-making efforts have been met with growing outrage across Pacific civil society actors and their expanding coalition of supporters both within and beyond the region (Penjueli 2015; Slatter 2020; Filer et al. 2021). As a consequence, collective articulations against DSM have grown in both scale and volume as they continue to mobilise arguments aimed at preventing further DSM developments. Notable examples include legal analyses of the SPC-EU Project's regulatory development produced by Pacific legal firm, Blue Ocean Law (BOL), and the Pacific Network on Globalisation (PANG) (BOL and PANG 2016a & 2016b; see also DSMC et al. 2019). These, like the vast field of critical discourse from which they emerged, centre on the ways in which the development of DSM regulations in the Pacific have proceeded without adequate attention to the precautionary principle or the rights of the Indigenous peoples of the Pacific to "Free, Prior, and Informed Consent", and have underplayed the potentially devastating and largely unknown impacts of mining in favour of speculative promises of economic development (DSMC et al. 2019).

In their most recent manifestation, the discursive practices of the Pacific-led resistance to DSM have sought to evoke the metaphor of "drawing the Pacific blue line" (PBL 2022). In this campaign, mediated through a Facebook page by the same name and both on- and off-line networks of activists and communities across the Pacific, Pacific Islanders' voices are

brought to the fore as they assert an “oceanic” identity as “custodians” of Ocean (PBL 2022). Explicitly invoking the deep history of collective Pacific action “against the ruinous incursions of nuclear testing, driftnet fishing and bottom trawling, and marine pollution”, drawing the Pacific blue line means being on the “right side of history” (PBL 2022). It is a discourse that sits in perfect tension with the future-oriented normative claims of responsibility and obligation mobilised by DeepGreen. Moreover, it is the embodiment of Hau’ofa’s emancipatory vision for Oceania as a sea of islands connected by the ocean (1994). For those drawing the Pacific blue line, Pacific Islanders are “the ocean” itself: “In its preservation” their most recent statement reads, “we are preserved” (PBL 2022).

### **Conclusion**

This chapter has provided an historical perspective on the place of the Pacific Ocean in the ongoing assembly of the global DSM frontier. Being the most highly prospective region in the world for deep-sea mining, it comes as no surprise that Pacific states and territories, and Pacific peoples, have played a central role in the particular forms of ontological politics that have characterised successive phases in the struggle to render deep-sea mineral deposits into resources. But so too has a cast of other human actors, including the DSM industry, powerful nation-states and trading blocs, and scientific bodies and international organisations; as well as non-human actors, notably the deposits themselves and the deep-sea environments in which they occur.

In charting these resourcing-making efforts and controversies over three historical phases, the third of which is unfinished, we have made two main arguments. First, following Kama’s work on unconventional fossil fuels, deep-sea mineral deposits could be said to be quintessentially liminal in terms of their ‘resourceness’. We have shown how different deposits, at different times and in different places, have teetered on the verge of becoming resources, but have thus far only achieved a provisional resource status. Polymetallic nodules are particularly striking here in that they have been subject to two distinct temporal phases of resource-making efforts, the second ongoing, providing a stark example of how a ‘natural’ substance can move along a continuum of resourceness in line with shifting and heterogenous social forces. In this sense, then, the history of the assembly of the Pacific DSM frontier abundantly affirms a relational and temporal understanding of natural resources.

Our second argument concerns the ways in which the ontological politics of the Pacific DSM frontier – and hence the global DSM frontier – have been shaped both by the material properties of the two types of deposits that have been subjected to the most intense resource-making efforts, as well as the deep-sea environments in which they occur, and their social construction. Indeed, we have shown how the two are inseparable. We have suggested that while the discursive strategies of the key protagonists in the saga of DSM – industry and civil society – have broadly mapped onto longstanding competing constructions of the ocean (as either placeless/asocial or placeful/social), the particular properties of nodules and massive sulphides (and their geophysical contexts), respectively, have seen marked discursive inflections, first described by Childs (2018) in relation to massive sulphides in the case of Solwara 1, but extended here in the context of the recent reorientation back towards nodules in the Area. In the case of corporate actors, the discourse of the socially disconnected deep-sea has remained constant, with the inflections being unruliness and violence in the case of massive sulphides and inertness and lifelessness in the case of nodules. And with the shift back to nodules, industry actors are now also expressly framing DSM in terms of the pressing

necessities of the global energy transition. For Pacific civil society actors, deep Indigenous Pacific connections to the ocean have remained a constant and central feature of their oppositional discourses, and the inflection has been more at the scale at which these connections are emphasised. With the shift back to nodules in the Area, particularly the CCFZ, and the ongoing potentiality of SMS resources within national jurisdictions, contemporary campaigns are mobilising both Hau'ofa's idea of the ocean as the connective social tissue of Oceania and the legacy of collective Pacific resistance to previous foreign incursions. These findings affirm that materiality matters in struggles over resource-making, but also, and perhaps more importantly, that Indigenous Pacific ontologies of the ocean are likely to remain of central importance to the fate of the global DSM frontier.

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# RESOURCE GRABBING AND THE BLUE COMMONS

## The Evolution of Institutions in Scallop Production in Sechura Bay, Peru

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### Introduction

About 3.3 billion people rely on marine resources for their protein intake (FAO, 2020). Aquaculture provides an ever larger share of this supply. With an annual growth rate of 5.3% (for the period 2001–2018), world aquaculture production progressively overtakes that of the wild fisheries sector. For many countries, it contributes to food security and/or provides a valuable export commodity. Aquaculture is a sector on the rise. Aquaculture is a space-intensive activity, which hardly allows for any alternative activity in the area where it takes place (Schlüter et al., 2020). Therefore, its development very much pushes forward the enclosure of the sea. Particularly in coastal areas, where much of mariculture is currently taking place (Ertör and Ortega-Cerdà, 2019), it is in huge competition with other activities or uses which either might be economically more lucrative and often run by more powerful actors, like tourism or ship routes, or they might be, depending on the perspective, equally important, but having less economic potential when competing with mariculture, like small-scale fishing and mangrove conservation or use.

This chapter aims to embark on an analytical journey to understand the privatization process of the sea floor which has been taking place in the last thirty years in bottom scallop farming in Sechura Bay in Peru. Starting from an open access situation in the 1990s, it converted into a private property regime, with the concentration of more than 150 licences to operate in the hands of a few affluent actors. Such a process seems to represent a process of resource grabbing (Bavinck et al., 2017). Without doubt, it is a process of enclosure with important social and economic consequences. Due to the low intensity of scallop bottom culture – juvenile scallops are distributed on the sea floor and without additional feed grow to optimal harvesting size (i.e. to min. landing sizes of 65 mm shell height). What happened in Sechura when the sector emerged has been described as a gold rush (Kluger et al., 2019b), producing lucrative livelihoods to (poor and often migrant) fishers. Those fishers managed to get a law passed, which allowed only small-scale fishing associations to hold licences for space. However, over time the main production assets are informally in the hands of potential and big investors, including most of the licences. While analysing the case, we realized that the outcome

of privatization in the hand of few affluent actors has a nuanced set of reasons, where an intensive, detailed case study analysis helps us to better understand grabbing in general, particularly in the marine field, and to recognise clear patterns, which can be found in many cases.

For analysing our case, we used two analytical tools, the Institutional Analysis and Development framework (IADF) (Ostrom, 2005, 2011) and the list of criteria for analysing privatization processes in the sea lately presented by Schlüter and colleagues (2020). The list of criteria for assessing privatization is used as a complement to the IADF, as it has been developed differently to the IADF with the specific aim of understanding privatization processes in the marine field. The list is an interdisciplinary endeavour of scholars, providing comprehensive assessment criteria.

For this, we first describe the two analytical tools and how we used and combined them. We then lay out the research method applied and present the results of our study: the observed changes of property rights to the sea space for bottom culture. After that, we aim to understand the observed process, using our analytical tools. We close the chapter with some conclusions.

### The IADF and Marine Privatization

The IADF is a broadly used tool to structure and understand collective action problems and the institutions (in the sense of rules and norms) existing around them in relation to environmental resources (Ostrom, 2005, 2011). At its centre is the action situation in which “two or more individuals are faced with a set of potential actions that jointly produce outcomes” (Ostrom, 2005). The action situation is influenced by biophysical and socio-economic conditions and the existing institutional arrangements. In this action situation, actors are interacting, learning, evaluating outcomes and will aim to improve their situation, which again leads to an altered action situation (see Figure 20.1).

The IADF has been used in sectors like forestry (Andersson, 2006; Sanches et al., 2020; Wilkes-Allemann et al., 2015), irrigation (Nigussie et al., 2018) and land tenure (Yang et al., 2020). For the marine realm, there are various applications (e.g. Beitzl, 2011; Chadsey et al., 2012; Cole et al., 2019; Mathevet et al., 2018). Beitzl (2011) uses the IADF with a social

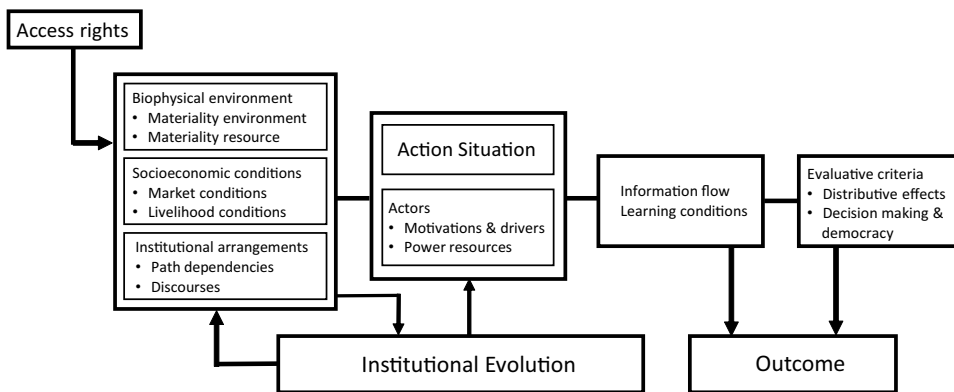


Figure 20.1 The adapted institutional and development framework.

(Sources: Ostrom, 2005; Schlüter et al., 2020) as used in this work.

ecological approach to analyse the sustainability of community concessions. Chadsey and colleagues (2012) use the IADF to analyse the emergence of a science society partnership for an early warning system of algal blooms. Mathevet and colleagues (2018), pointing out the importance of constructed realities, building an ontology with the help of IADF, analyse management regime shifts. Cole and colleagues (2019) combine the IADF with the Social-Ecological System Framework (SESF) (Ostrom, 2007) and exemplify this framework by describing, building on secondary data, the change of lobster fisheries in Maine. Like our study, they explain various historical phases of the fishery and how and why the system has evolved. Many applications used the tool to understand the configurations of actors, ecosystems, and institutions from a snapshot perspective (Clement, 2010; Nigussie et al., 2018). However, due to the cyclical nature of the framework, one can also find dynamic applications which aim to understand the evolution of institutions (Barton et al., 2017; Mathevet et al., 2018). Understanding the evolution of institutions in our case study is the aim of this paper.

The IADF was conceptualized by scholars who had/have a particular perspective on institutions (political economy, collective action). However, the framework as such does not yet use any theory (Ostrom, 2011; Schlager and Cox, 2018). Various theories and models can be incorporated to help us understand the observed phenomena (Ostrom, 2007). Various authors have criticized that issues of power, and, related to this, discourses have not been addressed in the framework (Brisbois et al., 2019; Clement, 2010; Whaley and Weatherhead, 2014). Therefore, Clement (2010) expanded the framework and added power and discourses as important aspects of the socio-economic conditions. Issues of power asymmetries are in circumstances of small-scale production often of utmost importance. As will be shown later, this also holds true for our case. Power issues are also emphasized in Schlüter and colleagues (2020). Following Clement (2010), power and discourses have been added as analytical categories (see Figure 20.1). Power is understood as the ability of an actor to impose in an action situation their will on another actor. It might be that the less powerful actor is coerced and has no other option than to act according to the will of the more powerful actor. However, in economic situations of exchange with asymmetric distribution of power, the powerful actor can alter the pay-off structure of the weaker actor so that it is in the best interest to “voluntarily” agree under the given circumstances, despite getting much less benefit than the powerful actor. Power over somebody else results from a different endowment of power resources between different actors (Knight, 1992). This has two implications. First, we need a broad understanding of power: it could result from material endowments, like the availability of capital; it could result from different options available or the possibility to simply wait (e.g., not being hungry) (Knight, 1992); it could be the result of (dominant) discourses in the society (Hajer and Versteeg, 2005), or resulting from symbolic power (Bourdieu, 1991), ingrained in culture and norms or other institutional properties of a society that lead to an asymmetric action space for the various actors. Second, different from Clement, we see power as a property of an actor. It only manifests in relation to another actor, who has a different endowment of power resources. Therefore, we see it as a property of an actor and not as a socio-economic condition. Discourses exist in the social realm and might only be used by certain actors as a power resource. However, they are not a property of an actor. Therefore, we follow Clement by making them a part of the institutional arrangements.

Most often, the IADF is used to analyse the various sets of institutions governing an action situation. The aim is to understand the boundary, position, choice, information rules, etc. (Barton et al., 2017; Clement, 2010; McGinnis, 2011a). In our case, we focused on the evolution of governing access to space. A sub-part of the IADF is the Grammar of

*Table 20.1* The evolution of institutional statements about space of the sea bottom in Sechura Bay, following the institutional Grammar

<i>Year</i>	<i>Emerging institutional statement</i>	<i>Formal/informal</i>
Initial situation	Everybody (small-scale fishers) may take a certain area to start bottom culture in Sechura Bay (de facto open access)	Informal
1990–2009	Everybody who has a plot can culture, new entrants have problems as space is defended (de facto enclosure)	Informal
2009	Only small-scale fisher cooperatives are permitted to get a licence for bottom culture in Sechura Bay (de jure common property regime)	Formal
~2000–2020	Affluent (financially, knowledge, processing) investors may take over the production process and eventually (informally) the licence (de facto evolving towards private property)	Informal
2020	Only small-scale fishers organized through companies are permitted to get a licence for bottom culture and/or suspended culture in Sechura Bay (de jure private property regime)	Formal

*Source:* Crawford and Ostrom (1995).

Institutions which provides a common syntax for understanding institutional statements (Basurto et al., 2010; Crawford and Ostrom, 1995). We use the Grammar here to describe the changes in the institutional statement in relation to the sea bottom (see Table 20.1). To our knowledge, there are two applications of the Grammar of Institutions to the aquaculture sector (Siddiki, 2014; Siddiki et al., 2012). Both look at the policy level and only use the Grammar and do not relate in more detail to the entire IADF.

The list of criteria provided by Schlüter and colleagues (2020) emerged, first, due to the perceived urgency to better understand processes of privatization in the marine realm on its way at an unprecedented speed, and second, due to the perceived lack of scientific reflection, which, third, is so far done with simplistic views, seeing privatization either as salvation or as evil. The chapter is built on sparsely emerging literature. We use the diagnostic criteria to enrich the IADF. They can be understood – following the terminology of the SESF – as second-tier variables (see bullet points in Figure 20.1). For consistency and to avoid repetition, some wording has been changed. It particularly informed the semi-structured interviews further described in the method section.

To summarize, we were using the adapted IADF (see Figure 20.1) to diagnose and understand the dynamic evolution of the institution(s) granting property rights. We do so by dynamically applying the framework below to understand the emergence of the changing institutions governing access to space.

### **Method**

Governance of aquaculture is understudied (Partelow et al., 2022). This holds even more true for the aspect of property rights on space within aquaculture, where according to our knowledge, only a few papers have been recently published (Belton et al., 2020; Bottema et al., 2021; Ertör and Ortega-Cerdà, 2017; Ertör and Ortega-Cerdà, 2019; Hadjimichael et al., 2014; Kluger et al., 2022). This chapter addresses the questions of how and why the privatization process of space took place as it unfolded. The IADF requires detailed descriptive information. This

indicates the need for a qualitative case study approach. The study uses document analysis (of scientific articles, grey literature, and laws) and semi-structured interviews with a broad range of stakeholders. Those stakeholders include other small-scale fishers, their representatives and respective leaders of their cooperatives, larger producers and processors, and regulators on the local, regional and national levels, dealing either with the fishery-aquaculture sector or the environment. A snowball sampling strategy with various entry points was applied. The field-work during which the primary data for this study was collected took place in 2019 and lasted six weeks. However, the work also builds on continuous social-ecological research conducted in Sechura since 2013 by one of the authors (LCK), which did provide not only a solid fundament but also a huge network for field access for the present work. The data have been analysed with the help of MAXQDA, using an abductive coding approach (Timmermans et al., 2012), starting with a diagnostic coding tree built on the adapted IADF (Figure 20.1). Depending on the data, free codes were added.

### Results: The Evolution of Institutional Arrangements in Relation to Sea Bottom Access

This section describes the evolution of institutions from a historical perspective. Table 20.1 summarizes this development using the Grammar of Institutions. The Peruvian bay scallop (*Argopecten purpuratus*) is a high-value benthic species occurring from Paita (5 °S) in northern Peru to Valparaíso (33 °S) in Chile, and records for its extraction date back to colonial times (Cobo 1653, cited in, Gonzalez, 2008). Since the 1950s, the species was (and still is) targeted by small-scale hookah-diving fishers as one of many resources through an open access regime. Peruvian legislation defines marine living resources as the heritage of the nation, open to all.<sup>1</sup>

In the 1980s and 1990s, the region of Ica (Pisco province, S-Peru, cf. Figure 20.2) experienced two boom and bust cycles related to the El Niño (EN) dynamics in 1983/84 and

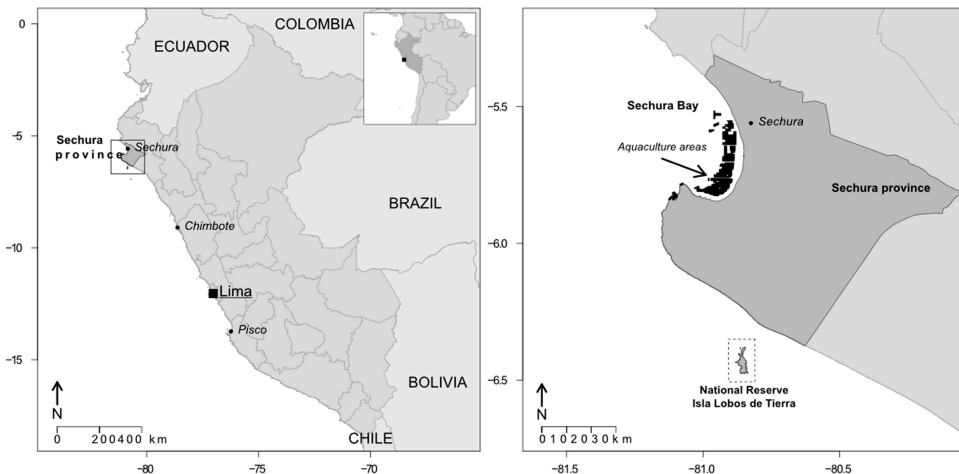


Figure 20.2 Left panel: Situating the study setting Sechura Bay in Sechura province in Peru; The square indicates the map section as shown in the panel to the right. The subplot indicates the location of Peru in the Latin American context. Right panel: Sechura Bay in the province of Sechura, indicating the aquaculture concession areas (as of February 23, 2021); Isla Lobos de Tierra = ILT.<sup>4</sup>

1997/98 (Wolff, 1987; Wolff et al., 2007). In the north, scallop banks were discovered at the island Lobos de Tierra (ILT, Figure 20.2) in the early 1990s and attracted the attention of migrants (first from Pisco and later from all over the country) and local (from Sechura) fishers extracting the resource. The EN 1997/98, with its heavy rains and rising sea temperatures in the north of the country – causing a die-off of scallops – brought an abrupt end to the evolving fishery, with many fishers migrating (back) to the south (Kluger et al., 2020). Soon after the EN 1997/98, the trend was reversed, with fishers returning to Sechura. Those migrant fishers who had experimented with scallop (bottom) cultures back in Pisco (first culture attempts date back to the late 1970s in Paracas, Pisco (Wolff, 1984)) now started to make use of the available area in the large bay of Sechura (*cf.* Figure 20.2) by installing their own culture plots, initially without formal recognition (Kluger et al., 2019b). This culture technique is based on the grow-out of scallops seeds on the sea bottom. Scallop seeds are predominantly extracted at the island ILT. However, natural extraction of seeds also includes pickup lines and extraction in places of Sechura Bay. In addition, hatchery production is increasingly important.

From 1995 to 2005, the number of fishers increased by 43% (Estrella Arellano et al., 2010), leading to what Kluger and colleagues (2020) described as a “wild west” environment (Administrator, 5)<sup>2</sup>: In many years, the returns have been substantial, and a small fortune could be made. At the same time, it was a space without rule of law, in which individual fishers fought (sometimes physically) for obtaining the greatest share of scallop seed occurring in the wild, and space (Small scale scallop producer, 16; Kluger et al., 2020). The rise in the number of fishers led to an increased scarcity of space and created the need to secure rights of access. The installation of culture plots was no formal process at first but was driven by those groups who were able to secure an area and protect it from intruders. Scallop farmers installed guardian boats on top of their cultured scallops, where one or two members of their group permanently observed the activity to prevent poaching (a practice that is still in place). Most of those early fisher groups that informally protected their plot were migrant fishers from the Pisco area (*cf.* Figure 20.2), introducing the required knowledge for bottom culture to the region of Sechura. This new activity, in particular the exclusive use of the space related to it, created tensions with the traditional catch fishers in the area (Kluger et al., 2020). De facto, the scallop fishers enclosed the area and prevented other uses.

In 2001, the first aquaculture law<sup>3</sup> was passed, which was implemented in Sechura Bay with an ordinance in 2009 granting concessions for sea ranching to social organizations of fishers (OSPAs, Span. *Organización Social de Pescadores Artesanales*). This created a de jure common property regime. The concessions entailed the right to manage the resource (scallops) in an assigned area while not transferring rights over the sea territory itself (neither sea floor nor water column). Thus, the water column remained – in theory – open to other coastal-marine activities (e.g., fisheries and marine traffic), though, in practice, scallop farmers reportedly exerted exclusive powers, pushing fishers out of “their” areas (Kluger et al., 2020). Ever since the implementation of the first law, the number of concessions grew exponentially to 158 in 2015 (Mendo, 2015), and more people moved to the region to take part in this lucrative activity – either through an active part in the cultures or through engaging in other, related works (e.g., processing scallops, transport, labour at harbour or sea). An important step to secure access to international markets was achieved in 2009 after issuing formal licences, establishing sanitary measures, and constructing a landing site exclusively for scallops (Kluger et al., 2019b). Sechura became the hotspot for scallop culture

in Peru: in 2013, 80% of national production (Mendo et al., 2016) and 3.7% of world scallop production stemmed from this bay (FAO, 2016).

In the beginning, scallops were solely grown in bottom cultures in Sechura by placing scallop juveniles on the sea floor. This had practical reasons, almost resembling capture-fisheries and not requiring a huge investment in nets or other infrastructure at sea (in these bottom cultures, scallops are typically monitored by divers and brought back to the centre of plots in case currents or individual movements get them too far away). Nevertheless, private investors always played a role in financing the start of cultures (i.e., providing the money people needed to either collect scallop seed or to buy it from someone) (Medium Producer, 15). Later, larger-scale firms started to use suspended culture in distinct types of concessions. Those larger companies were the ones that – until today – process and export the final scallops, also from small-scale holders. Moreover, the larger firms also work through contracts (Span. *convenios*) with small-scale producers, providing money for the initial costs of a grow-out cycle (i.e., costs for scallop seed) or other production costs, to then require the producers to sell to them, with pre-set revenue shares of 30:70, 40:60 or 50:50 (Large producer7). Over the years, these contracts developed in favour of the larger firms, towards handing more rights over to them (Administration, 10). According to large producers (Large producer, 7; Administration,10), this facilitates better control of the process and of the decision-making process, for example, about the optimal harvesting time. This process is a move towards a de facto private property regime. In 2019, three quarters of the concessions were informally or formally (see next paragraph) in the hands of private investors (Small scale scallop producer, 12).

In 2015, a second aquaculture law<sup>5</sup> was passed. It modified the access rights to the concession areas in the sense that concession holders needed to have the legal form of a private company for commercial extraction. Rather, to produce scallops for commercial purposes, concession holders were now required to be micro- /small-sized (span. *AMYPE*) or medium-/large-scale companies (span. *AMYGE*). The law was not specified for Sechura Bay until 2020; again, through an ordinance in which the content was influenced by the struggle of the small-scale fishers. The concession areas of Sechura were kept exclusively for small-scale fishers but organized under the mentioned categories. Since this transition from a small-scale fishers' organization to a more formalized company is potentially challenging for some actors, this new legislation could provide ground for pushing out small-scale holders who are not able to fulfil all legal requirements and organizational capacity to cope with the administrative burden.

In this section, we use the extended IADF (Figure 20.1) to understand the privatization process in Sechura. After having described the social-ecological system of scallop farming, the biophysical and socio-economic conditions, and actors more generally, the following subsections explain each of the four steps from open access to de jure private property identified in the last section (see Table 20.1). Those steps are summarized in Figure 20.3.

From a physical perspective, scallop bottom culture needs a lot of space, as the scallops are filter feeders that live from the nutrients (i.e., plankton) existing in the water column; no external feeding is required. Too high grow-out densities will lead to a reduction in growth rate. Scallops are sensitive with respect to water conditions. Whenever it gets too hot or a (toxic) algal bloom occurs, or other environmental changes deplete oxygen in their surroundings, they are in severe danger and need to be harvested immediately to save the product. After harvest, only an uninterrupted cold chain and quick processing will ensure qualities that can still be commercialized. Final markets (EU) ask for compliance with high

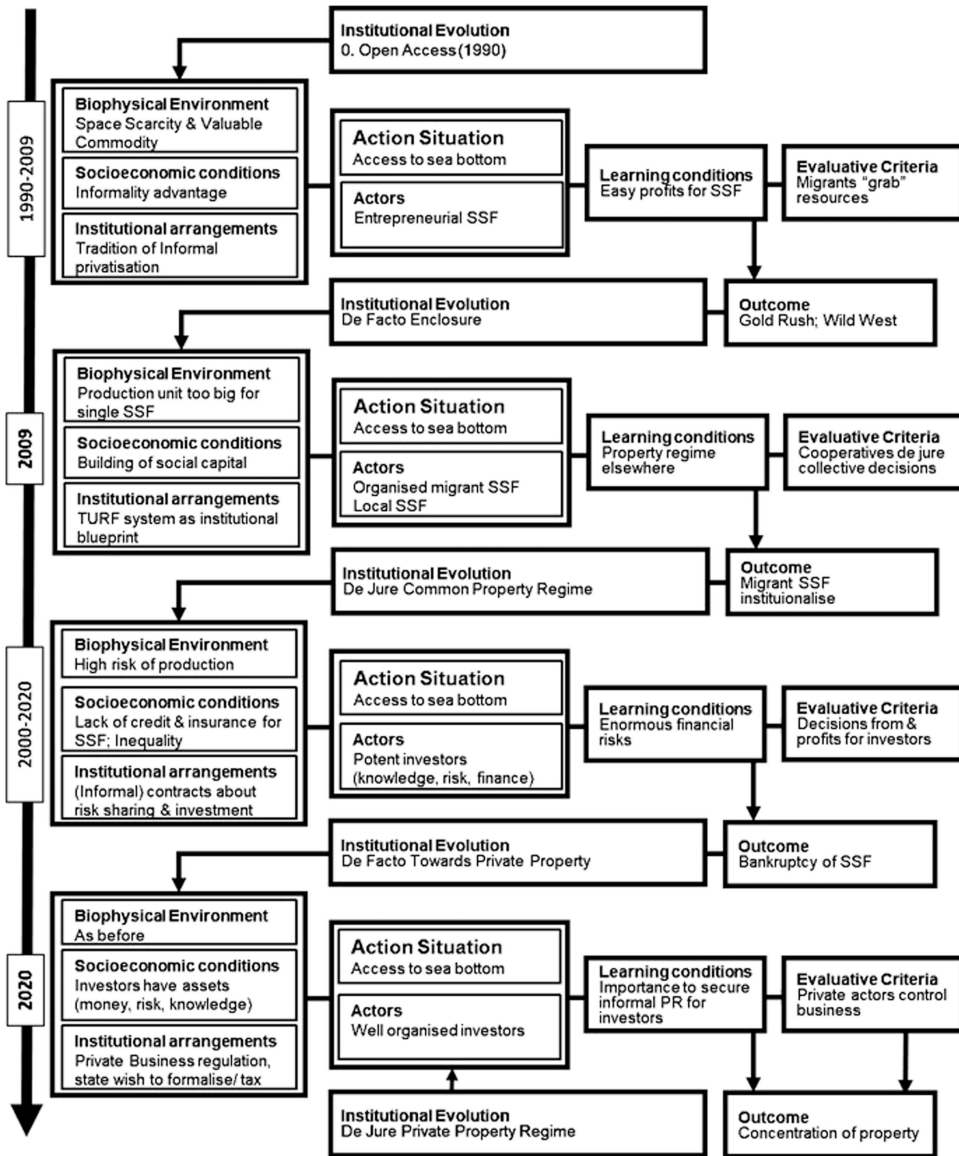


Figure 20.3 Dynamic Institutional and Development Framework (IADF) for scallop bottom farming in Sechura Bay 1990–2020.

hygiene standards. Therefore, scallop culture is a knowledge-intensive production process with substantial risks associated with it.

From a socio-economic perspective, scallop bottom culture is very labour intensive. First, the seeds are harvested in a time-consuming process at the bottom of the sea, most of the time at the island ILT (see Figure 20.2), which is a national reserve and an eight to ten hours boat ride away from Sechura Bay.<sup>6</sup> The diving is usually done in huge depths



(25 metres for seeds at ILT; 5–15 metres for grow-out in the bay) with a compressor and comes along with substantial health risks (including death). Extracting the seeds in the wild is typically cheaper than buying them from a hatchery. But with initial costs of between 90,000 and 150,000 Soles (USD 24,119–40,198) per concession, this is still a major investment for a group of small-scale fishers. To this initial investment, the running costs during the eight-month growth cycle and the financial risk related to the biophysical conditions described earlier must be added. Two guards, who are living on the sea on top of the plot in a boat, are needed 24/7. The permanent monitoring and the final harvesting are done by compressor diving, requiring teams of four: two divers (young and strong) and two persons on the boat managing the compressor, the motor, and receiving full bags of scallops, preparing them for further transport. During harvest season, huge scallop quantities are lifted – most of the weight consists of heavy shells, which are wasted after processing. Up to ten boats with respective personnel may be operating in each plot; the transport to the designated harbour for scallop landings is coordinated by various larger transport boats (Span. *madrinas*). This requires a well-established logistics. Despite being characterized by low capital intensity in comparison to suspended culture, the investments and risks are major, particularly from the perspective of small-scale fishers. They either require a lot of cooperation to join the necessary investments and assets, well-functioning credit, and insurance markets, which are not necessarily available, particularly for weak actors engaging in the business, or substantial sub-contracting.

At the beginning, small-scale fishers doing capture fisheries, originally from the region, and the scallop bottom farming small-scale fishers, most of them migrants, were the most important actors. Many of the migrants came from the Pisco area, where some of them had experimented with bottom scallop culture. Therefore, they had the necessary experience and knowledge to start this new business in Sechura. They used existing and newly forming networks with fishers of the Sechura region to get established in the area. Over time, both local and translocal emerging networks played a crucial role in tying the scallop culture activity to the place of Sechura. There were no larger producers, processors or affluent private investors yet going into the business. There was no scarcity and not yet major conflicts within the sector. The regime of that time can be described as an open-access regime.

### ***Understanding the Evolution Towards De Facto Enclosure***

Luckily during the first years of the bottom culture, there have not been any adverse biophysical conditions, which would have destroyed the harvest. Therefore, the pioneer small-scale fisher entrepreneurs, who were willing to take the risk in the search for new livelihoods, made a small fortune. Their practices were quickly copied by others, most of them also migrating from outside Sechura. With increased production quantities, there was a need for more processing and for expanding the potential market. With the help of bigger investors who also came to the area, the attractive foreign market (especially the French) was accessed. Those actors just entered the scene, and helped the expansion of the activity, but did not yet play a bigger role in the production of scallops and the occupation of plots. They did not engage directly but concentrated on the processing and bought the scallops from the small-scale fishers. Nevertheless, their engagement in processing leveraged change in the primary production and the related property rights on the sea floor.

At that time, high demand for scallops on the global market met small supply. Therefore, prices allowed for providing for all actors along the supply chain including the primary producers. This money to be earned attracted yet again more fishers up to the point that most areas in the bay were occupied and informal property rights were enforced. The plots for grow-out had been distributed and the new entrepreneurs were able to de facto lock out the catch fishers (Administration, 5). This led to the first wave of enclosure, with the bottom scallop farming small-scale fishers having had a clear power and bargaining advantage. Those who ventured into the new business, who had the knowledge and made a small fortune and those who joined them in this business had much higher returns. They brought money and jobs into the region. Within a short amount of time, they outnumbered the people engaging in catch fisheries. When out in the sea, they had the physical power to defend their newly established claims, if necessarily violently. Due to network relationships, they have been able to get socially and politically well established in the region. Those excluded protested and used a discourse relating to fairness considerations (Large producer, 7). However, they have not been able to put their interests through. Those early entrants venturing into this new business were (mostly) informal, in the sense that they did not pay taxes, health or retirement contributions, nor did they adhere to any hygienic or environmental regulations. They took any risk on their own shoulders, which made them very agile, but also very vulnerable. It was a high gain/high risk situation, especially considering the health risk related to diving and the lack of appropriate health infrastructure. Establishing informal sectors and making informal claims, which in a next step are tried to be made formal has, not only in Peru, a long tradition (De Soto, 1986; Williams, 2017).

### ***Understanding the Establishment of a Formal Common Property Regime***

The biophysical, technological and economic conditions make bottom culture only feasible for small-scale fishers if they join forces and cooperate. For example, it costs so much money to culture a plot or it requires so many boats to harvest that one artisanal fisher would not have the necessary capital. This led to an increase in social capital (Farrell and Knight, 2003; Gehrig et al., 2019). Obviously, there have been also conflicts among the various groups, but some of them have been successful to sort those conflicts out and to get organized, particularly in the political sphere of the region responsible for the establishment of the licences and the details of the process (Small scale scallop producer, 12). Getting their voice heard particularly worked because it relied on an important global discourse in resource governance of the last decades, explained in the following: After the publishing of Hardin's tragedy of the commons in 1968 which advised strongly against any form of communal property a discourse emerged, combining, on the one hand, a property rights approach, praising the role of clearly assigned property rights and, on the other hand, a community and polycentric approach. The latter was backed up by empirical evidence, the theory of federalism, and the public choice approach and argued that if the community becomes a central governing body and property right holder, an effective resource management can result (Ostrom, 1990). After some hesitation, this discourse was also adopted by huge players within marine governance, like the Food and Agriculture Organization (FAO) or the World Bank. It found its expression in the establishment of Territorial Use Rights for Fishers (TURFs) (Afflerbach et al., 2014; Gelcich and Donlan, 2015). This property regime had already been tested in Chile (Arias and Stotz, 2020), where also much other knowledge about scallop culture in Peru stems from. TURFs, which give secure

property rights to mostly poor small-scale fishers, fit very well into a pro-poor and a social, economic, and ecological sustainability narrative. Important conservation NGOs around the world are fostering and distributing this institutional solution (RARE, 2018). This was also the case in Sechura, where a Canadian non-governmental organization (NGO) was active and helped the scallop fishers to promote cooperatively held concessions (Medium Producer 15). This discourse likely guided the establishment of the first national aquaculture law in 2001 and later on the regional ordinance which both gave some privileges to small-scale fishers. The law of 2001 allowed exclusive access to the mariculture activity for fisher cooperatives through granting concessions for restocking (bottom culture) (DS 030-2001-PE). This law favouring the small-scale sector was also in the interest of the local authorities, as small producers (fishers) are regulated by the local authorities and not the central government. As indicated earlier, it took the regional government until 2009 to implement the first law for Sechura Bay (DS 016-2009-PRODUCE). The implementation then was mainly driven by two distinct issues, one within and one without the direct action situation focussed here: First, the level of occupation had become so high and conflicts increased so that powerful and well-established small-scale fishers wanted to secure their rights. Second, informality, combined with an increasing number of plots in areas not suitable for production (e.g., near shore, where water is more likely to be contaminated), led to bad hygienic conditions so the EU was threatening to cancel the export licence to the EU. The importance of each factor is difficult to assess. Clearly, this change resulted in the legally authorized occupation of the bay by small-scale producers. This gave control over a key asset within the lucrative bottom scallop farming to small-scale fishers. At least on a formal level, those cooperatives had to have democratic decision procedures (and a representative board of president, vice-president and treasurer acting in turns). Legally, a common property regime was established.

### ***Understanding the Evolution of De Facto Private Property Rights***

As explained earlier, scallop bottom culture is a capital and knowledge intensive, and risky business. Particularly the latter has led to the destruction of a huge proportion of the investments on several larger and smaller-scaled occasions. As an example, the summer period is always potentially risky in the sense that temperatures may get too high, and/or cause oxygen depletion of the waters in areas of the bay where currents don't ensure permanent water circulation. Besides these small-scale events, the particularly hot years of 2016 and 2017 represented a threat to many producers (Kluger et al., 2019a). This hit small-scale fishers, who did not have sufficient means and could not rely on strong institutions helping to finance or provide risk coping strategies. Faced with this problem new forms of cooperation proliferated, some using formal private contracting and others informal means of contracting. Those agreements could, for example, still leave decision power and risk with the cooperative, but major investment came from venture investors (private individuals or bigger corporations), having substantial knowledge in the sector and substantial capital, to be able to take the risk. Different degrees of risk sharing emerged. The right to manage and therewith the de facto right to access moved steadily in the direction of the investors. Patron-client relationships emerged (based on what was described as contracts, *convenios*), where small-scale fishers often only play the role of cheap sub-contractors, sometimes bringing in their boat, more often only their health as a diver or their strength as a labourer.

The investment, the risk taking and the knowledge about the production were increasingly provided or taken over by affluent investors.

This process was accelerated additionally by, first, the dire need to process the scallops quickly after harvesting (they need to be shock-frozen within 24 h of harvesting to be approved for export), and second, by the structure of the processing industry, which is an oligopsony (many suppliers of scallops, few processors) and thereby determines, when and how quickly scallops are harvested and dictates prices, third, that international market prices plummeted due to bigger global supply and, fourth, that processors increasingly became also main actors and investors involved in the primary production (Large producer, 7; Administration, 8; Small scale scallop producer, 12). Compared to the investment needed for processing and marketing the investments for primary production are minor. The big producers also have sufficient means to buy in the necessary production knowledge by employing competent fishery biologists, who can anticipate if emergency harvests must be done. Being in a close network with those powerful actors might not lead to huge autonomy or profit margins but might secure survival in challenging times. In fact, interviews with scallop producers in the aftermath of the 2017 El Niño suggested that only those small-scale farmer cooperatives working with larger processing factories in such contracts were able to re-initiate cultures relatively quickly after the event (Kluger et al., 2020). For those investors having to deal with a cooperative, where many people are jointly in charge of decision making (Small scale scallop producer, 12), but which holds a necessary asset in its hand can create problems from the perspective of the investor. Under the then prevailing legal conditions, this led to the informal tunnelling of cooperatives, by various means: (i) the control of fisher organizations by processors, for example, by bribing the leaders to expel unwanted members or to replace the entire membership with dummies, who are acting in the interest of those behind the scene, (ii) the renting of the concession area (illegal) for a particular time (typically 1–2 years), or (iii) by buying it (also illegal) (Medium producer, 4; Administration, 8).

While these contracts may reduce the negotiation power of small-scale producers, it also transfers – depending on the type of contract – part of the financial risk to the investor. If an environmental disturbance (e.g., small-scale heat waves, algae blooms, sediment loads from river runoff, and El Niño events) hits (parts of) the bay and causes a die-off of scallops during grow-out, the loss is absorbed by the company. Over time, a growing number of small-scale producers started working under these contracts with companies, which led to a progressive concentration of power.

In sum, the biophysical conditions, in particular, the risk involved in scallop production, the huge investment needs, and the knowledge intensity of the process, combined with many times precarious socio-economic conditions of small-scale fishers and the lack of hardly any institutional support to provide those capabilities to the small-scale fishers meant a power imbalance, which led to institutional change disadvantaging small-scale fishers, moving towards informality, earning a subsistence income, being exposed to considerable health risks and the inability to still participate from high returns. This process could be described as the second wave of enclosure in Sechura Bay and led to the de facto privatization of the access right.

### *Understanding the Establishment of a Formal Private Property Regime*

As indicated earlier, big players wanted to secure the investments made, they wanted to stabilize the supply chain. In the long run, doing this by informal means is difficult. So, like

the small-scale fishers, who formalized their informal tenure, larger producers also wanted to formalize their de facto property rights. This was possible with the second aquaculture law (2015), as it granted that private entities can hold licences and even made it a pre-condition to become a formally registered private, not cooperative, entity to be allowed at all to engage in major scallop production. The theory of collective action would predict that a few affluent companies are much better able to organize collective action than a huge crowd of poor fishers, having less financial and knowledge resources. However, this change in legislation was also in the strong interest of the state, as it was observed that the scallop business is lucrative and it can be much better taxed if legal entities exist. So far, with the first aquaculture law, fisher associations were freed from paying for the right to conduct aquaculture (Article 20.1, First Aquaculture Law 27460, 2001) and had to pay only half of the taxes (Medium producer, 4). By obliging concession holders to be formalized companies not only the tax exemption was ended but the central government also took over regulatory power from the decentral regional government (responsible, as indicated above, for small-scale fisheries). There is strong and long-lasting competition between the national and the regional governments over the control of regulatory power. From this perspective, this observed institutional change might also be the result of a power bargain in the action arena, where the regional and the national government are interacting. Our study was unable to assess the particular drivers of this process. However, in other policy arenas of Peru, similar processes could be observed (Damonte, 2021a, b). Adding to those arguments, again the EU sanitary standards also played a role, with the formalization of the sector likely serving as an argument for better controlling the requirements and therefore not losing the (export) right.

Despite this formalization of private property happening in aquaculture activities at a national level, in 2020, the law was differently implemented in Sechura. Still private property was de jure implemented but exclusively to small-scale fishers organized under AMYPEs or AMYGEs. However, property relations such as management under the influence of affluent investors persists. There is still a considerable interaction between formal and informal activities as indicated in the previous section. This interaction optimizes the supply chain from the perspective of powerful companies, but puts informal producers at various risks. For the powerful companies, it is important to formally control access to the sea floor, an important asset which holds the product. However, activities like harvesting the seed illegally in the nature reserve, or later the harvesting of the product by compressor diving, involving substantial health risks, or the labour-intensive transporting of the scallops, are better done via sub-contracts by the informal sector. Thinking about proper transitions between the formal and the informal is a necessary challenge, allowing for finally selling the product on the world market. However, this challenge pays off.

## **Conclusion**

Within the process described earlier, we could see that biophysical and socio-economic properties, available institutions, and discourses which all provided actors with different power resources at certain moments within the process, played a significant role in how this privatization process has developed. The process took only a period of 30 years, in which the access rights to the sea bottom did not only evolve from an open access to a private property regime but four cycles of institutional evolution were identified (Figure 20.3). De facto property rights have been established twice within an informal process, before being legalized.

We concentrated on one single action situation: the negotiation about property rights on the seafloor. However, it could be clearly seen that this action situation is nested and requires an understanding of action situations connected (McGinnis, 2011b; Villamayor-Tomas et al., 2015). In the case of Sechura, these have been the more directly linked processing industry and the related world scallop market. Here, the standards and preference of the European market played an important role in locking out small-scale fishers. Yet also a seemingly unrelated field like the general power bargain between the national and the regional government about legislative and budgetary competencies or even global discussions and discourses around territorial use rights, conservation, or equity issues, played a role.

If the biophysical or socio-economic conditions do not change dramatically – climate conditions make it impossible to grow scallops in the bay, or the price plummets even more – one can expect that this once established private property regime will not revert back to common property or open access regime. A de-privatization is unlikely due to vested interests and power asymmetries (cf. Mansfield, 2004).

It was interesting to see that winners and losers changed during the process of privatization. Spuriously abstracting from the distributional conflict between the small-scale fishers engaging in the new activity of bottom culturing and the traditional catch fishers, the first wave of enclosure had, at least from the formal perspective, the notion of a fairy tale: a common property regime was established that should have helped (subsistence) small-scale fishers to establish a livelihood alternative. However, due to biophysical characteristics, the lack of institutional structures, like accessible credit or insurance schemes, due to asymmetries in capabilities – all these important power resources – the story ended like many grabbing or privatization stories not only within the blue but also the green economy, the urban sphere and other realms (Barbesgaard, 2018; Bavinck et al., 2017; Borrás et al., 2011; Foley and Mather, 2018; Zoomers et al., 2017).

Agreed that structures like credit schemes, insurance policies or extension services provided either by the collective or the state, could have eased the hardship of the small-scale fishers and could have provided them with a chance to harvest the fruits of the entrepreneurial venture they undertook. However, under the biophysical (risky and knowledge intensive), socio-economic (unequal distribution of various assets), and institutional (unregulated market economy) properties of this social-ecological system, the logic of institutional evolution we observe seems to be consistent, but sad from a normative, pro-poor perspective. Only some small-scale fishers, who aligned closely with powerful players, have been able to survive this economic battle. But it is yet to be seen whether they are now well-prepared to thrive or survive at the beginning of the supply chain of the highly competitive market for scallops that caters for high-income countries' dinner tables.

## Notes

- 1 (Third) General Fisheries Law N°25977 enacted in 1992; available at: [https://www.peru.gob.pe/docs/PLANES/14303/PLAN\\_14303\\_2015\\_LEY\\_25977\\_LEY\\_GENERAL\\_DE\\_PESCA.PDF](https://www.peru.gob.pe/docs/PLANES/14303/PLAN_14303_2015_LEY_25977_LEY_GENERAL_DE_PESCA.PDF)
- 2 When referring to an interview, the actor group is mentioned followed by an identification number.
- 3 N° 27460 (Ley de promoción y desarrollo de la acuicultura) enacted in 2001, available at: [http://www2.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA\\_OTRO/marco-legal/1.2.%20Ley%20Acuicultura%20127460.pdf](http://www2.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA_OTRO/marco-legal/1.2.%20Ley%20Acuicultura%20127460.pdf)
- 4 The figure was constructed in the R environment (R Core Team, 2021), using the *maps* (Brownrigg, 2018), *sp* (Pebesma and Bivand, 2005; Bivand et al., 2013), *sf* (Pebesma, 2018).

Bordering countries and Peruvian administrative areas (region- and province-level) were retrieved from the Database of Global Administrative Areas (GADM, [www.gadm.org](http://www.gadm.org), subdivision levels 0, 1 and 2). Geographic information for National Reserves and the Aquaculture areas was downloaded from the webpage of the Peruvian National Service for Natural Protected Areas (<http://geo.sernanp.gob.pe/visorsernanp/>) and the aquaculture cadastre of the Peruvian ministry for Production (<http://catastroacuicola.produce.gob.pe/web/>), respectively.

- 5 Law D.L. N° 1195 (Ley general de acuicultura), passed in 2015, available at: [http://www.sanipes.gob.pe/archivos/biblioteca/N\\_8\\_DL\\_1195\\_Ley\\_General\\_de\\_Acuicultura.pdf](http://www.sanipes.gob.pe/archivos/biblioteca/N_8_DL_1195_Ley_General_de_Acuicultura.pdf)
- 6 Harvesting in the nature reserve is formally forbidden with a maximum sentence of five years imprisonment, but informally perceived by many as a legitimate practice and enforcement of formal law is nearly absent (5).

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# COASTAL GRABBING BY EXTRACTIVE INDUSTRIES IN THE SOUTH PACIFIC

## The Case of Fiji

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### Introduction

This chapter examines a case of coastal grabbing by a mining company in the Western province of the island of Viti Levu in the Republic of Fiji. While most research on resource grabbing has focused on large-scale land grabbing (Borras Jr & Franco, 2012) and ocean grabbing (Bennett, Govan, & Satterfield, 2015) as distinct issues, this chapter focuses on ‘grabbing of coastal resources’ at the intersection between the land and the sea.

We examine these concepts using the case of an iron sand mining project in the Province of Ba in Fiji. Ba is located to the northwest of Fiji’s largest island Viti Levu and has one of the largest populations in Fiji (28% of Fiji’s total population). The Province is home to one of the most expansive mangrove wetlands in Fiji and nearby communities utilize this ecosystem alongside the riverine and coastal areas to help sustain their livelihoods. *Vanua Votua*, which comprises seven villages and settlements, are the custodians of one of Fiji’s largest *qoliqoli* or inshore fishing rights. The Ba riverbed and its near-coastal delta areas are rich with iron magnetite, which has seen increased interest from several international mining companies over the years.

In 2019, Amex Resources Ltd (ARL) began production on its iron sands project in the area. The company was previously listed on the Australian Securities Exchange (ASX) but was delisted in 2017 and subsequently acquired by Waratah Group, which has headquarters in Australia and China. While the Fiji government has praised the company for investing in the Ba area and providing local employment, the mining operations have also received significant negative responses from the landowners, church groups and environmental activist groups. Interviews with landowners revealed the dubious nature of the rights to mine the coastal shores. The landowners were not properly consulted, and the Environmental Impact Assessment (EIA) report for the project downplayed the environmental impacts of the mine and even made unfounded claims of a reduction of flood risks for the communities in the Ba river delta as a consequence of iron sand mining (Varea et al., 2022).

The exploitation of the ambiguities surrounding the *qoliqoli*, the lack of public consultation and the expedited process to approve the project have resulted in a communal divide over the protection and the exploitation of the surrounding ecosystem and the impacts that the ongoing iron sands mining has on the livelihoods of the local communities. Compounded by the impacts of climate change and increased frequency and intensity of natural hazards, such as cyclones and floods, the mining activity in the near-coastal areas of Ba has seen drastic impacts on the environment, which in turn have adversely affected the local community. We examine this case of coastal grabbing and suggest – based on the concept of terraqueous territoriality – that the precedent set by the mining company creates opportunities for other companies to access rights to coasts as a pathway to access the sea and its resources, such as deep-sea minerals. The remainder of the chapter is structured as follows: In the next section, we provide a brief history of the mining industry in Fiji and a background to the community of Ba. This is followed by a discussion of key concepts and methods used in the chapter. We then discuss the ambivalences of resource ownership in Fiji regarding land, fisheries, mangroves and sand. This is followed by a discussion of civil society and community resistance to the mine. We then discuss the findings within the rubric of coastal grabbing and terraqueous territoriality. We conclude the chapter with final remarks and directions for future research.

### **Background**

Fiji is an archipelago in the South Pacific, situated north of New Zealand and northeast of Australia. The archipelago nation comprises 110 inhabited and around 200 uninhabited islands, distributed over an extensive ocean area of 1.2 million km<sup>2</sup> (Dey et al., 2016). Regarding Fiji's population, the latest census indicates that around 90 per cent of the people reside on the two largest islands, Viti Levu and Vanua Levu, with the rest located in other maritime islands.

Fiji is an attractive site for mineral resource development, given its geological formation from volcanoes and location within the Pacific Rim of Fire. In addition, the country is well-known for its abundance of high-value mineral deposits such as gold, silver, copper, iron, and bauxite (SPC, 2018). For the last 85 years, the country has been a consistent exporter of gold.<sup>1</sup> In addition, the past decade has attracted several foreign companies to explore possible mining options for bauxite, gravel, and sand (ibid).

The average contribution of the mining sector to the country's gross domestic product (GDP) has been around two per cent for the last decade (2008–2017), which is a significant decline from the 3.4 per cent contribution reported for the decade prior. The official statistical records published by the Fiji Bureau of Statistics in 2018 reported gross outputs for quarrying mineral resources to be around \$53 million. Still, this figure only accounts for regulated companies. Further, regulated mining companies are estimated to employ an average of 31 employees per company.

Reflecting on the scale of operations, the study on Fiji's mineral resource sector conducted by the Secretariat of the Pacific Community (SPC, 2018) revealed that the total land area explored for minerals in Fiji accounted for 320,484 hectares, with an additional 294,800 hectares being explored on the North Fiji Basin (p. 20). The report highlighted that Fiji had 68 active mineral extraction sites in 2017, of which 43 were river gravel and sand dredging sites, 23 were quarries, and 2 were high-value mineral mines (one gold and one bauxite). However, in a recent article on Fiji Times dated 14 March 2021, the Director of Mineral



Figure 21.1 Mining for iron sand conducted near the village fishing area (*qoliqoli*).  
(Source: Sivendra Michael, Fieldwork, 2016).

Resources confirmed that there were only 8 active mining licences in Fiji, and a further 33 mineral special prospecting licences had been reported for exploration works (Nasiko, 2021). The article also highlighted that the exploration permits only allowed companies to extract samples within a bounded area to assess any mineable minerals (*ibid*). The records of the Mineral Resource department reveal an overall decline in exploration licences from 74 permits being issued in 2013 to 68 in 2017 and a further decline to 33 reported in 2021 (SPC, 2018; Naisoko, 2021).

In the case of Ba, mining exploration permits have been granted dating back to the early 2000s. In 2015, a licence to mine iron magnetite was issued to Amex Resources Ltd (ARL). The licence permits the company to dredge 220 million tonnes of iron sand resource (12 million tonnes annually) over the 20-year proposed project period. The dredge operations (Figure 21.1) cover 132 km<sup>2</sup> of the Ba River Delta area, situated in the northwestern part of Fiji's largest island, Viti Levu. The extracted magnetite concentrate will be exported for sale to steel mills in China.

ARL is a mineral resources company mainly focused on iron ore mining projects in Australia and Fiji. The company was registered as an Australian Mining company in Perth and formerly listed on the Australian Securities Exchange under the symbol 'AXZ'. However, in 2017, Amex was delisted from ASX and acquired by Canberra-headquartered Chinese company Waratah Group.

Further, ARL commenced work on the construction of port infrastructure in Lautoka, Fiji in 2019. For this project, they engaged a replacement construction contractor First Harbor Consultants Co., Ltd (FHC), which manages the procurement and delivery of the marine fleet. Since 2015, FHC has mobilized a management team to Fiji to formalize port infrastructure works, conduct local recruitments and establish a branch office. Amex Fiji personnel have assisted FHC with government department liaison, including the Immigration Department for visa applications for Chinese workers, accommodation leases near the site, and provisional tax matters.

The area being mined is a coastal rural area with little economic activity beyond the local subsistence economy. The primary industries are agriculture and small-scale fishing. While tourism is popular in the Western division of Viti Levu, Ba is too far from Nadi, where Fiji's international airport and most of the international resorts are. The mining activity was considered a much-welcomed boost that could stimulate economic activity within the area. However, the mining activity has been highly controversial as villagers have questioned the licence's process, claiming a lack of consultation and even the use of deceit and trickery to obtain approvals from village leaders. We investigate these claims in this chapter. The following section discusses the key concepts and methods that inform our study.

### **Concepts and Methods**

In this study, we focus on a relatively recent form of resource grabbing known as coastal grabbing. Coastal grabs can be defined as the contested appropriation of coastal (shore and inshore) space and resources by interests external to the community (Bavinck et al., 2017). Bavinck et al. (2017) examine coastal grabbing in four countries: Canada, Brazil, South Africa, and India. They find the agents of grabbing to be government, conservation agencies, mining companies, and elites, with the victims generally being coastal people. The impacts of coastal grabbing included loss of space and resources, contamination, and compromised livelihoods. Bavinck et al. (2017) also highlight the diversity of resistances mobilized by the community, local government and environmental groups.

Coastal shorelines are a convenient location for many communities as they provide access to both terrestrial and marine resources. However, because the coast transcends both the land and the sea, the governance of the coast can be ambiguous and unclear, especially when formal legislative frameworks conflict with customary laws relating to the coast. The lack of legislative guidance on access rights to the coast can lend itself to the process of "terraqueous territoriality" (Campling & Colás, 2018) where transnational capitalist forces attempt to transcend the distinction between land and sea in the accumulation and extraction of resources. This re-territorialization of space often creates tensions and conflicts with landowners, fishers and the wider community.

We employ these concepts to analyze the coastal grabbing of *Votua* by the state and the mining company. The data are derived from a longitudinal case study based on fieldwork conducted from 2012 to 2020. Four out of the five authors have visited the site to collect data for various research projects. Data collection methods included semi-structured interviews and focus group discussions. Interviews with community leaders and community members were conducted in iTaukei and English using the conversational Talanoa research method, as the mining issue remains sensitive to involved stakeholders. Further, village members were invited to focus group discussions. During the sessions, the questions focused on the impacts of mining on their livelihoods and perceptions of existing negotiations, including the inclusion of marginalized groups such as youths and women in these sessions.

To strengthen this research's validity, a dissemination workshop was organized for the village leaders and research participants in 2019. The workshop provided an opportunity for the research team to present the research findings and create opportunities for further feedback and discussion. This research study also draws on refereed articles in international journals, media articles, government and non-governmental organization reports, blogs, websites, and legal documents.

## **Conflicting Concepts of Resource Ownership and Control**

As coastal grabbing and terraqueous territoriality are operationalized through the ambiguities relating to the boundaries between the land and the sea, we discuss these ambivalences in terms of ownership rights concerning land, fisheries, mangroves and sand.

### ***Who Owns the Land?***

Fiji follows a British common law system; however, Fiji's common property law principles differ substantially from the British common law system. The most striking differences relate to native or customary land tenure, where land is owned by groups Indigenous to that land which cannot be alienated from the Indigenous landowning group. Land in Fiji can be categorized into three main types; freehold land, state or crown land, and iTaukei or native land. However, ownership rights towards any land in Fiji are more complex than these three categories suggest, as the existing laws and policies abrogate the recognition of customary law (Crosetto, 2005; Kurer, 2001). Under current land ownership legislation, dealings of any land must be lawfully registered and 'thereupon' guaranteed by the State. This process, however, has various conditions. For instance, freehold or state land may only be sold or purchased by non-citizens for integrated tourism projects within municipal boundaries and subject to statutory approval.

Conversely, native or iTaukei land ownership is vested in landowning units, traditionally known as the 'mataqali'. The importance of land to iTaukei is captured by the following statement by a Votua landowner during a Talanoa session:

The land is us. It is our identity, our vanua and our culture. The land provides for us, so we should nurture it. If we do not nurture our land, it will not nurture us.

*(Votua Landowner, Talanoa, 17 October 2018)*

Nevertheless, these landowning units can neither sell the land nor grant private property access to outsiders or even their members, as their land is held in trust by the iTaukei Land Trust Board (TLTB), the agency that controls and administers leasing arrangements. In the view of many, TLTB is known to be a 'land management agency' that oversees the terms and conditions of the lease contracts, but it is instead a 'quasi-proprietor', given its powers to allocate leases without the consent of the mataqali.

The mataqali also have no right to repossess land after the expiry of a lease nor the right to refuse an extension of leases (Kurer, 2001). As iterated by Pacific scholars, such privative provisions make it near impossible for landowners to enforce their rights against the State (Crosetto, 2005; Kurer, 2001). Worse still, interests to protect communally owned land continue to be ill-defined in legislation and policy, and many landowners do not understand existing laws.

### ***Who Owns the Fisheries (Qoliqoli)?***

While customary land rights are well-established in Fiji, rights to beaches and fishing rights within the adjacent waters are vague and highly contentious. In iTaukei (the Indigenous Fijian language), this area includes seabed or soil under the waters, sand, reef, mangrove swamp, river, stream or wetland, and the fishing grounds are called *qoliqoli*. The Ba River

has a water catchment of approximately 940 km<sup>2</sup>, making it the most significant water catchment in Fiji and the South Pacific Region (Watling, 1985). The mining site of ARL is located about 11.5 km north of Ba Town and about 29.5 km east of Lautoka City.

Rights to access and use within the *qoliqoli* have been fraught with controversy. While the British colonists returned most of the land to Indigenous landowners, they imposed the public trust doctrine on the *qoliqoli* areas. However, under Indigenous Fijian custom, coastal areas belong to a landowning unit. In the period leading up to the 2006 elections, the ruling Qarase government introduced several controversial bills, one of which was the *Qoliqoli Bill of 2006*. The bill's objective was to transfer rights to the Indigenous landowning units and regulate state-owned coastal areas and the surrounding seas. The bill would declare all marine areas from the foreshore to the high-water mark as 'native reserves'. The Indigenous resource owners would enjoy unfettered use of the *qoliqoli*, and any party intending to enter, develop, or extract resources within the *qoliqoli* would need to obtain permission from the resource owners and compensate them accordingly (Lal, 2007). The bill was a source of significant debate and conflict in the parliament, and the military, opposition, and the business community were staunchly opposed to the bill as they believed it would dampen economic activity and create a rift between Indigenous (iTaukei) Fijians and other ethnicities, particularly Fijians of Indian descent. Various authors have argued that the bill was a significant catalyst for the military's overthrow of the Qarase Government in 2006 (Dorsett, 2010; Lal, 2007; Sloan & Chand, 2016). This precluded the bill from becoming an act of parliament.

The *qoliqoli* is thus under the ultimate control of the state with Fiji's constitution recognizing Indigenous Fijians' customary fishing rights. The constitution only guarantees a right to compensation or royalty payments for infringements on fishing rights if those infringements were the result of mining. According to Sloan and Chand (2016), the Native Land and Fisheries Commission registered 411 *qoliqoli* amounting to a total area of approximately 30,011 km<sup>2</sup>. The *Fisheries Act 1942* recognizes Indigenous fishing rights but according to Sloan and Chand (2016) these fishing rights are primarily governed based on traditional customary laws.

Authors have generally described Fiji's coastal resources as managed by a dual system of governance: formal state laws and traditional customary governance systems (Sloan & Chand, 2016); (Ruddle, 1995). The formal state laws supersede the traditional laws; however, the current legislative frameworks are fragmented and inconsistent and fail to guide crucial aspects relating to the management of coastal areas. Traditional customary governance systems are diverse, with a commission established under the *Fisheries Act 1942* investigating disputes, grievances and special arrangements between resource owners and claimants of customary fishing rights. The current system thus creates ambiguity and confusion regarding customary fishing rights in Fiji. This lack of clarity is unsettling for developers and businesses and is a source of conflict between these parties and Indigenous landowning groups (Lin, 2013). Numerous reports prepared by consultants and regional organizations have identified weaknesses in Fiji's current system of governing coastal resources. They have proposed solutions such as developing a comprehensive policy framework for coastal and ocean management, updating and strengthening inshore fisheries legislation, and designing and implementing effective governance and institutional frameworks (Berkes, 1994; Fiji Environmental Law Association and EDO NSW, 2016). While relevant and broad-ranging, the complexity of governing marine resources and the political sensitivities around resource rights are significant hindrances to the development of a framework of coastal management that balances Western and Indigenous Fijian notions of resource ownership.



### ***Who Owns the Mangroves?***

Fiji has the third-largest mangrove area in the Pacific Island region (Veitayaki, Waqalevu, Varea, & Rollings, 2017), with the Ba estuary having the largest contiguous mangrove area in Fiji. In Fiji, there is no single government body or institution that deals specifically with the management of mangroves. The Ministry of Lands and Mineral Resources is considered the custodian of Fiji's mangrove resources. At the same time, the Ministry of Forestry is responsible for issuing and regulating licences for the commercial use of mangroves established and regulated under The Forestry Act. However, there are no laws around the use or exploitation of mangrove timber for subsistence use. The Lands and Survey Department is also responsible for foreshore land and reclamation of mangroves, while the Department of Environment (DoE), through the Environment Management Act (2005), has the responsibility and duty to protect mangroves and associated biodiversity. In addition to the government departments having some mandate on mangroves, other key decision-making bodies in the form of committees are housed under the Department of Environment.

Therefore, while there are no defined owners of mangroves in Fiji, people inherently refer to the ownership of mangroves as being vested in the state by way of various ministries and departments stated above. Indigenous (iTaukei) communities that use and rely on the mangroves for their livelihoods are considered custodians and assume de facto rights to this resource.

### ***Who Owns the (Iron) Sand?***

Iron ore is the primary resource extracted from the Ba River. Extracting the iron ore from the sand requires disturbing the coastal systems and dredging large volumes of sand. Prospective miners must identify the legitimate owners of the land to seek access. While identifying land ownership is relatively straightforward, ownership and access to sand are more contentious as it depends on where the sand is found and the type of sand. If sand is found on dry land, the rights to its exploitation would depend on the type of tenure under which the land is classified. As stated earlier, the three forms of land tenure in Fiji are freehold, native land, and crown land. If sand is located in a waterway or on the foreshore, rights to use become less clear, especially as laws governing Fiji's waterways are ambiguous.

Sand, in general, is part of beaches or the foreshore. Beaches or any submerged land falls within the public trust doctrine, which states that the sovereign holds in trust specific resources such as air, waterways and the foreshore. This doctrine originated from ancient Roman common law principles incorporated into English common law (Sax, 1970). These principles state that the sovereign holds the navigable waterways and submerged land not in a proprietary capacity but "as a trustee of a public trust for the benefit of the people for uses such as commerce, navigation, and fishing" (Blumm & Moses, 2017, p. 21).

Based on the preliminary analysis, the public owns iron ore sand which is held in trust by the government, while rights to access the sand belong to the Indigenous landowning group. However, this is only if sand is accessed for fishing and collecting crabs and shellfish. If sand is being extracted in the process of mining, then the landowning unit must be compensated according to Fiji's constitution:

All minerals in or under any land or water, are owned by the State, provided, however, that the owners of any particular land (whether customary or freehold), or of any

particular registered customary fishing rights shall be entitled to receive a fair share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights.

*(Government of Fiji, 2013, p. 22)*

While there is compensation for mining that infringes on fishing rights, legislation regarding granting permission for the extraction of minerals from the sand is unclear. Based on current legislative frameworks, sand that is not on dry land is not considered 'land' and is part of the coastal resources. Furthermore, it is also not clear whether sand is considered a mineral in a legal sense.

A report produced by the ACP-EU Development Minerals Programme in partnership with the United National Development Program (UNDP), the European Union and the South Pacific Community titled 'Baseline Assessment of Development Minerals in Fiji' identified that Section 30 contained a loophole as it has no mention about fair compensation for the expropriation and extraction of minerals. The report argues that a likely implication was the conflict between resource owners and mining companies (Smith et al., 2018). The report further identifies numerous discrepancies in the definition of minerals in Fiji's constitution, the *State Lands Act*, the *Quarries Act* and the *Mining Act*. This creates issues as sand extracted on dry land will not require a licence or an Environmental Impact Assessment (EIA), whereas sand extracted from a waterway requires both a licence and an EIA.

Because of the lack of clarity in the existing legislative frameworks, the governance of the *qoliqoli* is based on customary law. The boundaries of the *qoliqoli* are registered to *Yavusas* (tribes) by the Native Land and Fisheries Commission. According to landowners from *Vanua Votua*, the *qoliqoli* rights were obtained by the mining corporation through deceit. Various local accounts maintain that Indigenous Fijian provincial government officials visited the *Yavusa* chiefs and tricked them into signing the documents which effectively allowed the mining company to operate in the Ba Delta. While the chiefs of the *Yavusa* have the power to grant rights of access to a corporation, a local consultation process would need to be instigated, mainly when it affects the entire community. In this case, no consultation took place, and the chiefs and local landowners were not fully aware of the scale of the mining operations and its impact on their environment.

### **Civil Society Activism and Indigenous Resistance to the Mine**

The Catholic Church in Fiji and NGOs such as SEEP have been integral in raising community awareness surrounding the environmental impacts of mining and helping amplify the voices of the local communities against mining. The communities have used social media platforms such as Youtube and Facebook, the Church and environmental activist groups to express their discontent with the mining company and to call for the mine to cease operations.

As previously established, the case of mining in Ba provides a unique aspect in that this type of mining is the first of its kind in Fiji. The process surrounding the approval given by the custodians of the *qoliqoli* and the rights obtained by ARL to mine within the *qoliqoli* have to date been very vague. The process of free, prior and informed consent (FPIC) is not central to the application of mining tenements in Fiji, and whilst customary rights are recognized under the constitution, the mere fact that FPIC is not practised brings into question the process through which rights to mining within the *qoliqoli* are obtained by mining companies.

According to interviews with custodians of the *qoliqoli* and the villagers of *Vanua Votua*, stakeholder meetings were conducted hastily, and many community members were unable to seek proper advice regarding not only the compensation but also how the mining operations would be undertaken. Media reports show that community members were under the impression that this would be an exploration phase by the mining company and that mining would not occur until the district chiefs of *Vanua Votua* would have sought further consent. It was only until permanent fixtures and barges were erected that most villagers became aware that ARL had secured a special mining license for part of the *qoliqoli*. It is worth noting that while many villagers were not aware of the process at the initial consultation stages, the argument being made by the mining company is that due process was followed. Company representatives claimed that the attendance numbers for consultation meetings with the community, while significantly low, still met the requirements to make decisions around compensation values, impacts on the environment and ultimately obtaining approval on the *qoliqoli* rights.

The approval process contains identifiable loopholes that allow mining companies to go through the process with very little accountability to most of the landowning units and local communities. There has been no clear way communities could get a proper compensation value for the loss of livelihoods, destruction to the surrounding environment and the potential loss of skills and traditional knowledge if such mining activities span over decades.

Another point noted in interviews with the communities is the issue around language and how meetings were conducted and reports were made available without being translated adequately for the local community members. For instance, one of the village elders who were part of the meetings stated:

The signing of the consent documentation was done in haste. I recall that some former military officers had arrived early in the morning with a bunch of documents drafted in English. They started talking to us about the mineral exploration project that they needed consent for because it was located within the *qoliqoli* of *Vanua Votua*. There was no one to translate these documents and they told us what to say. Then they told us to put our fingerprints on the ink pad and endorse the document.

*(Personal communication, 11 December 2016)*

The lack of understanding of the content of crucial documents was confirmed by a statement of a protagonist in the documentary 'Heartless Mining' that the Catholic Church produced to raise public awareness about the mining activities in the Ba River Delta:

Those who signed the document do not even know what it contained.

*(Woman in Nawaqarua, July 2019, in 'Heartless Mining')*

One of our interviewees expressed frustration that their leader had not consulted with all landowners before signing such document, which would have been his duty. She explained that it was only proper that a meeting would be held to discuss the extraction work and that the environmental impact of the extraction would be discussed more openly. Evidence from email exchanges and the draft negotiation in October and November 2011 indicate that no such consultations were held before the signing of the consent document. Additionally, all evidence dates back to October and November 2011, indicating that the process of obtaining consent was done in haste.

There were also verbal promises made at some of these consultations by the mining company to provide infrastructure such as schools but to date this has not eventuated. One landowner recalled:

During the last village meeting (referring to September 2018), ARL had mentioned that the village will be paid royalties once shipment had commenced. There has [*sic*] already been two shipments and we have not received anything.

*(Personal communication, 22 October, 2019)*

Another village council member shared the following:

The money for Vanua Votua would be used to upgrade schools etc, but all of these were false promises made to our people. They told us that there will be employment opportunities for 200 people, and that was a gross lie because only eight people are employed.

*(Feedback from village council member at dissemination meeting in September 2019)*

This statement is in stark contrast to an excerpt from a paid advertisement of ARL in the 12 September 2019 edition of the 'Fiji Sun', one of the country's two prominent English-language newspapers:

A number of resource owners from Votua are now happily employed by Amex and are proud to be part of the company.

On several occasions, the village leaders expressed their frustration with the government's apparent lack of interest in the villagers' wellbeing and the rights of the customary landowners:

I believe this government does not really care about us the resource owners, for it was only concerned about what it wanted.

*(Turaga ni koro (elected village leader), Votua, July 2019, in 'Heartless Mining')*

In 2020, villagers reported an increased presence of police vessels monitoring the boundaries of the mining operations and warning locals not to infringe upon them. In response to increased community resistance, one of the village leaders, who was particularly vocal in the local resistance movement, was arrested by police.

### **Discussion and Conclusion: Coastal Grabbing and Terraqueous Territoriality**

The ambivalence surrounding the governance of the *qoliqoli* was exploited by the mining company to enact what has been referred to as coastal grabbing. The Fiji case study shares many similarities with other studies on mining in the Pacific (McDonnell, Allen, & Filer, 2017) in that the agents of the grab were both government officials and representatives of the mining company, while the coastal community were the most affected and the impacts included loss of space, environmental degradation and loss of economic livelihood. While there are many commonalities between the Fiji case and the cases identified in Bavinck et al. (2017), two key differences are how the grab was engineered and the role of the Church in the resistance movements.

The first difference between the Fiji case and the cases described by Bavinck et al. (2017) relates to the mining company's rights to the coast. The Fiji case is unique in that the customary landowners are the de facto owners of the *qoliqoli*. Hence, the loss of customary land for Indigenous Fijians is an existential threat. The second key difference relates to the role of the Church in the activism and resistance campaigns against the mining operations. The coastal communities identified by Bavinck et al. (2017) protested the coastal grabs through the support and enlistment of volunteer networks (Canada), local government (Brazil), civil society actors (South Africa), and community conservation groups (India). However, there was no active involvement of religious organizations. The involvement of the Church illustrates the interconnectedness between the Indigenous people, land and the Church in Fiji. The Fiji case thus contributes to the emerging literature on coastal grabbing due to the strong recognition of Indigenous coastal fishing rights and the role of religious organizations and environmental activist groups in supporting communal resistance to mining activities (Qiolevu & Lim, 2019).

We also apply the concept of “terraqueous territoriality” to the case to argue that the mining corporation could use the coastal grabbing in Ba as an opportunity to access resources within the inshore fishing waters – and possibly even beyond – due to the terraqueous nature of the coast, overlapping resource tenure regimes and uneven power relations. As Foley and Mather (2019, p. 310) argue, “Applying terraqueous territoriality in situations where there are multiple claims and no clear common interest is more likely to reflect, or result in, more contentious political struggles”. The precedent created by the Fiji case provides the opportunity for the mining company to territorialize the inshore fishing waters and potentially expand this territorialization beyond the offshore fishing waters (Foley & Mather, 2019). The seemingly strong government support for the mining company could facilitate their territorialization to access other marine mineral resources, including deep-sea minerals, in the long run (Fache, Le Meur, & Rodary, 2021).

In conclusion, this chapter has illustrated through the case of coastal grabbing how the Fijian government has instrumentalized the country's hybrid legal system to instigate a process of ‘terraqueous territorialization’ at the terrestrial and maritime interface. This process produces new configurations of capitalist spaces in which the government redistributes wealth and resource sovereignty from communities to corporations and the state through appropriation and deception. Civil society, communities, media and academics need to work together to counter the false narrative of ‘minimal social and environmental impacts’ by foreign mining companies and the Fijian government. Future research should also investigate similar mining developments that exploit ambiguities in coastal governance in other developing economies.

### Note

- 1 The Emperor Mine (Vatukola Gold Mine) had ceased operations in December 2006 due to the high operational cost and low value of gold in the global market. The mine was reopened in April 2008.

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## **PART 7**

# Land Grabs for Large Infrastructure Projects





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# CORRIDORS OF CONNECTIVITY AND THE INFRASTRUCTURAL LAND RUSH IN LAOS

*Jessica DiCarlo and Kearrin Sims*

## **Introduction**

The global surge in infrastructure construction is increasingly central to land and resource grabs. This is particularly evident as China's Belt and Road Initiative (BRI) responds to global demand for infrastructure, producing complex social and spatial transformations around the world (Oliveira et al. 2020; Schindler and DiCarlo 2022). Securing land is a constitutive feature of many large-scale projects, which necessarily require massive amounts of space for their construction and are intended to extract value from the surrounding area once complete. Projects thus produce wide-ranging social, economic, and ecological changes (Schindler et al. 2019), with megaprojects – from economic corridors to dams, roads, and special economic zones (SEZs) – generating distinct footprints and implications. In Laos, infrastructure expansion – deemed critical to national development – frequently involves land concessions and other government incentives or preferential policies, resulting in acts of dispossession and the taking of land without adequate redress (DiCarlo 2020a; Dwyer 2020; Sims 2021; Suhardiman et al. 2021). We suggest that research on land and resource rushes can benefit from theoretical, methodological, and empirical attention to the effects of infrastructure on land, land governance, and dispossession.

This chapter focuses on economic corridor infrastructure in Laos. Economic corridor development entails not only roads and railways but also electricity transmission, SEZs and processes of capitalist transformation, urbanization, and industrialization. Corridors are intended to connect places considered distant and secure investment and profitability. Proponents claim that they create space for investment in locations otherwise considered risky and thus have the potential to foster sustainable development (ADB 2013). Although corridor projects may generate potential employment, they often lead to exploitation and exclusion. Critics suggest that the reality of corridors is much more extractive and uneven (DiCarlo 2021; Glassman 2010; Thame 2021; Thame and Glutting 2021).

We add to these critiques by arguing that megaprojects are a critical feature and technology of the global land rush. Goldstein and Yates (2017: 209) contend: “for land to be treated as a commodity and made available for investment, it requires a host of institutions, social relations, legal structures, and technologies to be assembled first.” In this way,

megaprojects are increasingly central to the commodification of land as they contribute to the restructuring of regulations and institutions, and project an image of the future that legitimizes acquisitions. Barring some notable exceptions (see Levien 2013), the majority of land grab literature focuses on agricultural production and resource access and control, though – as Oliveira et al. (2021) propose – that is beginning to change. Following Zoomers (2010), we contribute an infrastructure-centric perspective by studying the restructuring of land relations due to economic corridor infrastructure. Through the Laos-China Economic Corridor (LCEC), this chapter examines the discursive, spatial, and material implications of infrastructure for land grabs and agrarian change.

First, we argue that land grabbing is legitimized through megaprojects, as infrastructure allows for manipulation of meanings and categorizations of land to facilitate construction and investment. Second, the spatial and material implications of the infrastructural land rush extend beyond the footprint of economic corridors. Within the corridor, objectives target urbanization and industrialization, while corridor hinterlands experience more classic land grab processes of commodification of rural landscapes and resources. As such, the global boom in infrastructure materially and discursively renders land investable and available – producing an infrastructural land rush whereby possibilities of connectivity spur new streams of investment spanning agriculture, tourism, manufacturing, and other sectors. In our cases, land that was already in use (by, for example, local populations or other development projects) was re-envisioned through infrastructure as in need of ‘development’ or investment.

This chapter proceeds in four parts. In the next, we note a gap surrounding infrastructure in land grab studies and suggest that engagement with it offers insights into drivers and mechanisms of current forms of land appropriation. The construction of infrastructure requires land, and projects have distinct spatialities, uniquely occupying and shaping space. We suggest that an infrastructural land rush is not just a policy or economic question but a spatial one. Following this conceptual positioning, the chapter considers how the corridor model and related megaprojects are designed to territorialize. By examining specific cases within the LCEC, we discuss and illustrate how connective infrastructure contributes to land grabbing and to what effect. We conclude with suggestions on how to expand this research agenda.

### **Defining the Infrastructural Land Rush**

The notion of land grabbing has a long history that has been traced through pre-colonial times and colonial and settler projects (McMichael 2014). However, what is commonly identified as land grab studies emerged from the 2007–08 global financial crisis and the resulting inflation of food and fuel crop prices. Since the late 2000s, there has been a dramatic increase in state and private sector large-scale land acquisitions to secure access to natural resources (see Borrás et al. 2011; De Schutter 2011), with the intention to commercialize or exploit landscapes for financial gain. Such ‘grabbing’ continues; however, contemporary ‘grabs’ are shaped by new ‘mechanisms, justifications and contexts’ that mark them as distinct (Hirsch 2022). These include, for example, land formalization (e.g., titling and zoning), conservation, agribusiness, mining, urbanization, and tourism. Much academic literature, notably within agrarian studies and political ecology, has examined and critiqued the detrimental effects of such extractivist land deals (Li 2011; Li 2018; Borrás et al. 2011). Adding to this, we suggest centering infrastructure in analyses of land and resource exploitation.

As is common across land grab literature, within Laos less attention has been paid to the role of infrastructure as a technology of land grabs and acquisitions (Pathammavong et al. 2017 is a notable exception). On the other hand, land deals, land grabbing, and their implications for local people are well-documented (Vandergeest 2003; Baird 2011; Kenney-Lazar 2011, 2012, 2018; Dwyer and Vongvisouk 2019; Sims 2017, 2021). The Lao government often comes under scrutiny for land appropriation, in which authorities seize land from people for development projects without paying adequate compensation for lost crops, property, and livelihoods. In other cases, compensation is paid to those with good relations with the local government, while those without political connections tend to be left empty-handed. However, given that one of the government's primary aims is to connect 'landlocked' Laos with the global economy via infrastructure connectivity, there is important, grounded work to be done on how infrastructure acts as a technology of land appropriation.

Taking land grabbing to be about radical changes in land use and ownership, infrastructure must be scrutinized. It occupies vast amounts of space, is used to justify the expansion of capital and investment, and restructures land relations. But what counts as infrastructure? Gellert and Lynch (2003) suggest four categories: infrastructure (ports, water systems, rail, roads); extraction (oil, gas, minerals); production (industrial farming, plantations, processing, manufacturing); and consumption (tourist spaces, malls, theme parks, real estate). Such projects, they write, 'transform landscapes rapidly, intentionally, and profoundly in very visible ways, and require coordinated applications of capital and state power' (2003: 15–16). It is through the coming together of these categories that megaprojects are often framed as both a development and investment imperative. Development discourse has justified land deals by presenting land as unused or under-used (Barney 2009) and also situates infrastructure as key to socio-economic development (Sims 2021).

In Laos, as in many locations, infrastructure is framed as essential for economic growth and poverty reduction. This was amplified in 2004, when the Lao government started to attract foreign investment more actively under the slogan "turning land into capital," to grant land concessions to investors for development. Since 2005, the government has granted hundreds of concessions to foreign actors to develop megaprojects (though not all have been used; see Hett et al. 2020). Still, Laos has witnessed a boom in infrastructure projects and a significant increase in foreign investment (Keovilignavong and Suhardiman 2017). Land concessions are dominated by investors from China, Vietnam, and Thailand, in decreasing order of total investment (Hirsch and Scurrah 2015; Hett et al. 2020). Chinese capital, firms, and policies have become major drivers of land-based investments. Through such projects, Laos – primarily rural and agricultural – is reimagined as hyper-connected and soon-to-be-modern. Infrastructure and economic corridors are central to this vision and deployed to justify the (re)exploitation of land, exemplifying the classic land grab versus development debate that Dwyer (2013) concisely summarizes.

Land acquisitions and grabbing are often facilitated by both public and private sector actors working in concert to develop infrastructure and acquire the land for it. Borrás et al. (2020: 610) suggest that grabs occur through overlapping interests that constitute a 'transnational land investment web.' Megaprojects thus have the potential to serve as a key element in territorialization, though states have also sought to regulate against grabs. Writing on the early 2000s boom in large-scale agribusiness and extractive investment projects, Le Billon and Sommerville (2017) show how these industries open land for investment. In the current period, land is again rendered investable through a global political-economic boom, this time in infrastructure construction. Megaprojects and

infrastructure are major drivers of the current land rush as their very existence depends on modifying property relations for the purpose of commodification. To unpack the transformative effects of infrastructure on land, the following section turns to the economic corridor and its evolution in Laos.

### **Corridor Histories in Laos**

In 1992, the Asian Development Bank (ADB) initiated the Greater Mekong Subregion (GMS) program and, with it, a corridor model for economic development in Laos. The proposal of the GMS emerged from the successes of the Singapore-Johor (Malaysia)-Riau (Indonesia) growth triangle (Pholsena and Banomyong 2006: 118). An ADB-initiated meeting of the GMS member-states coordinated diplomatic agreements between the governments of Cambodia, Laos, Myanmar, Thailand, Vietnam, and China to promote greater economic regionalism. The GMS is built around three transnational highways: the North-South Economic Corridor (NSEC), the East-West Economic Corridor (EWEC), and the Southern Corridor. Both the NSEC and EWEC pass through Laos. In its early iterations, the GMS focused almost exclusively on transnational infrastructure, later expanding to programs for agriculture, energy, human resource development, investment, telecommunications, tourism, and trade (ADB 2012). As such, the GMS aims to not only promote transnational connectivity, but to render land available for development and investment projects. Consequently, the areas of influence of GMS economic corridors extend beyond any single route, encompassing an economic zone that runs parallel with and reaches beyond the main transport artery.

The corridor model has been revived under China's BRI. In 2019, the Chinese government sent a cooperation framework to the central government of Laos, proposing the LCEC to deepen cooperation in a range of sectors, from energy and agriculture to mining and tourism. The LCEC follows the Laos-China Railway and Expressway across Luang Namtha, Oudomxay, Luang Prabang, and Vientiane provinces, with the stated goal of connecting China with countries and markets in Southeast Asia. Unlike the two GMS corridors in Laos, the LCEC runs through the center of northern Laos, placing development zones not only in borderlands but in central regions of the country. As the ADB (2008) claimed that the GMS would achieve an integrated, prosperous region free of poverty and committed to environmental protection, so the BRI and Lao government rely on logics of socio-economic development that prioritize a particular vision of modernization. They emphasize the primacy of the market and private sector in leading processes of development and perceive integration with international markets as crucial to development (Sims 2015).

A goal embedded in the LCEC framework is to urbanize and industrialize the immediate areas within and around the corridor. New urban environments, often initiated via SEZs and new cities, are viewed as necessary for the 'success' of the corridor. At the same time, these urban forms produce dramatic transformations of existing socio-economic and environmental landscapes, reshaping local livelihoods. In northern Laos, efforts to establish new urban spaces have centered on casino tourism and a desire to replicate the exceptional profits and revenues generated by gambling economies in Singapore, Macau, and other parts of Asia. Two major casino areas were built along the NSEC near the border with China, and both have been heavily criticized for their detrimental impacts on residents including but not limited to forced displacement, erasure of existing livelihoods, gambling

and asset losses, and violent crime (see Sims 2017). Although rapid investment surrounded the opening of the two casinos, negative effects led to the closing of the Royal JingLan complex in Boten and international criticism of the other in the Golden Triangle for perceived links to narcotic elites. However, with the LCEC, these and other zones are positioned for real estate and urban development as well as logistics hubs (DiCarlo 2020b).

Those championing corridor development point to the ‘spillover’ effects of trade and economic growth. According to proponents, corridors are intended to create conditions that boost trade, investment, and marketization, thus increasing national or regional economic growth with important local effects. Corridors include large-scale transport infrastructure accompanied by adjoining urban and industrial expansion, as well as large-scale agribusiness plantations and other markets that extend well beyond transport infrastructure. As such, they integrate multiple projects together into a networked megaproject that initiates trade and investment along transit routes, rather than simply establishing new pathways for trade between existing urban-industrial centers. In Laos, for example, this has meant facilitating investment flows along the corridor to prevent the country from being relegated to a transit route between existing regional nodes such as Bangkok, Kunming, and Ho Chi Minh City.

However, results are often not as planned. For example, the effects of the GMS’s Northern Economic Corridor strayed far from intentions and excluded vulnerable populations from infrastructure mitigation protections (Dwyer 2020). More than connecting spatial or economic nodes to the expansion of new corridor investments, the corridor model necessitates land access beyond what is required to construct or expand transport infrastructure. The spatial reorganization of land for construction and investment, coupled with soft infrastructure and zoning technologies (see Ong 2006), in turn, produce new forms of inclusion and exclusion. In particular, land acquisitions, often justified by national development agendas, are a key modality by which corridors enable new investments into land. A lens of land grabbing on corridor development brings into focus pervasive displacement and resettlement, showing that land acquisitions are fundamental to corridor development. The LCEC spans some of the most populated and resource-rich regions of northern Laos, expanding across already-used and occupied land that requires acquisitions for new investments – many of which are streamlined via changes to property relations and land governance. Additionally, unequal power dynamics between investors, the state, and vulnerable communities make the injustices associated with the land rush likely.

### **Modes and Implications of the Infrastructural Land Rush**

An examination of corridor megaprojects in Laos demonstrates three characteristics of the infrastructural land rush that require deeper interrogation. First, discourses of development and connectivity surrounding projects legitimize land acquisitions. Second, megaproject implementation initiates land governance changes, and third, related investment produces land appropriation and commodification far beyond the corridor. In other words, the narratives, governance, and materialities of development that surround corridor infrastructure have implications both within and beyond the corridor and its associated infrastructure.

#### ***Megaprojects Legitimize Land Appropriation***

Through modernizing ideologies and promises of economic growth and poverty alleviation, infrastructure is discursively powerful. Governments and implementing actors often deem

megaprojects to be priority or strategic initiatives. Take, for example, the Gwadar deep water port, the Central Asia gas pipeline, Khorgos dry port, or the Laos-China railway. Such projects have elite or political support and immense capital input, making them ‘too big or important to fail.’ This logic is evident within the LCEC, where promises of future prosperity related to the railway cannot be understated. In both Lao and Chinese, the railway is referred to as a ‘priority project’ – ໂຄງການບູລິມະສິດ (*khongkaan boulimasit*) or 重点工程 (*zhòngdiǎn gōngchéng*). Within Laos’s authoritarian political context, priority projects are synonymous with the government and are thus difficult to question or contest. Both authors’ interviews with local people and government officials at all levels affirm that certain projects are conceived as ‘untouchable,’ at times to the extent that displaced residents and members of government will often not talk about them at all.

The framing of a project as essential to and a priority for national development offers a discursive legitimation that is difficult to challenge and shapes how people negotiate displacement, compensation, resettlement, or other perceived injustices. Residents who do not want to relocate are represented as ‘selfish’ for preventing a public, national good. This is particularly important in socialist contexts such as Laos, where communalism and public good are upheld as shared values. When resistance to a project is perceived as futile, energies are instead channeled into different strategies for acquiring compensation or seeking other positive outcomes through resettlement processes. For example, residents displaced to accommodate a 2012 Asia-Europe Meeting (ASEM) hotel villa project rejected offers of legal aid on the basis that the project had been approved ‘at the highest levels.’ Rather than seeking to oppose their displacement and resettlement, they endeavored to gain direct, unofficial access to senior government members and resettlement administrators to negotiate favorable compensation. In some cases, they emphasized that they did not seek to prevent ‘development’ from occurring; rather they wanted adequate compensation for lost assets and livelihoods. Similarly, in Luang Prabang, residents displaced for the upgrade and expansion of the city’s provincial airport – another national priority project – also expressed that any opposition to, or public criticism of, the project would be futile and would place them at risk. In both cases, threats of state violence aligned with celebrations of new infrastructure projects to legitimize their development contribution in ways that insufficiently account for their violent and harmful effects (Sims 2015).

### *Megaprojects Restructure Land Governance*

Megaprojects have the power to motivate new policy or regulatory arrangements, restructuring governance and government surrounding land acquisitions. Infrastructure, particularly large-scale priority projects, spatialize and territorialize in part through law and policy. As priority projects gain momentum and power, regulatory frameworks are devised or modified specifically for the project, either to speed up implementation, appease powerful actors, establish new norms, or, more commonly, circumvent or waive existing legal frameworks. One example is Laos’s largest dam, Nam Theun 2 (NT2) hydropower project. NT2 was touted as a ‘model’ project that would transform institutions and improve public debate: ‘proponents hoped that through strengthening the national legal framework, the country would move toward more inclusive and socially and environmentally responsible development’ (Singh 2018: 217). In effect, however, it demonstrated that regulations could be written for one project, then discarded for the next if they do not fit future plans. In

authoritarian contexts such as Laos, governance reforms are more easily achieved, and land grabs are embedded in the national and local political landscapes.

Within the LCEC, many revisions to laws that would impact railway construction were related to land governance. In the case of the Laos-China Railway, for example, land, resettlement, and compensation regulations were restructured to speed up construction. As NT2 modified legislation, regulations, and institutions for its administration (Singh 2018), the railway motivated new regulations to facilitate construction and investment. From the time the railway concession agreement was signed in 2016, a flurry of laws and decrees related to land, compensation, expropriation, and investment promotion were amended or drafted. Prime Ministerial Decree 192 on Compensation and Resettlement of People Affected by Development Projects (2005) was initiated by NT2 and was the first decree of its kind. The same year that railway construction began, it was replaced by Decree 84 (2016), which could complicate compensation processes due to the need for a land title. In 2018, just two years after Decree 84 was approved, the Lao National Economic Research Institute (NERI) suggested the government review and improve this policy because many people were not compensated for the loss of land to Special Economic Zones (Vientiane Times 2018). The same year, on August 1st, the Law on Resettlement and Vocation was signed, elevating some contents from Decree 84 to the status of a law. Although projects instigate new regulations, such regulations are not always applied to those or future ones. Instead, infrastructure may circumvent existing regulations. The railway impact assessment, for example, was passed without review, as those working in the responsible ministry were told ‘it’s a priority project’ and the government could not afford it to be delayed by red tape. Finally, as megaprojects lead to changes in governance, local land rights become even more opaque and are easily subordinated to national development plans.

### ***Megaprojects Transform the Corridor and its Hinterlands***

Corridors, whether for roads or rail, create new economic hinterlands by facilitating increased connectivity and access. Many land deals in Laos are located closer to transportation arteries (Messerli et al. 2014; Hett et al. 2020), and as these expand so does interest in land-based investments. As such, land rushes first follow corridor infrastructure as they pave the way to places once considered marginal to capital. However, the political-economic influence of infrastructure on land extends well beyond connective infrastructure. GMS proponents claim that the extension of feeder roads off central economic corridors generates local economic benefits. Such extensions further the commodification of land and resources outside of the corridor itself. For example, rapid road building of over 3,000 km in Laos between 1990–2000 (Pholsena and Banomyong 2006) and the push to attract foreign investment in the early 2000s have, in combination, resulted in a boom in land-based investments. In his analysis of the ADB’s northern economic corridor (NEC), Dwyer (2020: 8) explains that the “space left open between the NEC’s narrow geography of mitigation and its wider geography of impact became, during the boom years of the mid-2000s, a fairly good approximation for where the global land rush hit the ground.” The opening of corridors facilitates increased access to Laos’ abundance of resources. As one of the most resource-rich countries in Asia – with over 570 mineral deposits, including gold, copper, zinc, and lead – minerals constitute 45% of the country’s exports (Ngangnouvong 2019). In addition, a study of land concessions between 2007 and 2017 notes that the three most common sectors of investment are gold, rubber, eucalyptus, gravel, and limestone – the first



three comprising 58% of all land granted for investment (Hett et al. 2020). Rubber, gravel, and limestone constituted 43% of all projects surveyed and are the most exported.

Although it is not yet possible to precisely calculate how the LCEC and railroad-oriented value chains will reshape rural Laos, several initiatives indicate that the early stages of hinterland marketization are unfolding. In anticipation of the railroad, for example, Luang Namtha provincial authorities instituted a “one district, one product” program, which seeks to integrate villages across the province in corridor production networks through niche crops and handicrafts. According to an official from the Luang Namtha Provincial Office of Industry and Commerce, the Laos-China Railway Company provided funding to support five such provincial projects. These projects replicate similar One Village One Product (OVOP) and One Tambon One Product (OTOP) projects that have been implemented in Japan, Thailand, Vietnam, and elsewhere (Hoang Thanh et al. 2018). Further south in Luang Prabang province, the Provincial Agriculture and Forestry Office (PAFO) promoted pineapple production to export to China. While envisioned as a means for local farmers to benefit from the corridor, the costs to transition to a single cash crop in terms of available land and capital input are barriers for many Lao farmers. As a result, some districts have sourced land to foreign investors, often from China, to undertake niche crop operations. In addition, as connectivity increases, cattle exports to China have expanded. Notably at the time of research, a US \$300 million joint venture was building infrastructure – including a farm, a quarantine site, a slaughterhouse, and a processing plant in Luang Namtha province – to sell 400,000 heads annually.

As connective infrastructure within the corridor is used to promote more niche agricultural production, mining, and resource extraction, resulting and related land acquisitions appear more like a classic case of land grabbing that commercializes and commodifies a landscape. In this way, land grabs and acquisitions follow infrastructure rather than the other way around. In sum, global patterns of infrastructure booms facilitate additional land or resource rushes, conjuring new resource hinterlands through connective infrastructure.

### ***Megaprojects Reshape Local Landscapes and Lives***

The restructuring of land relations through economic corridor development has implications for the surrounding environment and people. One way that infrastructure connectivity has driven economic growth across Southeast Asia is through increasing natural resource extraction. Given the challenges of weak governance, corruption, and economic dependence on resource exports, it is unsurprising that such extraction often results in environmental decline. Correlations between transport infrastructure and ecological deterioration are apparent across the Global South (Alamgir et al. 2017; Laurance et al. 2015). Consequences include impacts to fauna, soil erosion, water turbidity, landslides, as well as fires, logging, poaching, mining, and habitat fragmentation (Alamgir et al. 2017). Beyond immediate effects, new connectivity corridors also foster the expansion of monoculture plantations and logging. In northern Laos, the rapid expansion of rubber plantations from 2003 onwards has led to forest and habitat loss (Kenney-Lazar 2016).

Resource extraction is not just a by-product of connectivity efforts and state-building, but a fundamental component of these processes. Kenney-Lazar (2016) emphasizes that “the allocation of land to foreign investors has become a critical component of the state’s resource-led development strategy” (2012: 1024). Similarly, the political culture and development of logging are directly connected to the enrichment of the political elite

(Hodgdon 2008, 58). Economic liberalization in Laos has contributed to the empowerment and wealth of military elites as well (Dwyer et al. 2015). To drive such processes, the government of Laos implemented a policy of state land leases and concessions to foreign investors that have resulted in devastating social and ecological impacts, few employment opportunities, and challenges to the country's already poor food security (Baird 2010; Kenney-Lazar 2012).

Attention to the human-environment costs of corridors reveals the uneven distribution of benefits and harm that are playing out across the region in much more subtle, complex, and multifaceted ways. Threats to forests, river systems, and other environments pose risks to the livelihoods and food security of the millions of people across Southeast Asia who rely on them for daily sustenance and income (Kenney-Lazar 2012; Lagerqvist et al. 2014). The relationship between human and natural vulnerability, however, plays out in a myriad of other less obvious ways, such as the violence that Li (2018) and Tsing (2005) suggest is embedded within Indonesia's palm oil and logging industries.

### **Conclusion**

The Laos-China Economic Corridor shows how infrastructure produces new dynamics and spatialities of land appropriation, authority, and spaces of accumulation. This chapter suggests that looking through the lens of infrastructure to understand land grabs allows us to think beyond 'classic' land grabs for agricultural production and toward a land rush connected to infrastructure. We make this point by highlighting the spatiality of infrastructural land appropriation: first, as land is appropriated for the construction of connective infrastructure and nearby zones, and second, as it renders a broader landscape investable for agriculture, business, tourism, and manufacturing. The effects of the corridor on land extend well beyond the infrastructure itself. The corridor as a transnational infrastructure becomes a thoroughfare for urbanization and connectivity, connecting peripheral areas of resource extraction to global markets.

As literature on land deals would benefit from theoretical, methodological, and empirical attention to infrastructure, we conclude with reflections on the role of infrastructure in land appropriation to suggest directions for research that consider the urban and agrarian futures they promote. First, connective infrastructures become megaprojects when we take land transformations into consideration. In other words, while a transportation project itself is a large infrastructure, projects produce the corridor as a megaproject by rendering the broader landscape available for other infrastructure and resource investments. Infrastructure motivates changes in property and governance regimes that make this possible. Second, while transnational infrastructure is intended to promote trade and connectivity, this is only possible through access to and tremendous alteration of local land and lives. As is well-documented, land grabs entail dispossession, social differentiation, and environmental destruction. Rather than static events, we need interrogations of the lived experiences and relations that make possible and are imbricated in an infrastructural land rush. How does a land rush linked to infrastructure change social relations in ways that are different from agricultural rushes?

Third, while China has featured prominently in land grab debates concerned with agribusiness, few studies engage land rushes explicitly for large-scale infrastructure development, despite the substantial rise in Chinese-backed infrastructure investments. The scaling up of global infrastructure investment is on the rise, with the BRI and the G7

announcement of “Build Back Better World” to invest US \$41 trillion in large projects. In this landscape of global infrastructure competition, the relationship between land grabbing, infrastructure, and territorialization cannot be overlooked. In addition to rendering land available and investible, infrastructure plays a role in extending state power. While this is not the focus of our chapter, future research will benefit from insights into traditional land grab and agrarian studies literature in the ways they have paid close attention to multiple actors that constitute the state (see Wolford et al. 2013).

In sum, connective infrastructure often requires vast amounts of land, and acquiring it involves public and private actors and powerful elites who facilitate both industrial expansion and territorialization. Thus, land acquisitions are an essential component of economic corridors and infrastructure megaprojects, not a side effect. They are a central and necessary process for achieving aims to drive new investment. The intention is rarely to test ‘keep’ existing livelihoods and economies. Rather, they are to be replaced by bigger, more productive, or extractive and profitable industries. This may bring employment, business, or income-generating opportunities for existing residents, but only following their physical displacement and the displacement of their former livelihoods.

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# LARGE INFRASTRUCTURE PROJECTS AND CASCADING LAND GRABS

## The Case of Northern Kenya

*Evelyne Atieno Owino, Kennedy Mkutu, and Charis Enns*

### **Introduction**

East Africa is currently experiencing a wave of large-scale infrastructure expansion. Much of this new investment is being directed towards transport infrastructure – such as railways, airports, roads and pipelines – that facilitate flows of people, capital, and commodities between sites of production and markets. However, in anticipation of new and improved market linkages, a simultaneous rush to grab land alongside transport infrastructure routes is taking place. Large-scale agriculture, resource extraction, energy, and industrial investors are acquiring plots of land adjacent to new and upgraded infrastructure routes, while new cities and massive residential developments along these routes are also being planned. In between spaces claimed for ‘brown investment’ is a growing number of ‘green investments,’ such as spaces for biodiversity conservation and ecotourism, meant to offset the negative environmental impacts of such large-scale development.

There is a growing body of academic research and policy-orientated literature that documents the increasing prevalence of land grab for infrastructure development (Yang and He, 2021; Kariuki and Ng’etich (2016); Barlow, 2008; Blas, 2008; Cotula et al., 2009; Cotula et al., 2007; Cotula et al., 2008; Deininger, 2003; Hess and Thebaud, 2006; Mathenge, 2009; Nyari, 2008). This research also examines the localised impacts of land grab for infrastructure on the livelihoods of rural populations and the environment. However, so far, less attention has been paid to other forms of land grab that inevitably follow in the wake of new infrastructure development as land alongside new and upgraded infrastructure routes becomes more desirable. In this chapter, we reflect on how the transport infrastructure boom results in a cascade of land grabs, as further appropriation of land alongside transport infrastructure routes is justified by governments, foreign and domestic investors, and elites in the name of capitalising on new market linkages and ‘opening up’ frontier areas. We show that in order to counter the risk of being dispossessed, existing rural land users are pulled into this scramble for land, using different strategies to secure their land and ward off potential land grabbers. All of this interest in land combined drives a cascade of land tenure and use changes along major infrastructure investments, multiplying the effects of land grab for infrastructure.

To support our analysis, we draw on an empirical case study of transport infrastructure development in northern Kenya, where anticipation of the transport infrastructure is bringing a frenzy of activity in terms of speculation, planning, and positioning by different actors, both internal and external. We focus specifically on land acquisitions for and alongside the Lamu Port–South Sudan–Ethiopia Transport (LAPSSET) Corridor, which includes an international airport, a highway, a railway and a pipeline overlaid by a 50 km wide area to comprise special agricultural zones, special economic zones and resort cities. Our analysis is informed by extensive fieldwork along the LAPSSET corridor project between January 2014 and March 2021 on these emerging dynamics, as well as analysis of news stories and published policy documents.

### **Infrastructure and Global Land Grabbing**

For nearly a decade now, global land grabbing has been a prominent topic of debate amongst policymakers, land activists, and academics alike who are concerned with the upsurge of large-scale land acquisitions in the global South by foreign investors following the 2008 global food price crisis. Many of these land acquisitions have happened in the agricultural sector, but they also spilled over into other sectors, including renewable and non-renewable energy, biodiversity conservation, mining, residential development, and infrastructure. A well-established field of research has grown out of this phenomenon analysing the complex drivers, nature and extent of land acquisitions, along with the differentiated impacts of land acquisitions across different sectors, different regions and different groups of society (e.g., see: Borras et al., 2011; Borras et al., 2012; Hall et al., 2015; Moreda, 2015; Sulle et al., 2020).

Interestingly, despite enormous financial flows being directed towards new investment in infrastructure in the Global South over the last decade – resulting in what has been coined as a new infrastructure scramble (Kanai and Schindler, 2019) – the early land grab literature paid little attention to large infrastructure projects. As Otsuki et al. explain:

While case studies on the global land rush and climate change have advanced our understanding of how large-scale investments in land, forests and water affect natural resources and social relationships especially in the global South, physical infrastructure – dams, railways, highways, etc. – which often accompanies the land rush has received little attention as a proper unit of study.

*(2016, n.p.)*

The lack of focus on infrastructure in early land grab literature is at least partly due to the fact that land acquisitions in other sectors tend to result in more obvious inequalities with large companies benefitting far more than existing land users. In contrast, land acquisitions for infrastructure (particularly transport infrastructure) always come with the promise of local benefits and are often framed by governments and investors as necessary for local development (Pieterse and Parnell, 2014). Furthermore, because land for infrastructural developments tends to be acquired through state-led and legal compulsory land acquisition processes, infrastructure investments have sometimes been seen as less problematic and not ‘real’ examples of land grab when compared to investments in other sectors.

Only more recently has research emerged that challenges some of these underlying assumptions about land acquisitions for infrastructure by showing that land acquisitions for

large infrastructure projects are rarely straightforward. Like land acquisitions for other sectors, these land deals tend to be complicated, contested and negotiated rather than simply accepted by all (Chome, 2020; Enns, 2019; Owino, 2019). This research also shows that land acquisitions for infrastructure do not equally or inevitably benefit all segments of society, but instead produce complex and varied outcomes with

implications for class formation (as some step up, others may drop out, or move to become labourers rather than producers), gender dynamics (very often the terms of incorporation are skewed towards those who have existing power and assets, invariably men to the exclusion of women) and generational relations (as such dynamics often consolidate the power and control of an older generation).

*(Chome et al., 2020, 301)*

However, what is missing in this emerging area of research is attention to the larger role that infrastructure investments play in driving forward other forms of land grab. Rather than a means to an end, land acquisitions for infrastructure are used to make further land investments possible. Energy and transport infrastructure, in particular, attract new land and resource investments by creating favourable conditions for the extraction and production of commodities and the movement of commodities to global markets. In our own work on the LAPSSET Corridor in northern Kenya, we have observed just how quickly land adjacent to and nearby new infrastructure projects is folded into further waves of land rush as new infrastructure projects near completion (Owino, 2019; Enns, 2018). This is the focus of the remainder of this chapter, as we reflect on the cascade of land tenure and use changes that has accompanied the LAPSSET Corridor.

### **The LAPSSET Corridor in Isiolo County**

The LAPSSET corridor launched by Kenya, Ethiopia, and South Sudan in 2012 is a Kenyan flagship project intended to foster regional and continental linkages and the transport of oil. The planned project traverses northern Kenya for 1,700 kilometres from Lamu port to South Sudan and consists of a 500-metre-wide corridor containing a road-highway, railway, oil pipeline and powerline, surrounded by a 50 km wide special economic zone for investment (LCDA, 2017). The project is also expected to create industries including an oil refinery and petrochemical industries in Lamu and Isiolo, and thermal power generation and manufacturing industries along the corridor. LAPSSET has been termed as a ‘game changer,’ anticipated to inject 2–3% of the gross domestic product (GDP) in the country’s economy, with this figure increasing to 8–10% when final investments are on board (LCDA, 2017).

The infrastructure component of LAPSSET alone is to take almost 1.4 million acres (566,500 hectares) of land, before the associated developments likely to follow (LCDA, 2017). The population along the corridor is dominated by pastoralists, followed by agropastoralists, and lastly urban and peri-urban settlements in all the counties (LCDA, 2017, P. 15). As of 2017, the National Land Commission pursuant to the Land Act no. 6 of 2012 published their intention to acquire land for the construction of the LAPSSET corridor project and associated projects. The final LAPSSET route was gazetted in 2019 and is available online (Natural Justice, 2019).



As of December 2021, most of LAPSSET remains in the stages of planning and land acquisition, however, some of the components are complete. One such component is the 526 km Isiolo-Moyale highway that links Kenya with Ethiopia. The cost of construction was US\$429 million, funded by the European Union (EU) and Africa Development Bank (AFDB), and the estimated economic internal rate of return is 21.7%. It has dramatically reduced travel time and improved regional security, mobility, and transactions in services, goods, and livestock between the two countries (Kochore, 2016).

Another completed component is the Isiolo International Airport which is mostly situated in Isiolo county but whose runway extends into Meru county. Lying about 200 km north of Nairobi it bolsters the status of Isiolo as a “gateway to the north.” It occupies 642 acres (260 hectares) of land. The cost of construction was US\$77 million and was funded by the government of Kenya. The anticipated benefits of the airport include facilitation of the market for livestock products amongst others and for tourism (Wairimu, 2021). Unfortunately, the airport has not been used to capacity since its completion, for several reasons, including design problems, delays in operationalisation of Isiolo’s new abattoir and challenges regarding the marketing of the stimulant plant *miraa* which is grown in Meru county.

Isiolo county, where both of these completed components of the LAPSSET corridor are situated, is largely semi-arid with the main economic activity being pastoralism. Other economic activities undertaken include small-scale farming, tourism, and agro-pastoralism. Over 80% of Isiolo county land is community land, held in trust by the county government of Isiolo (Isiolo County, 2018). Like most other northern counties in Kenya, Isiolo has a history of marginalisation by both colonial and post-colonial governments and lags behind in terms of development indicators. Isiolo experiences inter-communal resource-based conflicts between its various pastoralist ethnic groups, characterised by raiding, and competition for water and pasture. These conflicts are particularly severe near the boundaries with Garissa, Wajir and Samburu, boundaries which pastoralists have historically traversed as required for water and pasture. Inter-communal conflicts overlap with ethno-political conflicts (UNDP, 2010), which have at times led to many losses of life especially during electioneering periods (Mkutu and Boru, 2019). Road banditry is another manifestation of the conflicts reported. Other intermittently severe conflicts include an inter-county boundary conflict between Isiolo and Meru which manifests in local inter-communal violence.

### **Compulsory Land Acquisitions for the LAPSSET Corridor**

As early as 2004, residents in Isiolo began to be (involuntarily) resettled to make way for the Isiolo airport – a key transport node in the LAPSSET Corridor. Although compulsory acquisitions of land for transportation projects, such as airports, is permitted under Kenya’s Land Act, procedures for the compulsory acquisition as stipulated in section VIII of the Land Act were not correctly adhered to: the airport project was smeared by land acquisition irregularities upon those displaced from the projected site. Some were never compensated due to lack of title deeds as it is a community land, while those with individual plots who had allotment letters still lost their land and were never resettled due to corruption and violence in the process of double allocation of the resettlement plots. This resulted to unfamiliar well-connected people claiming those resettlement plots instead (World Bank, 2019). Various commentators described the chaotic situation:

The initial 700 were to be relocated to Mwangaza, but the number increased over time to 1,500. As a result, some of the people were relocated to Kiwanjani location (Wabera ward) but there were only 450 plots and 50 squatters already occupied the area, so approximately 400 in number were to move to Chechelesi which had 1,900 plots. However, although the ballot was done, no land has yet been given out (...). At that time Chechelesi also had problem with squatters.<sup>1</sup>

The balloting exercise for the airport expansion favored the rich and foreigners in Isiolo not the locals who genuinely lost their land.<sup>2</sup>

Corrupt resettlement procedures brought about ethnicised tensions and conflict. As one displaced resident said:

I was given a ballot to go to Chechelesi but I refused because some of those who had gone there were either beaten or killed in the battle as those areas were already occupied or other ballotees already marked the same plots too. (...) there was no free plot in Chechelesi to resettle us in. (...) The Turkanas in Chechelesi and some Somalis there did not want to see anybody from Mwangaza seeking a plot in Chechelesi.<sup>3</sup>

Interfaith leaders concurred that there had been large-scale manipulation and malpractice which triggered lawsuits by locals and organisations and land conflicts in Isiolo and Meru (World Bank, 2019). In December 2020, there was a glimmer of hope for the victims and a revelation as to the extent of the corruption which had been involved. The Commission on Administration of Justice called the Isiolo county government to hold senior government officers to account for 83 cases of double allocation using fake backdated letters to claim ownership by the imposters (Mamo, 2020). These efforts represent an attempt by the government to right procedural errors made during the compulsory acquisition of land for the airport.

### **The Land Grab Cascade Along the LAPSET Corridor**

Yet, not all land acquisitions in and around the LAPSET Corridor are being done by the government for the purpose of infrastructure development or in public interest. In this section, we consider the cascade of other land investments that has followed in the wake of large-scale infrastructure development in northern Kenya, as land directly beside this infrastructure has become more valuable and desirable leading to increased competition.

Notable amounts of land around the airport have been acquired for (re)development by questionable means. There are reports of residents being displaced from community land near the airport and this land being given to elites, such as government officials. As one interviewee explained:

Our plots here were already given to other rich people, who we have never seen as residents of Mwangaza (...) how can I fight an official powerful man when I don't even have a plot number and no money to even rent a house to stay in, how can I pay a lawyer? (...). The price of land has hiked so that us locals who were affected cannot afford land unless the government gives us land somewhere else to resettle in. All the

Indigenous people were chased out of the airport land. We have not been employed not even our children at the airport.<sup>4</sup>

Similar observations were made along the other completed portion of LAPSSET, the Isiolo-Moyale highway. For example, in Merille, a community intersected by this highway, a resident explained: “The price of land has increased threefold as those with money have come to make the most of new business opportunities created by the road. We don’t have title for this land so they can easily purchase it.”<sup>5</sup>

Foreign investors, national elites and local elites have been at the forefront of this unprecedented scramble for land along the LAPSSET Corridor (Mkutu, forthcoming; Kochore, 2016). A LAPSSET Corridor Development Authority official confirmed the speculation surrounding the project:

You see (...) with the resort city people are now jumping all over for land, even killing each other (...), the claims coming out is something new to us. As an authority we were never prepared for such kind of large-scale land grabbing and land speculation by elites that we have seen interested in the LAPSSET (...) so this has been a setback for us as an authority causing stagnation in the progress of this project.<sup>6</sup>

The clamouring for land has been particularly intense around Isiolo town, as well as the LAPSSET route which passes through Archer’s Post in a south-easterly direction, turning to run alongside the B9 road. For example, about 5 km east of Isiolo town, along the B9, is Gambela, which is officially in Meru county. The settlement has been a focus of land acquisition for irrigation agriculture through boreholes. These acquisitions are being made by various people, often powerful elite politicians and business people. It was also noted that wealthy Somali people from outside Isiolo are buying large plots for farming<sup>7</sup> while a group of men from a church in Nairobi was together investing in land with a minimum investment of 500,000 KSH (around US \$4,500).<sup>8</sup>

Local elites too are getting in on the land rush. A local Borana civil society activist had managed to acquire 100 acres (40 hectares). When spoken with about his land investment, he was in the process of getting a title deed, and was enthusiastic about making high profits with onions and tomatoes (Mkutu et al. forthcoming). One respondent spoke about the now common sight of splashes of paint on rocks and trees to mark out land:

Merus have decided to come now, because of LAPSSET and land (...). Like now there are Meru who have demarcated land along this Garbatula road, they are waiting for the tarmac (...). Before there was no ownership of land there. So now it’s painted. So, if I see the paint, I should know that land is demarcated (...) it already has an owner (...). Even where the pipeline passes, people have already demarcated land there, they don’t even know the coordinates but they already hold land. Everybody just comes and demarcates the land.<sup>9</sup>

The involvement of local elites in the cascade of land grabs that accompanies large infrastructure investments is interesting to consider. Although there has been increased interest in the role of national elites within recent land grab literature (e.g., see Moreda and Spoor, 2015), little attention has yet been paid to how local elites – who lack the same access to

regional and global capital as national elites and foreign investors –are also implicated in the land scramble.

Alongside foreign investors and elites, government agencies and others such as Catholic University of East Africa have also been involved in taking land adjacent to and nearby the LAPSSET Corridor. Most worryingly for residents has been the massive expansion of the 78th Battalion military barracks on the edge of Isiolo town (Abdi, 2019) which has led to suspicion that the barracks is a front for a land grab, and that any security presence is there for the same purpose. As one interviewee explained: “This is a way of pushing us out of our land using military barracks in every area (...) We fear they might use the [Kenya Defence Forces] to grab our land.”<sup>10</sup> Many pastoralists perceive these government-led land acquisitions as deliberate campaigns to push them out of the local area. The Borana local leaders also frequently express fears of political and economic domination in a county where they have been historically dominant.

Investors, elites, and the government alike justify the pursuit of their land interests along the LAPSSET Corridor by claiming that land is sparsely populated and that more investment is needed to unlock the potential of what is considered to be unused or unproductive land (Enns, 2019). A local area administrator within Ngaremara ward near which the Corridor will pass noted,

The problem is the government assumes that this area is vacant, (...) they should know this is a community land; Northern frontier will never benefit from LAPSSET project (...) it’s a ghost project to us. The county is being overpopulated as the government believes that the area is free (...). It is not free.

Of course, land in northern Kenya is not vacant. In fact, population statistics for Isiolo county from the 2009 and 2019 census suggest massive population growth of 87% over the past 10 years, almost twice as much as previous growth statistics since 1989 which showed an average 45% increase every 10 years (City Population, n.d). Although census data for pastoralist counties is rather unreliable due to mobility of pastoralists, observations and interviews suggest the same type of growth along the corridor route is being experienced in pastoralist communities. As one pastoralist explained in Merille:

The population has increased a lot since the road was tarmacked. People that were living far from the road or often on the move have shifted to stay in the community because there are lots of food and goods available. Their sons and daughters are getting married and staying in the community now. It is good – we like being many together in one place.<sup>11</sup>

The tension between the perceived availability of land for investment along the LAPSSET Corridor and the expanding needs and desires of existing rural land users helps to explain the growing competition over land that can be seen in this region.

### **Strategies of Existing Rural Land Users Along the LAPSSET Corridor**

In this final section, we reflect on the role of local communities and supporting institutions in the cascade of land tenure and land use changes that is accompanying infrastructure development in northern Kenya. We suggest that existing rural land users are using a range of

strategies to secure their access to land and also to ward off the ongoing rush to grab land alongside the infrastructure corridor, which results in further changes to land tenure and use. These strategies include occupying land, creating group ranches, formalising land tenure, and establishing wildlife conservancies.

The use of occupation as a strategy to claim community land can be seen at play along the B9 road rehabilitation (also known as the Isiolo-Mandera road). The area is a largely dry and sparsely populated rangeland, used by Turkana and Borana pastoralists, in which several dramatic developments are anticipated. Not only will it be traversed for over 50 km by LAPSET, but it is also experiencing rehabilitation of the road (commonly known as the B9), a major regional trade route which extends to Mandera and on to Somalia. In this area, there has been a trend of migration and settlement by Garissa-based Aulihan Somali pastoralists near the road in Garbatula subcounty, east of Ngaremara. Some are hoping to gain from the economic opportunities created by the road while others are seeking compensation for the structures that will soon be cleared to make space for the road. They have dug boreholes, created schools and changed place names to Somali ones. As a result of the coming developments, a previously predominantly resource-based armed conflict has taken a distinctly territorialised dimension, and has become increasingly violent since around 2016. In 2021, Aulihan Somali have taken over some Borana settlements, sometimes forcing them out with the use of explosives (Mkutu, Müller-Koné, and Owino, 2021).

The strategy of occupation was also used by pastoralists in Sere-Olipi in Samburu County while awaiting construction on the now rehabilitated Isiolo-Moyale road, linking Kenya to Ethiopia. Upon hearing that those with permanent structures on land would be given compensation if their structures were destroyed during construction, new buildings were erected in the community, including several houses, shops, and a school.<sup>12</sup> However, in the end, those that lacked land title were not provided compensation for structures torn down during construction. Nonetheless, there was still hastened settlement and rapid expansion of a formerly very small community along the road.

In some cases, rather than simply occupy land, efforts are being made to formalise community land tenure to ensure that local people are not excluded from the benefits of the corridor. This can be done through land titling programs. For example, at one site of particularly intense land speculation and conflict between Isiolo and Meru along the southern edge of Ngaremara ward, a longstanding boundary dispute which dates from the colonial era has been exacerbated by the planned developments in the area and the ambitions of politicians and county governments. This has resulted in higher levels of inter-communal violence between pastoralists and agriculturalists with many lives lost and property destroyed. The dispute was subject to a court ruling in 2017 which stated that no land should be titled in the area until the matter was resolved by a thorough enquiry by the National Land Commission (Abdi, 2018).

However, this has not prevented a programme of titling by the Meru county government. In 2018, the Meru government made a decisive move to administer the disputed area, creating Muthurwa “special ward” and carrying out some development activities, connection to boreholes and titling (Meru County Government, 2018). More work is needed to understand who in fact are the main beneficiaries of the titling exercise, and to what extent non-resident elites have been granted titles. It has been suggested that the Meru county government also wished to benefit from the increased funding from the national government (equalisation funds) which since the 2010 Constitution had been provided to county governments to assist reverse marginalisation in predominantly pastoral areas. The move was

met with mixed reactions from the residents; some welcomed having their own title deed, while others resisted fragmentation of the rangeland. This has also pitted the Meru, who are perceived to be the main beneficiaries of titling, against the non-Meru, typically pastoralist people (Mkutu, 2019).

Similarly, the formation of new group ranches on community land alongside the infrastructure corridors provides a means of formalising community land tenure yet in a way that lowers the risk of fragmenting rangelands. In the Kenyan context, group ranch title designates a discrete group of people as the legitimate owners of a larger area of territory (Galaty, 1994). A Somali businessman explained,

There is an increase in groups coming together and creating a ranch. This has been targeting LAPSSET. Groups are taking big landscapes and then turning them to ranches, then subdividing.<sup>13</sup>

In one such case, a group of elite Borana pastoralists gained permission from the Borana elders to establish a new group ranch in the Gotu area, just north of the B9 road. Describing their strategy as “grabbing from potential grabbers.” (Mkutu, forthcoming), they took steps to claim and fence a 13,000 ha. piece of land. Ultimately, these plans were upended by members of the nearby Nakuprat-Gotu conservancy. Another trend, dubbed “Mobilization B9,” was a strategy of movement towards the road to benefit from developments. It was encouraged amongst some Borana displaced by flooding of the Ewaso Nyiro river.

Another means of protecting community land rights in light of the ongoing land rush created by LAPSSET corridor is the creation of new community conservancies. Kenya’s Wildlife Conservation and Management Act (2013) encourages communities with wildlife on their land to create conservancies, which become internationally recognised protected areas. The community conservancies movement has been sweeping across northern Kenya in recent years – initiating notable changes to land tenure and land use – as over 7.9 million acres (3.2 million hectares) of land and some 250,000 people have been brought into decentralised conservation arrangements (Bersaglio and Cleaver, 2018). New community conservancies can function as cooperatives for business ventures. For example, with LAPSSET expected to pass through Archer’s Post, an adjacent conservancy known as Kalama, in Samburu county, has invested its revenues in a large hotel in the rapidly expanding town.

In theory, the establishment of community conservancies should also provide communities with greater land security. However, many community members are suspicious of the conservancy approach. With many community conservancies in the region being established under the umbrella of a larger organisations called Northern Rangelands Trust (NRT), some communities report being disempowered through this process rather than provided with greater protection. In the context of the conflict between Isiolo-based Borana and Garissa-based Somali, which is related to the opportunities provided by the new [LAPSSET-related] developments, the county government has been pushing for the creation of conservancies in the affected areas to be run with the assistance of NRT. As one elder explained:

MCA’s and officials have been going to the communities in the affected areas saying “Accept NRT. It will be the solution to the [land] conflict. You will not be killed if you accept NRT. You will be given arms to defend yourselves.” (...) When the locals are

saying “You are not defending us, you have taken arms from us” (through disarmament of NPRs) they are told “Accept NRT.”<sup>14</sup>

In addition to a lack of security, there have also been reports of communities facing land use and grazing restrictions and other management practices that undermine local decision-making once conservancies are formalised (Mkutu, 2020). Thus, although the community conservancy movement is driving significant land tenure and land use change in the region, it remains to be seen whether this approach to warding off the ongoing rush to grab land in northern Kenya works to the benefit of existing rural land users.

### **Concluding Discussion: Large Infrastructure Projects and Cascading Land Grabs**

The 21st century has witnessed a rapid rise of interest in new infrastructure investment across many parts of the world. As this rush to extend infrastructure networks globally has taken place, an associated scramble for land can also be seen. Many governments are acquiring land – primarily through means of compulsory land acquisitions – to create space for new infrastructure development. Without doubt, such acquisitions have significant impacts on existing land users and their environment.

However, what we aim to show in this chapter is that the initial round of displacement caused by new infrastructure investments is followed by much broader processes of land tenure and land use change along infrastructure routes. In other words, further rounds of land acquisitions follow in the wake of new infrastructure development as land alongside new and upgraded infrastructure routes becomes more accessible, valuable, and desirable. What is particularly interesting about these subsequent rounds of land acquisition is the variety of actors involved. Government actors, foreign and domestic investors, national elites and even non-governmental organisations all participate in the scramble for land alongside new infrastructure investments but so too do existing rural land users. As these examples suggest, the cascade can create and exacerbate inequalities and also tensions and conflicts along ethnic and class lines. Although some rural land users have shown themselves adept at securing land, many less empowered residents have been dispossessed and rendered as squatters on their own land.

Looking forward, the analysis we present in this chapter points to the importance of clarifying and securing land tenure prior to beginning construction on new infrastructure projects to protect the rights of existing rural land users and ward off land speculation. This is particularly important when infrastructure projects are being constructed on communally-held and managed lands that sustain rural livelihoods and provide global environmental benefits. In the case of northern Kenya, there is evidence that civil society movements are making some progress in this regard with the support of international non-governmental organisations, with several communities having secured their land rights since Kenya’s new *Community Land Act* came in to place in 2016. These successes may better help rural and historically disadvantaged populations protect their land rights in the midst of the frenzy of interest in their land for infrastructure and, perhaps, also benefit from new forms of connectivity and market linkages that this infrastructure may eventually provide.

Finally, on a global level, there is a need for financiers to require Cumulative Impact Assessments (CIAs) prior to the implementation of new infrastructure projects. Some financiers, like the International Finance Corporation (IFC), already recommend CIAs as best practice; however, the use of CIAs remains optional and uncommon, with most

environmental and social impact assessments for new infrastructure investments focusing solely on the footprint of a new infrastructure project while overlooking the fact that infrastructure has cumulative impacts on society and the environment. Given the multiplier effects that new infrastructure projects have on land, as outlined in this chapter, infrastructure financiers have a responsibility to require implementers of large infrastructure projects to assess and manage cumulative effects as a condition of funding.

### Notes

- 1 Interview, county official, Isiolo, 24 January 2019.
- 2 Interview, former county assembly member, Isiolo, 27 January 2019.
- 3 Interview, Isiolo resident, Mwangaza, 10 September 2019.
- 4 Interview, local resident, Mwangaza, 10 September 2019.
- 5 Focus group discussion with residents, Merille, 7 July 2017.
- 6 Interview with LAPSET Authority official, Isiolo, 20 February 2019.
- 7 Interview, Gambela resident of Meru ethnicity, Gambela, 15 October 2020.
- 8 Interview, Isiolo Resident, Isiolo Town, 6 March 2015.
- 9 Interview, Ngaremara Resident, Isiolo Town, 1 March 2021.
- 10 Focus group discussion with elders, Gotu, 8 September 2018.
- 11 Focus group discussion with residents, Merille, 7 July 2017.
- 12 Focus group discussion, Sere-Olipi, 9 July 2017.
- 13 Interview with Somali businessman, Gotu, 16 October 2020.
- 14 Interview, former security officer and elder from Kulamawe, Isiolo town, 13 October 2020.

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# THE GREAT ‘ANTI-POLITICS’ PROGRESS MACHINE

## Mega-Infrastructure Projects, Disenchanted Institutional Change and Dramas of Grabbed Commons

*Tobias Haller and Samuel Weissman*

### **Introduction**

In the debate about China’s Belt and Road Initiative (BRI), there is a focus on how exceptionally large-scale investments in infrastructures (or mega-infrastructure projects (MIPs)) are affecting rural populations in the Global South as a new wave of development. New, because the previous debate on land grabs, which started in 2008 and caught academic attention, was seen as a form of capital investment in African lands as well as other areas mainly in the Global South (see Anseeuw et al. 2012). Discussion of this phenomenon of new neo-colonial expansion is often related to the “triple F crisis” (food, fuel and finance). We would argue that the financial crisis, in particular, has led to changes in relative prices for land, especially in Africa. Yet the extent to which these investments might be understood as successful is not so clear (see Giger et al. 2019). Rather, these investments have led to many negative impacts and are far from the win-win-win development solutions they were presented and implemented as in the first place (ibid). Irrespective of this critical debate, the next wave has already reached the Global South, and if scholars thought that the last wave, labelled the “big land rush”, was large (see Cotula 2013), the new wave related to MIPs is of an even greater magnitude with respect to size and technological change. It is argued that these large-scale investments, mainly related to the BRI, present China as the new colonial power (see Arase 2015, Summers 2016, Sternberg et al. 2017).

However, this narrative somewhat overshadows the fact that new infrastructures are also emerging or planned on a much larger scale, reaching beyond previous capitalist enclosure via expansion, with and without the help of China. The issue now is that connectivity is the key for capitalist expansions and the (sustainable) development discourse in order to connect what has been lacking behind, especially regarding regions in Africa (see LAPSSSET Corridor in Kenya or the SAGCOT corridor in Tanzania). What we also see is a new form of legitimacy production related to the Sustainable Development Goals (SDGs) discourse on poverty of “leaving no one behind” (Fukuda-Parr 2019). In the context of previous experiences of land grabbing, this might sound like a threat coming true for many people

living in these areas and might be translated as: “leaving no land behind” (see SDGs) because now we are going to grab whatever is left! (see Larsen, Haller and Kothari 2022). At the same time, this threat is framed with new hopes of bringing connectivity and speed, from which marginalized people also stand to profit. There is a very high likelihood that this so-called enchantment of MIPs will not only lead to new disappointments but also come with new expropriation processes. We propose three approaches to discuss this process and analyse the examples of MIPs related to the agrarian sector, which show more concretely the impacts these large-scale projects have at the local level.<sup>1</sup>

The first approach is related to the new frontier (Rasmussen and Lund 2018), the second to new infrastructure being shaped as so-called enchantments and desiring machines, which turn out again to be anti-politics machines in the long run (De Vries 2007, Harvey and Knox 2012, Ferguson 1994, Niederberger et al. 2016). This approach deals with the production of positivity and future-making in the early discourse of a ‘progress machine’ at a local level but argues that this is turned into disenchantment with the potential to turn into processes of ‘politics machines’. From this second approach, we move to the third one, stemming from our work on MIPs. We argue that the interesting elements of the two former approaches can be incorporated in a combined new institutionalism and political ecology approach. This approach discusses external drivers in interrelation with the internal processes of specific local contexts, that are interlinked and shaped by different configurations of power relations by different actors (Haller 2019a).

### **The New Frontier Approach**

In the first approach, it is argued that what we are experiencing in recent years is the extension of frontier spaces in the form of a capitalist expansion (see Rasmussen and Lund 2018). New mega-infrastructures can be seen as examples of changing local contexts and processes of territorialization as new territories are entered into this expansion. According to the new frontier theorists (See Mosley and Watson 2016; Rasmussen and Lund 2018), this leads to transformations of old resource rights, de-contextualization of resource contexts, territorialization and commodification. A further step in this logic are land- and green-grabbing processes, as the capitalist expansion tries to incorporate new territories that are mainly used for extraction and to a certain degree for production. At the same time, such areas also come to be of interest to business actors and companies engaged in commodified conservation. In this context, we see that new frontier making comes with ideas of pioneering development and – as we argue later on – also uses frameworks of not just modernity but also sustainable development. We criticize the new frontier approach as being overly top-down in its analysis. It does not really focus on local level dynamics, how this change influences local power relations, or how local states and economic elites also gain bargaining power in these contexts. While the new frontier theorists claim that such contexts are also characterized by processes of exclusion and of transformation of property rights constellations, the approach does not explain how these processes manifest themselves. In addition, we argue that the “new frontier” is not so new, given that its actors capitalize on institutional transformations from previous colonial settings. Thus, the new frontier is not a wave hitting an untouched pristine shore but rather, is accruing on top of earlier transformations. This includes power relations between actors, discursive appropriation and degradation of local land and land-related common-pool resources as well as the selection of institutions within an increasing institutional diversity (institution shopping

Haller 2019a, 2020). What especially needs to be examined more closely is not just the new frontier that is sweeping across vast areas like a hurricane but also that externally driven changes in the value of certain elements of a landscape (i.e. land or land-related resources and territories) trigger specific interests and aspirations of more powerful actors who then try to harness the new opportunities in changing local contexts.

### **Anti-politics, Desiring Machines and Enchantment**

In order to explain local processes and link these with external economic and political dynamics, we need further approaches that analyse the legitimization production framework. These are linked to new aspirations that interrelate with discourses of development: Ferguson's anti-politics machine (1994) is a powerful tool in this respect as it highlights the way in which the notion of development also hides power asymmetries and contexts of exploitation as well as driving the extension of a technocratic state apparatus linked to international actors. It is also an approach that highlights how powerful external and local actors' access to land and resources is enabled in the name of development. As an extension to Ferguson's approach, De Vries (2007) proposes what he calls a Desiring Machine in the context of MIPs. He argues that we are not just facing the hiding of power asymmetries and state control behind development processes but also that additional desires are produced by the state apparatus in collaboration with powerful actors (De Vries 2007). This leads to the question of how local people cope with these anti-politics and desiring machines when the latter is also often linked to company promises in the form of corporate social responsibility (CSR) schemes (see Dolan and Rajak eds. 2018, Gerber and Haller 2020). Harvey and Knox (2012) propose the term of enchantments of infrastructure. They argue that the hiding of power asymmetries and the production of desires lead to the production of 'magic ideas' related to speed, mobility, access to new areas and new hopes. But this enchantment is also ambiguous as such changes might lead to instability and insecurity. Interfering with such ambiguities are what we call processes of 'docking stations': if a project is under way, new and old infrastructure desires can dock to the large-scale project and attract or help to find funding (i.e. green economy and climate change measures). This means that a new set of actors as well as specific local actors might be enabled to use enchantment synergy or enabling effects due to the docking options. The impact of such options is often limited to the most powerful actors. Therefore, we need to be looking at how processes of anti-politics and desiring machines turn into disenchantment and politics machines over longer time periods. This might happen after desires (such as gains from corporate social responsibility (CSR) programmes, job promises and aspirations) have vanished and costs for local actors as well as losses of resources have accumulated. These costs include evictions, loss of common property rights over land and land related common-pool resources (water, pasture, fisheries, forests, wildlife, non-timber forest products). Such processes might be leading to a loss of resilience with no, or reduced access to CSR programmes, as the results from systematic qualitative comparative studies on large-scale land acquisitions indicate (see Gerber and Haller 2020). However, such an approach would need to incorporate a differentiated view of all actors, whose power relations are not homogeneous in nature.

### **The New Institutional Political Ecology Approach**

What is lacking in these approaches is something that the frontier approach had proposed but was unable to differentiate: It is the question of how and by whom MIPs are proposed

and initiated in external planning and financing arenas. It is in this context, where new technologies, new green demands and new legal arrangements are negotiated, that a combined new institutional and political ecology approach (NIPE) could be of help (Haller 2019a). In this approach, there can be discussion about investments in MIPs that are driven by external actors (initiating and following economic-legal environment, demographic changes and technological change) and thus impacting the relative prices of goods and services (see the issue on changes of value of resources and territories). This, in turn, impacts the bargaining power of actors in a local arena, their ability to select and transform institutions (rules, regulations laws, values, norms etc.), the shaping of local organizations and the ways to legitimize selection of institutions and forms of organization by ideology of modernity, narratives of underdevelopment and discourses of development. This process then leads to specific forms of distribution of costs and gains and to local behaviour towards these changes. In the context of MIPs, the outcome of structural adjustments and neoliberalism in the last 20 years has reduced state-development and -oriented economies to the external borders of states in the Global South, often leading – as state revenues were undermined – to the neglect of infrastructure and sustainable development. These changes are interlinked with colonial legal legacies such as the transformation of local common property to state property, which are now further changed either into de facto open access (failed state) or are transformed into private property driven by neoliberalism (see Haller 2019b). This goes along with new forms of in- and out-migration of people in territories now labelled as either open access or private property. The use of new technology such as MIPs is leading to a new valuation of localities as well as goods and services: land and land-related common-pool resources previously held as common property face a change in value (relative prices). Therefore, there is not just a new instant frontier at the beginning of the expansion process, but this expansion is falling on local pre-colonial, colonial and post-colonial power and institutional constellations, and on territories which are not of a pristine nature but contain existing cultural landscapes and ecosystems (see Ellen 1982, Fairhead and Leach 1996, Haller 2019b). These constellations are then affected by the new value of land that has been transferred from the legal local forms of (mostly) common property that is shared among the community into privatized goods and fragmented sections of territories (large-scale plantations of monoculture, mining, conservation areas etc). For local contexts, this means that this new value of land as soil for agro-industries or space for infrastructure can no longer serve as cultural landscapes for multipurpose use (see Haller 2019b). It also means, for the internal action arena of local actors, that the bargaining power of local actors/groups (elites and external actors have more power) are transformed by external actors (states and companies) in collaboration with local elites, and not with communal users. This happens because local elites as well as powerful outsiders attracted by the shifting – often increased – value of land and resource can select new institutions (i.e. from common to state or private property and other legal plural institutions) and perform what can be called institution shopping: the selection of institutions (privatization, state rules and laws, international regulations, new funding rules for infrastructure linked to CSR and sustainability etc.). This can furthermore be legitimized by ideologies of modernity and progress, narratives of underdevelopment and idle land and enchantments of (green) development with discourses of sustainability, functioning as green anti-politics machines in different forms.

However, the approach does not end with this analysis but recognizes that commons grabbing on a large-scale is happening now via MIPs. It further argues that the realization

of the disenchantment and undermining of livelihoods also lead to the undermining or grabbing of local resilience strategies (Haller, Käser and Ngutu eds. 2020). What is still lacking in the previous approaches is the analysis of power relations. We thus propose to link the new institutionalism framework with the analysis of power on all levels: external variables, relative prices, internal variables and outcomes (see Ensminger 1996). This analysis is based on three approaches of power from political ecology: a political economy notion of power, informed by a Marxian approach; a post-structuralist and constructivist power analysis informed by Foucault and a feminist approach looking at patriarchal (elite) power constellations and the question of whose ontology has more power than other ontologies and why (see Descola 2013 in Haller 2019a). In the latter case, it is argued that local ontologies (such as animism and totemism) have much less power than capitalist, naturalist ontologies, which focus on separation of humans and their environment and exert power by exploiting the environment, local inhabitants and especially women (see Haller 2019a). This means that the blind spots on how power dynamics impact relations between actors (i.e. access to resources), between the external relative price-induced processes and internal mechanism of interaction can be studied.

Finally, we argue that we are not faced with a tragedy of the commons at even larger levels as previous land rush processes might have suggested. Rather we also experience local responses to these anti-politics machines and strategic options that depend on local bargaining power constellations, ontologies and ideological resources of legitimacy (Gerber and Haller 2021). These bargaining power constellations present themselves differently depending on timeline, impacts and the processes of disenchantments to which they react.

Using this new institutional political ecology framework, we propose a fresh look at case studies which might seem untypical for MIPs but which show the impact most clearly with regard to institutional change and docking station strategies, as well as a range of local reactions that are time bound. Out of a wide range of 16 cases from various world regions' (see Haller and Weissman in print), we propose an empirical selection of two case studies from Asia (Tibet) and East Africa (Tanzania) to illustrate what make these more agrarian-oriented MIPs different to previous investments discussed in the land grab debate. They have been established from a large-scale MIP perspective but show elements of previous agrarian land grabs, although at a much larger scale and are linked to the enchantment idea and desiring machine. These concepts are, in turn, either directly or indirectly linked with the BRI or other initiatives to boost mobility, transport and development as a motor of progress. Using the combined theoretical framework that we have outlined, we examine what the external drivers and their power constellations are; how this changes the interest in the area from external actors' perspectives (relative prices) and how this impacts the different local bargaining power constellations. We further examine the selection of institutions and processes of legitimacy production (ideologies, discourses and narratives) of enchanted development vs. disenchantments on the local level and related constructivist and ontological power dynamics (from Anti-Politics and Desiring Machines to Politics Machines). Last but not least we will illustrate local responses and reactions.

### **Methodologies and Case Studies**

Both case studies are grounded in data from combined desk and qualitative research based on social anthropology and human geography methodologies. Parts of these cases stem from desk research and online interviews conducted during the writing period. This is the

case with both case studies, whereas for the empirical part of case 2 (SAGCOT, Tanzania), authors were partially or fully doing research for several weeks or months between 2018 and 2020. Empirical data were collected based on methodologies such as participant observation, visits to the MIP sites, open and structured interviews. The data from desk research and the empirical field data were gathered for a larger comparative publication as mentioned above.

### **Extending State Control with Multiple Fits: Tibet in the Belt and Road Initiative**

Kongpo and Moozhiyil (forthcoming in Haller and Weissman in print) show in their report that the BRI on the Tibetan Plateau and its impact cannot be reduced to a single specific project. Rather it is characterized by a multitude of projects that reinforce synergies between transport development infrastructure, hydropower infrastructure projects, resource extractivism and agro-industry development that have been in discussion from a Chinese perspective for a long time. These started with colonizing the Tibetan Plateau through the use of railway infrastructure by establishing and extending the Qinghai Tibet-Railway and the extension of the railway network on the Tibetan Plateau by China's Ministry of Commerce. With this move, connections from Lhasa and Shigatse to Kyirong (30 km from the Nepalese border) will be enabled in 2022. A second major railway from Chengdu to Lhasa, the 'Sichuan-Tibet Railway', has been under construction since 2014/15 (The People's Government of Sichuan Province 2020). At the same time, China plans to extend the railway to the borders with India, Nepal and Bhutan and aims to integrate Tibet into those new networks (ICT 2014). In addition to rail transport facilities, Tibet with its glaciers and waterways will serve as a "water tower", not just providing drinking water, but also hydropower, water for irrigation and other uses. These will then be linked to further various infrastructure and agro-industrial projects under the BRI for a more 'efficient economy'. In addition, the new infrastructure will also help explore mineral deposits on the Tibetan Plateau (ranging from metals such as gold, copper, chromite, iron, aluminium, zinc, boron, lead and lithium to deposits of crude oil, asbestos, natural gas and coal). Last but not least, seemingly in contrast to these mobility and resource use interests, there are conservation interests to be addressed. These lead to the extension of conservation areas and resettlement projects labelled in the context of poverty reduction, economic development, environmental protection strategies, environmental migration policy and sustainable development. The impact of these cumulated interests is enormous: more than two million Tibetans have been relocated or made sedentary since the 2000s. The Sanjiangyan area, where the headwaters of the Yellow, the Yangtze and the Mekong rivers are located, is a current example of ongoing resettlement projects for pastoralist nomads that are legitimized by an environmental conservation discourse in which pastoralists are considered to be harmful to the ecology of the area and responsible for the degradation of the grasslands (Woo and Reuters 2019).

This is therefore a case in which the BRI can be considered as providing a docking station for ongoing infrastructure and control extension over the last 20 years that can now be newly reframed, while it also extends its potential activities not just to main infrastructure but also to agro-industrial development. It is a link that provides Chinese government elites with an opportunity to deploy post-docking state strategies, that enable the inclusion of ongoing sub-projects from the last 20 years. These comprise mainly of railroad extensions, but also such projects as dams, hydro-power and mining that were planned long before the discourse of the BRI was established but could not be implemented at the time.



With the development of the BRI, these plans can now materialize since they provide opportunities to attract attention based on the discourses of modernity and urgency for which funding can therefore be organized. It also enables the extension of political control and technical governmentality over an area of long-standing interest and contestation, as well as over a territory of symbolic contestation with the West. Interestingly, the Chinese government – regarding this process as an internal matter – uses a discourse of an overall win-win project that brings benefits and contributes to efficiency regarding the provision of jobs, mobility and thus modernization (Hoering 2018, Jessop and Sum 2018).

However, the opposite seems to be true for a large part of the local nomadic people that use local common-pool resources held in common property. Here the major impact from the local perspective is that all these different projects disrupt land-use practices and lead not just to land, but to broader commons grabbing (Kernan 2013). This is the case with transport infrastructure that cuts through pastoral areas and hinders mobility. Bringing even more serious impacts for local livelihoods are mining and the construction of dams that require a lot of land. These can render mobility and access to grazing pasture at best, impractical and at worst, impossible. Linked to these land grabbing processes is agro-industrial production, which leads to issues of water pollution and land and water grabbing on a large scale (Nyima and Yeh 2016). Last but not least, the establishment and extension of protected areas excluding local nomadic people can be seen as a green extension of this part of the BRI docking station feature. According to Bixler et al. (2015), Tibetan pastoral groups that were interviewed argue that there has been no participation, neither in decision-making nor during the implementation phases, and that neither jobs nor alternative livelihoods are offered. They further maintain that no compensation was paid for pasture or water loss (*ibid.*).

Resistance to these different MIPs and MIP-related docking station projects are manifested in different ways beginning with criticism of these grabbing processes in infrastructure, mining, damming, conservation and agro-industrial agriculture that is often supported by non-governmental organizations (NGOs) worldwide as well as within China (i.e. important authors in China on social media, China's main TV director, among others), up to protest movements and violent protests on the Tibetan Plateau that address grabbing and pollution processes close to waterways and sacred sites (Del Bene and Gyaltzen 2015). However, since 2016, reports of protest movements against mining and dam projects have sharply decreased, as web research by Kongpo and Moozhiyil from January 2021 shows (Kongpo and Moozhiyil in print). This might be linked less to an alleged subsidence of the of protests, and more by blocking the flow of information and possibly the increase of repression, censorship, surveillance and militarization (Gamble 2019: 46).

Therefore, the earlier cited research indicates a great disenchantment linked to an ever-existing local suspicion of official Chinese plans, and an increase in local views that perceive land grabbing caused by the MIPs and its docked projects as a grabbing of common-pool resources and an associated loss of common property in Tibet. We thus cannot speak of a new frontier because these plans were already conceived in the 1950s. It is just that the BRI initiative enables the realization of these plans through a type of docking station and through processes of path dependency. It is argued in cited literature that the strategy of the Chinese government always seemed to have been to sell these plans as providing development and thus being a kind of Anti-Politics Machine. However, local actors seem to be aware of this process, which is upheld via repressive strategies by state actors and the communist party. Furthermore, this process is highly contested, including by Tibetans in

exile, who get support from Western governments. This is again fuelling the need for Chinese officials to show strength and create infrastructural facts, while selecting institutional and also developmental and sustainability discourses. This appears to enable Chinese colonialization to a larger extent than before. Referring to the BRI helps the government to implement previously planned projects as well as future projects yet to be constructed. By enabling wider commons grabbing and extractivism, as well as by extending control (via criminalizing, stigmatizing and taming local critiques as well protests), enchantment discourses can be used as the new anti-politics in the context of BRI. What can newly be addressed in this case is that industrial development and conservation are very much on the same page. The Chinese government extends its argumentation and also commons grabbing strategies by referring to conservation and establishing new conservation areas (Bixler et al. 2015, Foggin 2018, Rogers and Wilmsen 2020). Thus, there is a link to the SDGs not just regarding infrastructure but also regarding efforts at fighting hunger by extending food production and saving life on earth. These institution shopping mechanisms (related to internal as well as to global international institutions) and discourses of development that are extended by the SDGs help to silence external critique on political and repressive human rights issues. They also reveal another strategy of hiding continuous commons grabbing on several levels and the extension of state capitalist power.

### **Green Commons Grabbing and Institution Shopping: SAGCOT and Its Consequences in Tanzania**

The relatedness of conservation and agriculture leads us to the second example in our selection based on Fiechter et al (forthcoming in Haller and Weissman in print): The *Southern Agricultural Growth Corridor Tanzania* (SAGCOT), a large-scale agricultural development as green MIP covering an area ranging 150 km north and south of the capital Dar es Salaam and ranging to the west up to Lake Tanganyika in the north and to Lake Malawi in the south (350,000 ha) (Sulle 2020). We will present literature research data including a special focus on projects in the Iringa region (*Ithemi Cluster*) supported through the Clinton foundation (see Bösch, Fiechter, Gallauer and Gmür in print). Bösch et al. conducted literature research and on-site research comparing multiple localities and regions grouped into several clusters within the growth corridor in Tanzania. SAGCOT promises large-scale infrastructural upheaval towards a green modernity based on sustainability labels, green-growth and connectivity through physical infrastructure to reach markets and investment. It also reveals several docking station options. The case study presented here deals with a farm complex established by the Clinton Foundation that illustrates this process. Generally, the SAGCOT is a multiple green agrarian-based MIP that includes the state, international and private donors as well as being a vehicle for business actors based on enchantment promises of economic development, opportunity, jobs, connectivity, prosperity, sustainable farming techniques and so on. Tanzania's agricultural sector has its roots in the British colonial past that gave way to a socialist development path after independence and subsequent neoliberal policy since the 1980s, with the introduction of a large number of public-private partnerships since the 2000s. The enchantment promises made under the new label of development hide central questions of institutional change of common to state and then privatized property of land and land-related common-pool resources. The international debate on SAGCOT refers to discussions about dispossession undermining fragile local communal resource and land rights (e.g. Bluwstein et al. 2018; Maganga et al. 2016;

Sulle 2020), and is seen as the green agriculture aspirations and top-down envisioning of a development corridor (e.g. Dannenberg et al. 2018; Steffens 2016; Steffens et al. 2019). These aspirations driven by the state and agro-industrial companies are acting within a legal pluralism that has existed since colonial times and is related to institution shopping processes as well as Anti-Politics politics related to development discourses used to legitimize the establishment of the corridor (see i.e. Bergius and Buseth 2019; Bergius, Benjaminsen, and Widgren 2018; Engström and Hajdu 2018; Sulle 2020). The main problem with SAGCOT is its institutional land planning nature that enables commons grabbing as well as the exclusion and eviction of pastoralists within SAGCOT regions based on two processes: (a) a focus on the final transition to state property of land and resources (in the hands of the President, see Gmür 2020) and (b) land-use planning strategies that transfer, for example, pastoral and forestry commons of local villages to make these available for development projects and thus opening them to grabbing processes by state and other investors (see Bluwstein et al. 2018). This undermines locally established institutions that coordinated resource management between farmers and pastoralists, fueling conflicts between them (e.g. Bergius et al. 2020; Maganga et al. 2016). Furthermore, SAGCOT acts as a multi-sited ‘broker and catalyst’<sup>2</sup> of numerous development programmes containing the SDG-related discourse of resilient and sustainable development and green modernization enchantment of mainly agrarian investors (international agro-chemical European companies). It even has the potential to attract investments such as pension funds, beyond the state or international organizations such as the World Bank, which eventually withdrew because they perceived it as being too risky (see Engström and Hajdu 2018, Bergius and Buseth 2019). For a long time, this international engagement provided docking stations to legitimize actions and to increase bargaining power. One of the initial anti-politics machines was the state’s *Agriculture First* (Kilimo Kwanza) strategy, advancing various other national programmes and other initiatives under ‘green development’ (e.g. ‘Vision 2025’). Herein the World Bank, the Food and Agriculture Organization (FAO) and the governments of the G8 countries together with USAID, UKAID and the Norwegian Embassy as funders<sup>3</sup> and 122 private sector companies, commercial banks, (inter)national development, farmers and government organizations publicly joined as partners to fight poverty and the food price crisis after 2008. The SAGCOT corridor includes roads, railways, factories, warehouses, storage facilities, research hubs, water and energy supplies and so on. These infrastructures lie in a multi-sectoral area (cluster), which includes the establishment of commercial relationships between companies, smallholders, outgrowers and other organizations. According to SAGCOT planners, local producers and their products should be connected via roads and railways to transport nodes, warehouses, farm blocks, markets and power plants on the one hand and to international export on the other.

However, impacts at the local level are devastating as the case of the Anchor Farm Project by the Clinton Development Initiative (CDI) near the village of Mtitu in the Ithemi cluster shows (see research report of Gmür 2019, in Fiechter et al in print). The farm had been a settler farm on land which was previously a local common property for grazing and agricultural purposes. After independence, it was given over to the state, but people were using part of its resources, most importantly areas surrounding the village, for pasture and cultivation. However, when the CDI took over in the 2000s, it claimed all of the previously demarcated land (which consists of an additional 600 ha to the previously used 400 ha), making it impossible for people to graze cattle apart from in the areas surroundings their houses. In addition, the villagers were prohibited from growing products other than

vegetables, since the CDI argued that they feared interference with their seeds through cross pollination. This means that the CDI prohibits the planting of crops such as maize in the valleys, which provided people with both food and income, since the maize could be sold at times when prices were high. As a consequence, the remaining resources are being used more intensively on the restricted land people have, leading to environmental pressures and potential overuse (for which local people are then being blamed again). Finally, people have to deal with chemical pollution because *Anchor Farm* is spraying fertilizers and pesticides via airplanes. Villagers told the researcher that they experienced a decrease in air quality and stated that the air pollution has led to health respiratory problems (Gmür 2019). In addition, the farm might use genetically modified organisms (GMOs) which is in line with the fear that SAGCOT – supported by GMO seed companies (such as Bayer and Yara) – will provide access for modified seeds at the expense of traditional and organic alternatives and will lead to intellectual property issues (Magubira 2014).

In this case, the enchantment rests with the involved donors, investors and companies, whereas many villagers are not even aware of the various projects of which this farm and CDI are just one example. Initially, there was hope that the new investors would build tarred roads and also provide access to seeds. However, this hope quickly vanished and was replaced with a view of the CDI and related companies as being a land and commons grabber that were assisted by the government. State officials and especially business people have a much higher material (capital) as well as constructivist (modernity) power to decide on land use and extend boundaries, and to sell their products. Locally then, these losses are illustrative of the grabbing of pastoral and grazing land, as well as inhibiting cultivation for food and sale, which had provided resilience to local people. Thereby the issue is that despite the legal tenure institutions that seem to grant communal and traditional land rights (e.g. the Village Land Act, see Gmür 2019), it is evident that the ultimate rights lie in the hands of the president of the state. This means that pre-colonial, traditional management of common pool resources have been 'legislated out of existence' as have local ontologies of land and land related resources as a spiritually linked communal cultural landscape (Haller et al. 2019). Therefore, communities often use and manage resources to which their rights are not recognized by law (Quinn et al. 2007: 101). This legally pluralistic setting, involving segments of socialist and neoliberal policies vis-à-vis customary rights, as well as conservation legislation, has created a situation of land tenure insecurity in a context of land scarcity – an insecurity which the more powerful from national to household level can make use of (Gmür 2019; Greco 2015; Haller et al. 2019; Maganga et al. 2016; Odgaard 2002). This undermining of previous land-use systems enables multiple actors across various schemes to invest in land using a plurality of institutions related to private property that are finally backed and authored by the state, especially by land-use planning schemes that can be utilized through a type of institution shopping from the top (switch from common to state and private property) with the fear of losing the commons from below. This is then legitimized by a green agricultural Anti-Politics Machine which hides not only the commons grabbing element and its technocratic nature but also the environmental pollution processes from the agroindustry usage, while fully excluding local actors from the previous use of common pool resources and subsistence-oriented production of food and basic cash needs.

This example and others illustrate that SAGCOT provides opportunities for massive land grabbing options for the state and also for companies, as the process of 'territorializing from above' (Bluwstein and Lund 2018) – by demarcating forests, pasture, areas for conservation and investments, and so forth – allows the taking of village land (Bluwstein et al. 2018;

Bluwstein and Lund 2018) through institution shopping (Haller 2010; Haller et al. 2019). This is also the reason why several civil organizations, such as Tanzania Network for Indigenous Pastoralists (TANIPE), Ujamaa Community Resource Team (UCRT) and Northern Tanzania Rangelands Initiative (NTRI) are pushing for collective land titles, in order to include marginalized groups such as pastoralists into a land tenure system whereby the state cannot decide on its demarcation (Fiechter et al. forthcoming).<sup>4</sup>

Local reactions, however, are mixed and less visible. In some villages, district lawyers filed complaints against the investors. However, the negotiations ended in favour of the investor, which further deepened the villagers' distrust in the state authorities (Twomey et al. 2015: 56). Such recourses to law and politics to contest and negotiate the presence of, or broken promises by investors have been observed in other studies, too. The Kilombero Sugar Company Limited (KSCL) for example was taken to court by local villagers that wanted to extend their land claim and won on the argument that the previous company had never developed the land (Sulle 2020). But apart from such isolated cases, there has not been much collective action as 'village administrations have become the ultimate site of negotiation over land acquisitions' and do not involve large parts of the local population (Greco 2015: 36).

The promoters of SAGCOT, on the other hand, argue that the lands they want are mostly empty and not used and that such large tracts should be used in a wise ecological form – as the discourse goes – which is helping to develop Tanzania's countryside in line with SDGs as well as the agriculture first strategy of the late president. SAGCOT is therefore a multi-stakeholder context, where decisions are taken without local considerations or practices. In this case, institution-shopping and green anti-politics machines are deployed in order to enable the change in property and user rights. These often also extend the land that CDI is using, fragmenting landscape ecosystems and disrupting former land-use strategies and finally grabbing the commons and with it, local peoples' resilience.

### Discussion and Conclusion

The two cases of MIPs which are related to agro-industrial development show that processes of frontier-making take place, but that these are much more widely linked to historical, institutional and political dynamics, which can be analysed best by a combined NIPE approach that reflects on external impacts and how these influence local action arenas in a combination of different bargaining powers, institutional selection and ideological production of legitimacy as well as with different forms of organization. These inter-relationships refer to historical and contemporary power dynamics from material structuralist (Marx), post-structuralist/constructivist (Foucault) and feminist ontological analysis of power relations. Processes of colonization are evident in both cases, and these have in their history transformed not only local resource use but also legal institutions, which is a first step in rendering local common property institutions invisible and overlapped by colonial institutional and ontological legacies of *terra nullius*. While in the Tibetan case, China has long-standing colonial aspirations to be finalized, the case of Tanzania has an older colonial context. However, the main issue is that capitalist expansions have created several waves in which these areas have been affected in different ways and with different intensities of internal colonization waves that transform areas already legally transformed in previous times from common to state property. They then re-enact this transformation as soon as the new infrastructure is planned or has come into place. Imagination, as well as their material construction, leads to an ever-rising process of value change as a result of

infrastructure planning and becoming part of this new imagined (Tanzania) or real space (Tibet). While in Tanzania, in the SAGCOT context, new agro-infrastructure is in some areas real as we showed, it is also anticipated to be set up in the future. Pioneering large-scale commons grabbing will trigger more grabbing or lead to an imagination that more grabbing is possible. However, this is not at the same stage as in Tibet. There, the promise of expansion is not just enchanted but has become a reality that is more widespread. On the one hand, in Tanzania, the impacts remain erratic, although in concrete contexts clearly visible and experienced by local people who are affected seriously by the enchantment and thus are also disenchanting. The Tibetan case, on the other hand, indicates that the MIP as a 'big land grab' has become a daily reality, leading to disenchantments. But this is not made visible, and to the outside world, the enchantment and the ontology of naturalism is a powerful legitimizing tool at the level of investors (states and companies) and a docking station for these actors to move on. The promised development undermines local institutions and commons, and threatens livelihoods leading to underdevelopment rather than development in the emic experience.

This leads to several waves of politics machines, which to a larger extent in Tibet have crashed or are not visible. In Tanzania, too, violence against those who openly claim to be disenchanting and legally look for other options is a concrete danger. The issue here is that the processes of docking stations – that is, the Clinton farm becoming part of the SAGCOT – are much more invisible and *fait accompli* situations more often occur to local people's surprise (see also the process of territorializing and land use planning in the SAGCOT area described by Bluwstein et al. 2018). The case study research by Gmür (in Bösch et al, in print) indicates that grabbing constellations emerge suddenly and unexpectedly for local people. These processes occur with the whole 'package' of institution shopping, legitimizing power of the ontology of naturalism as well as discourses of (green) development. In comparison, affected people in Tibet know that this takes place and therefore react with politics machines in combatting such events. Finally, it is to be expected that if this extensive land and commons grabbing process is ever to come about, it will be larger in size and more difficult an accusation to be levelled in this "drama of the large-scale grabbed commons" (see also Gerber and Haller 2020) as it is part of a greater territorialized vision of powerful actors and to a large extent a transboundary vision. It is also fuelled by procedures creating legitimacy of green and sustainable growth, of CSR and of the immense institution shopping potential that most of the SDGs provide, ranging from the development-oriented ones (SDGs 1–5) to infrastructure (SDG 7) and those that are water- and land-related (SDGs 14 and 15). At the international level, this fuels the great green anti-politics machine, making it increasingly difficult for local actors to argue against these green development discourses, as they are linked with the positively labelled sustainability goals. The promoters of these MIPs do not simply use material, structuralist and capitalist power but also use post-structuralist and constructivist power (green development, markets and jobs for the poor and ontological naturalist power to transform free pure nature into a commodity, while conserving pure nature on the other hand) (Larsen, Haller and Kothari 2022). Both strategies based on the same ontology have more power than local ontologies, which try to legitimize their right to the land and land-common-pool resources by common property rooted in their socio-cultural world views. While it becomes evident that local people face the drama of grabbed commons across larger political scales that are not just local but regional, national and international, it remains to be seen if less powerful actors can also respond at a higher level in order to coordinate the fight against the commons grab.

## Notes

- 1 Other cases studied in the same project focussed on a larger bundle of investments into roads, railway, pipelines, large ports, so-called smart cities and resorts. (These are discussed in Haller and Weissman (eds.) in print and Haller et al. 2022).
- 2 <http://sagcot.co.tz/index.php/who-we-are/> (last accessed: 06.05.2020).
- 3 <http://sagcot.co.tz/> (last access: 06.05.2020).
- 4 <https://borgenproject.org/communal-land-rights-tanzania/> (last accessed: 25.04.2022)

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## **PART 8**

# Urban Land Grabs and Special Economic Zones



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# URBAN LAND GRABS

## An Overview of the Issues

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### Introduction

According to the United Nations, 70 per cent of the world's population would be living in urban areas by 2050 (United Nations, 2018). Foreign and domestic investment flows, as well as the mobilities of people, goods, technologies and ideas, shape the development of megacities, secondary cities and new cities across the globe. These flows transform urban land and the built and natural environments at a rapid pace. The pace of transformation is especially intense in the Global South. For example, urban development in Africa received significant scholarly and policy attention over the past decade in terms of how to achieve equity and sustainability in growing cities (OECD, 2020; Parnell & Pieterse, 2014). In the framework of the United Nations New Urban Agenda and the Sustainable Development Goals, the urgent question is how cities can provide sustainable and inclusive living environments for rapidly increasing urban populations while simultaneously promoting climate change mitigation and adaptation (Angelo & Wachsmuth, 2020; Zoomers et al., 2017).

In these debates on global urbanization and sustainable urban transitions, the question of land is only generally mentioned at the side-lines (Steel et al., 2019). Discussions on gentrification, displacement, urban renewal and infrastructure development centre on social, physical and economic change in urban environments, yet the question of urban land development, which sits at the very basis of these transformations, is rarely expounded upon or taken as a central point of analysis. We still know very little about how to promote an inclusive urban development that ensures land tenure security and quality infrastructural services for all urban dwellers, especially in a political economic context where the state's centralized 'infrastructural power' is limited (Mann, 2008). In particular, we need a better understanding of how urban dwellers confront and cope with livelihood and land use changes during the process of urban development increasingly accompanied by investments and land acquisitions. How do urban dwellers experience spatial alteration and social segregation, or outright demolition of their homes or settlements, after eviction and displacement resulting from new infrastructural projects and urban resettlements? What are the responsibilities of investors and decision makers in responding to these experiences?

In this chapter, we address these questions through a discussion on the emerging concept of ‘urban land grab’ and by examining the relationship between intensifying urban land acquisitions and the experiences of urban dwellers. We first identify three major types of land investments observed in cities in the Global South: investments in rural and peri-urban land development and real estate; investments in infrastructure development for climate resilience and sustainability; and investments in building new cities (Steel et al., 2017). We explore the relationship between urban dwellers and each type of investment by presenting empirical cases from Khartoum in Sudan, Beira in Mozambique, and Konza New City (near Nairobi) in Kenya. We base our empirical analysis on African cities because, according to OECD (2020), Africa has the most rapid and acute urban population growth in the world. Furthermore, African cities are not just growing in population number and size, but are increasingly becoming the new frontiers for foreign and domestic investment which involve a wide range of private and public actors. Each presents new forms of speculation and commodification of public, private, and customarily-owned land and properties (De Boeck, 2014; Ghertner, 2015; Watson, 2013). As a result, these cases are likely to illustrate both the current and future directions of urban land grabs. Before presenting the cases, the next sections provide an overview of the discussions surrounding investments, global land and resource grabbing and its consequences in the urban context in order to specify what each case seeks to address.

### **Urban Land Investments and their Consequences**

As discussed by urban scholars, the world has been experiencing an era of ‘neo-liberal urbanization’ (Sheppard et al, 2015). In cities across the globe, complex global connections and disconnections transform land markets and often lead to violent social exclusion (Sassen 2014; Shaw 2019). At the same time, the global land and resource grabbing debates surged in the late 2000s with the call to better understand the extensive impacts of large-scale land investments—mostly in agribusiness and nature conservation—on development processes in the Global South (Borras & Franco, 2013; Cotula et al., 2009; Deininger & Byerlee, 2011; Fairhead et al., 2012; Kaag & Zoomers, 2014; Wolford et al., 2013). The concept of urban land grabs emerged in the late 2010s when scholars, questioning the dominantly rural orientation of global land grabbing debates, pointed to similar problems of neo-liberal urbanization, social exclusion and other negative impacts of investments on people’s livelihoods in urban contexts (Zoomers et al., 2017).

In land and resource grab debates, scholars initially paid little attention to the implications of large-scale land investments in relation to rapid urbanization. Meanwhile, the New Urban Agenda, presented at the United Nations Habitat-III Conference in 2016, not only recognized urbanization and its associated impacts—a proliferation of informal settlements, the eviction and demolition of these settlements due to redevelopment, and associated chains of displacement—but clearly laid out the similarities with rural land and resource grabbing impacts (United Nations, 2017). Scholars thus started to recognize that

debates on the global land rush and the New Urban Agenda are taking place in separate containers [... but] cities themselves act as major ‘land grabbers’, as they expand due to population growth, the spread of middle-class lifestyles and suburbanization, speculation, and new city development.

*(Zoomers et al., 2017: 242)*

Consequently, emerging discussions integrated global land grab debates with urbanization debates to conceptually and practically grasp the implications of global investments for people dwelling in expanding urban land frontiers (Mbiba, 2017). Towards this end, Steel et al. (2017) detailed three dominant investment types that characterize the phenomena of urban land grabs: (1) investments made directly in land, which, simultaneously, are often property investments, especially real estate which is a driving force of private and commercial gentrification; (2) investments in the speculative building of new world-class or ecocities which often fail to materialize yet create very real impacts nonetheless (van Noorloos et al., 2019); and finally (3) investments in public spaces and services, such as networked infrastructure that indirectly affects the real estate market and urban settlement patterns. Due to the Sustainable Development Goals (especially SDG11 on sustainable and climate-resilient communities and settlements), these investments are increasingly directed towards infrastructure development for climate mitigation and adaptation (Shannon et al., 2018).

In most cities in the Global South, where more than half of all urban dwellers are found in areas with no or precarious land tenure, investments in land and real estate, infrastructure and new cities lead to the formalization of land and housing or the upgrading of human settlements. Formalization and upgrading expand the ‘frontiers of land commodification’ (Kelly & Peluso, 2015) and create private properties, eliminating customary access to land and livelihoods for the majority of urban dwellers (Ghertner, 2015; Otsuki, 2019). For example, most informal settlements in Africa (which can host up to 60% of a city’s population) have historical roots in the colonial period when a city emerged as a set of racially segregated spaces; in the post-colonial period, the majority of the new citizens became informal settlers (or ‘squatters’) on the public land who have nonetheless kept customary land user rights in these settlements under the new national government’s ‘benign neglect’ (Otsuki, 2016). This means that the recent commodification of land has far-reaching impacts on urban dwellers who rely on cultural arrangements to make a living in the informal settlements (Bird et al., 2017; Shih, 2017). Nonetheless, in contrast to the rural land grab debate, where large food and biofuel corporations are clearly considered to be the powerful and known ‘enemy’ of smallholders and local populations, the influence of a multitude of players involved, for example, in urban real estate deals, is not easily traced in an urban context (van Noorloos et al., 2018). Or, as Rodgers and O’Neill (2012) point out, infrastructure could turn ‘violent’ when it physically oppresses or displaces people or symbolically makes structural inequality visible, yet it is ‘ostensibly nobody’s fault’.

The elusiveness of ‘structures of responsibility’ characterizes the phenomenon of urban land grabs (Ferguson, 2012). In order to address this elusiveness, we first need to get a better grasp on the players involved in particular city investments and how economic and physical displacement make such investments exclusionary for different groups of people. Then, we need to find pathways that turn the ‘grab’ into more inclusive urban development which involves various actors and citizens who otherwise cope with the effects of the grab (Otsuki et al., 2017). In what follows, we present three case studies of African cities reflecting the three major types of land investments observed in cities in the Global South: investments in rural and peri-urban land development and real estate; investments in infrastructure development for climate resilience and sustainability; and investments in building new cities (Steel et al., 2017). The following case studies are elaborated based on authors’ previously published works and field research.<sup>1</sup> By way of these empirical examples, we explore the types of investors, land users and other actors affecting and being affected by the investments.

## **Land Grab Experiences in African Cities**

### ***Investments in Urban Land and Real Estate: The Case of Khartoum, Sudan***

In Khartoum, the capital of Sudan, various international, national, public and private actors have purchased land to profit from the high land prices in the centre and the more peripheral areas of the city. Under Omar Al-Bashir's authoritarian regime, the Sudanese government encouraged foreign investors to establish private partnerships with national corporations in order to invest in land and real estate in Khartoum. By encouraging these types of public-private partnerships, the state attempted to maintain control over the activities of international companies and to chip in on some prestigious projects. Investors from Saudi Arabia and other Gulf States became especially important players in Khartoum's land and real estate markets by teaming up with national counterparts for commercial and residential development projects (Cromb , 2009; Choplin & Franck, 2014). They have converted the riverbanks at the confluence of the White and the Blue Nile into mere commercial investment sites from which traditional farmer populations have been excluded.

On a more individual level, Sudanese diaspora (e.g., those working in Saudi Arabia or the Gulf States) became important investors in Khartoum's lucrative land and real estate markets. In anticipation of returning to their home country in the future, they invest money earned abroad in land and real estate in their hometown. As such, real estate projects have attracted Sudanese migrants living abroad interested in buying up town houses, apartments and villas in gated communities (Elhadary & Ali, 2017; Klaufus et al., 2017). By circulating adverts at Sudanese embassies and on social media platforms used by Sudanese diaspora, the Khartoum state government is also actively recruiting potential buyers among the Sudanese diaspora for the so-called empty lands in the outskirts of the city (Kaag & Steel, 2019). These so-called empty lands are registered by the state government but are not yet developed as envisioned in the Khartoum Structure Plan (KPP5, 2010). These registration processes have already resulted in a couple of concrete displacements in the planning phase. Urban farmers, internationally displaced people and other migrant populations who lived there as tenants or 'squatters' without formal agreement have been pushed away from these provisioned and materialized investment sites (McGranahan et al., 2020).

In other words, land and real estate have become the main drivers of Khartoum's political economy afflicted by a lack of oil revenues (due to the secession of South Sudan from Sudan in 2011) and the lack of hard currency (due to a number of international sanctions and trade barriers). A new dimension of these urban land dynamics has resulted in light of the overthrow of the 30-year authoritarian regime of Omar Al-Bashir in April 2019. With the military-civilian transitional government that is currently ruling the country, land investors from Saudi Arabia and other Gulf States might lose the protection they received from the former regime through long term and tax free lease contracts. In the post-revolutionary city, many land sales and even land confiscations are taking place. In combination with an inflation rate that is running at over 200 per cent (Schipani, 2021), middle-class people and beneficiaries of the old regime sell land because they are in direct need of cash. Also, political elites and foreign investors sell their land and real estate projects because they are afraid their land may be confiscated once the obscure ways the land was acquired becomes clear.

Two questions arise: what is the role of new flows of foreign capital in this opaque and unpredictable urban land nexus, and what kinds of inequalities might reproduce or be

generated? Especially due to Sudan's removal in December 2020 from the US list of state-sponsored terrorism, the transitional government has high expectations of the Sudanese diaspora (UNDP, 2020) as well as private foreign investors in land, real estate and urban development in general. Looking to Khartoum's past, it is not likely that residents will benefit equally from these developments. At least the currently high number of politically and economically vulnerable populations—including migrants, conflict-displaced persons and low-income tenants—run the risk of further exclusion from and discrimination within Khartoum's land and real estate markets (Mcgranahan et al., 2020).

***Investments in Climate-Resilient Urbanization: The Case of Beira City, Mozambique***

The port city of Beira, Mozambique, located on the coast of the central Sofala Province, is home to roughly 500,000 people. Beira is often described as Mozambique's second most important city due to the economic significance of its port and the city's fierce culture of political opposition to the central state. It is also widely known as one of Africa's most climate vulnerable cities due to its extreme susceptibility to urban flooding and tropical storms, such as the particularly devastating Hurricane Idai in 2019. As Mozambique rises as a 'growing frontier market' for international investors (Kirshner & Power, 2015), Beira has become the focal point of foreign investment and international donor support with the aim of enhancing the city's climate resilience through a range of infrastructural investments and institutional interventions.

Among the various donors, the Netherlands has established a particularly ambitious and controversial partnership with Beira's municipality to restructure the city (Shannon, 2019). Designed by Dutch engineering firms, the Beira Masterplan details a vision of formal and resilient urbanization for the year 2035. In line with the Netherlands' 'retoliberal' aid agenda (Murray & Overton, 2016), the Beira Masterplan is premised on the promotion and subsidized involvement of the Dutch private sector during its implementation. Since its publication in 2013, a range of Dutch-funded interventions followed up the Masterplan in the realm of infrastructure development, spatial planning and cadastral reform. The Beira Masterplan was recently incorporated as a best practice in Mozambique's national review of the Sustainable Development Goals, which mentions it as Mozambique's contribution to building a sustainable and resilient city following SDG11.

One vision outlined in the Masterplan turns Beira's wetlands into lucrative real estate zones. The city's wetlands and its abundance of water have been at the basis of a vibrant sector of urban and peri-urban agriculture, particularly rice cultivation. The distinctly women-led institution of urban agriculture has been practised for generations in wetlands located throughout the city (Sheldon, 1999), buffered from competing land claims and providing a crucial contribution to urban poor livelihoods. Although data is limited on the extent of agricultural land use, 2013 land use maps estimated that total agricultural land within the city limits was comparable in size to built-up areas. The Masterplan's vision is inevitably premised on displacing these urban and peri-urban farmers. The Masterplan, assuming that all of the city's agricultural land will be converted into other uses by 2035, thus implies the total erasure of urban farms and the socio-cultural institutions underpinning it.

The erasure of urban agriculture is reflective of a broader anti-urban agriculture agenda that the municipality has been pursuing under the current leadership (Shannon et al., 2021). Breaking with decades of government support to urban agriculture in Mozambican cities



(Sheldon, 1999) and its own potential function as offering ‘green spaces’ in cities (Contesse et al., 2018), farming is now depicted as a backward and transient practice that does not contribute to the sustainability trajectory envisioned in new infrastructure development projects. Based on a contentious understanding of Mozambique’s legal framework, farmers have been cast as temporary care-takers as opposed to legitimate rights-holders to their land. This discursive shift allows property developers unfettered access to urban agricultural land, without the need for consent or value-based compensation. As such it bears similarities to the myth of empty land in Khartoum and ‘unused’ land that has been leveraged to legitimize large-scale rural land grabs more broadly throughout the Global South.

For many Dutch and municipality stakeholders, the displacement of farmers is seen as a necessary evil towards the creation of a modern and resilient city. A city which they argue will be accessible to all of Beira’s residents through the inclusion of low-cost housing developments, which, in reality have firmly targeted a middle-class minority. Thus, not only are Beira’s farmers facing systematic displacement, they are doing so in service of an urban vision that is in no way accessible to them. Instead, landless farmers find themselves in a heightened state of vulnerability in the shadows of the new sustainable and resilient city, forced into other precarious sectors, such as street hawking, that are susceptible to municipality crack-downs and further displacement.

### ***Investments in New City Development: The Case of Konza Technopolis New City, Kenya***

In the past 15 years or so, new ‘world-class’ cities are arising from scratch in an increasing number of African cities; these developments often take the form of public-private partnerships which involve a large variety of actors with sometimes ambivalent and contradictory roles (Carmody & Owusu, 2016; Côté-Roy & Moser, 2018; Keeton & Provoost, 2019; van Noorloos et al., 2018; Watson, 2013). While some of these cities are actually built, in many places, including many ‘smart’ and ‘eco’ cities in Asia, new utopian towns remain a drawing board exercise (van Noorloos & Kloosterboer, 2018). One example is Konza Technopolis, a new city emerging roughly 60 kilometres south of Nairobi, Kenya. The project, aiming to firmly establish Kenya’s position within the global economy by developing a hub for technological innovation and development, also provides residential, commercial and service areas. Typical of such new cities, Konza Technopolis is managed by a Development Authority, a semi-governmental institution which partners with a number of mostly international private developers (Konza Technopolis, 2015). The Authority leases out land to developers for 99-year terms and provides basic infrastructure and regulations (van Noorloos et al., 2019). Similar to Beira’s redevelopment, Konza Technopolis reflects a ‘high-modernist’ master-planned urban project.

These high-modernist projects represent ‘bubble urbanism’ (Steel et al., 2017): speculative projects whose actual purpose is not simply creating actual living or working spaces, but to mostly create an image and attract wider investment (Goldman, 2011). Nonetheless, it is important to highlight that these projects create very real impacts. New cities tend to take place at the rural-urban interface, and therefore impact on people’s resource rights and livelihoods in these hybrid regions. In many cases, this may mean direct dispossession or eviction, but displacement can also take place in more indirect ways.

The 5,000-hectare (ha) Konza Technopolis site, including its planned buffer zone of 20,000 ha, sits on arid and semi-arid lands where pastoralism is an historically important livelihood. The buffer zone was established around the project to prevent ‘informal’

settlement. As a result of new building standards and land use plans for the area, two communities inhabiting this zone have been dealing with livelihood insecurity and potential indirect displacement. Furthermore, before the actual construction of the city started, indirect displacement took place as a fence was placed around the project impeding the partly mobile pastoralists. At the same time, the fame of the new city has attracted new inhabitants looking for opportunities including new groups of vulnerable migrants along with land speculators and developers (van Noorloos et al., 2019). It is clear that the place started to change and co-evolve in complex and non-envisioned ways as soon as the new city planning was announced.

This pre-construction speculative effect also shows the importance of having a long-term view of new city planning—and urban land grabs overall—and of following the impacts on different groups of land users over time. For a long period of time, hardly any development took place at the Konza site; despite the government's high ambitions, the project has long suffered from delays and intra-governmental conflict (van Noorloos et al., 2019). Nevertheless, land and livelihoods impacts were obvious. Only in 2020, when the project's first phase was originally planned to be finished, did the Development Authority establish the first road, water, sewage and communications infrastructure. Since the Chinese Huawei and South Korean investors, in collaboration with the Kenyan government through concessional loans, started to build a data centre as well as a science and technology centre, there seems to be more momentum for additional investment (Konza Technopolis, 2020). For example, development of the large-scale Thwake dam project is underway in the area to provide Konza Technopolis with water (Kenya News, 2020; China Daily, 2021). Yet, such a dam construction may induce new chains of displacement, accelerated by attraction that might be set in motion in the buffer zone and surrounding land once actual investment intensifies.

### **Key Issues of Urban Land Grabs**

From the three cases, two key issues of urban land grabs emerge. First, all of the cities involve complex alliances that have been created to realize the investments. Specifically, all three cities attract investments by foreign investors including from wealthy individual diasporas, companies from traditional donor countries in Europe and from emerging economies, and international financial institutions and development cooperation mechanisms. In discussions on the rural land grab, these dynamics have been associated with the 'foreignization of space' pertaining to land acquisitions (Zoomers, 2010). However, the three cases also show that the foreignization of urban space is duly underpinned by different coalitions of domestic and international actors; the national governmental regime facilitates or impedes particular types of foreign investments in Khartoum while national commitments with the international sustainable development agenda and the municipal government's development plans facilitate the donor involvement as seen in Beira. Finally, the national ambition to create a new city attracts tech companies and other speculative activities as seen in Konza Technopolis. Even though such foreign-domestic coalitions were also observed in the rural context (e.g., Fairbairn, 2013; Schoneveld, 2017), urban land investments go beyond national elite and a few investors to involve quite a diverse combination of partners from inside and outside the countries where the deals materialize. The coalitions span across global and local scales, private and public investors, and individuals and organizations.

Second, each investment led to some form of economic or physical displacement of people 'in the way' of new land development (Oliver-Smith, 2010). In particular, all cases demonstrate

how investments set complex dynamics of displacement—both physical and economic—in motion through the legitimization of new land users and the delegitimization of particular land users such as farmers and pastoralists who do not fit into the new masterplans. In addition, displacement takes place before the masterplans actually materialize, as seen in the case of Konza Technopolis. And after cities are built and infrastructure is developed, displacement leads to resettlement within the city or its periphery which displaces additional sets of people and land uses (Beier et al., 2022; Shannon et al., 2018). As such, research on urban land grabs should incorporate different aspects of displacement beyond direct forms of eviction associated with urban renewal and gentrification which unfold over a long period of time and across multiple spaces (Bird et al., 2017; Ghertner, 2015; Shih, 2017).

The diversity of actors involved in investments, various groups of people displaced by the investments, and the longitudinal effects of investment plans and projects, combine to make political engagement around urban land grabs complicated. The complications require researchers, policy makers and development practitioners to collaborate and make further efforts to map out actors and impacts of displacement, as well as to establish long-term collective engagement to address the impacts by identifying responsible actors in each specific urban context.

### **Conclusion: Addressing Urban Land Grabs Through Deeper Academic and Political Engagement**

This chapter has drawn from the experiences of three African cities to highlight emerging issues around urban land grabs. These cases were selected based on the three dominant investment patterns in urban land development, namely: investment in land and real estate; investment in infrastructure; and new city investment. We have summarized the issues through two avenues: (1) the multiplicity of actors involved in investment; and (2) the various forms of displacement caused by investment. Together, these issues obscure responsibilities related to addressing displacement which often causes social discontent if not outright conflict, impoverishment of the displaced and chains of displacement due to resettlement; all generate acute grievances, but unclear responsibilities between actors in the investment process hinder sustainable outcomes for affected communities.

The rural land grab debate has made some progress in generating discussions about how to address the negative impacts of land investments between non-governmental and advocacy organizations and banks, international organizations, and donors.<sup>2</sup> While guidelines exist in the context of agribusiness investments or involuntary resettlement, they still largely apply to the rural context (Koenig, 2018). As a result, clear guidelines or frameworks to address urban land grabs do not yet exist. While SDG11 on ‘making cities inclusive, sustainable and resilient’ and the New Urban Agenda pay attention to land rights and inclusivity of investments in urban development, they have not led to concrete mechanisms able to hold the financial sector nor international donors accountable for issues such as displacement. The SDGs in general, which lead to multiple investments in sustainable and green infrastructure, new eco city building or economic development more broadly, do not link these investments to land acquisitions and various forms of displacement and resettlement. Consequently, investments are promoted as best practices for enhancing urban resilience (in the case of Beira) or for the high-tech transformation of Kenya’s economy (in the case of Konza) without mentioning their diverse effects over time.

As researchers, we need to reveal the multitude and ambivalent array of actors around urban land investments and their relationships with various types of displacement and other consequences. Displacement in the urban context also needs to be understood through its impacts on diversified livelihoods (Zoomers & Otsuki, 2017) which may not be directly affected by land acquisition but nonetheless are impacted by land value and built environment changes, in reduced accessibility to certain areas as well as altered ecological conditions. We should then clarify investors and identify the chain of effects caused by investments as well as support governmental entities, donors, and the international agendas and agreements that these actors use to justify their investments. By taking these steps, we could potentially outline new guidelines and agendas for addressing urban land grabs.

### Notes

- 1 More specifically, the case of Khartoum draws from field research by Steel; the case of Beira draws from field research by Shannon; and the case of Konza City is reconstructed based on van Noorloos and Avianto (2019) and van Noorloos et al. (2019).
- 2 For example, Netherlands Land Academy (LANDac) has developed multi-stakeholder platforms in which land dialogue takes place; and Food and Agriculture Organization is active in convening various experts from different sectors and organizations to discuss voluntary guidelines for responsible investments.

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# HISTORY AND CONTEMPORARY DISPLACEMENT IN SUVA'S INFORMAL SETTLEMENTS

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## **Land-Grabbing and Gentrification – Some Conceptual Views**

The concept of 'land grabbing' has its origins in rural societies (Zoomers et al., 2017). Vast areas of land were alienated by (mainly) European powers during colonialism, often in association with plantation agriculture. Explorers, 'successful' military officers, and at times ordinary settlers, received land grants from their rulers as award for duties performed for their countries (Belmessous, 2020; Nugent, 2020). More recently, and related to urbanization in the Global South, a separate debate has emerged relating to land-grabbing in urban areas (Steel, van Noorloos, & Klaufus, 2017). Fast urbanization has led to huge flows of investment in housing, infrastructure and urban economic development, triggering an enormous hunger for land (Feola et al., 2019).

Increasing urbanization caused by rural to urban migration can enhance crucial links between rural and urban areas. Access to cities and secure residential status is a precondition for poorer sections of societies to establish multi-local livelihood systems. Such systems play important roles in diversifying livelihoods, reducing risks and making livelihoods more secure (Peth, & Sakdapolrak, 2020).

Land grabbing, displacement and gentrification are closely connected. The latter term is especially contested in social science discussions: does gentrification happen only when building stock is upgraded, social differentiations emerge and displacement of the initial population occurs? Or is it also gentrification when the development of new residential areas changes the character of an entire neighborhood to the extent that existing residents are driven out by higher rental costs, clearing activities of authorities, and/or other causes?

Ghertner (2014) argues that gentrification theory has failed in 'much of the world' as the protagonists of gentrification theories frequently ignore what he calls 'tenure diversity.' "Customary land use and intermediate forms of tenure can sustain relatively equitable forms of social reproduction" (p. 554). Central to his criticism is that many authors on gentrification concentrate too much on places where corporate capital has already taken over, ignoring the complexity of land tenure situations in urban settings. They overlook that

“to a large degree [ ... ] these knotted terrains cannot be disentangled from highly localized histories, nor can they be rendered legible outside of similarly localized land management practices” (p. 555; see also Das, 2021; Garmany & Richmond, 2020). Concerning African urbanism and possible land grabs arising from international capital inflows to African cities, Steel, van Noorloos and Otsuki (2019) advocate to apply a diverse and dynamic approach, as African cities and towns are different in their historical, economic, and socio-cultural dimensions. Karaman, Sawyer, Schmid, and Wong (2020) introduce a concept of *plotting urbanism* in which they argue similarly. They look at urban housing plots that have formed over time, often with limited official planning, creating spaces, opportunities, and gains for individuals and special groups. Such diversities, “which often result from multiple overlapping modes of territorial regulation, land tenure and property rights,” allow lower-income residents who lack access to social housing to find affordable land (p. 2). The three case studies (Istanbul, Shenzhen, and Lagos) show that *plotting urbanism* happens in very specific contexts that are difficult to compare. They also show that poorer sections of societies do not always benefit. They often suffer as a result of the formalization/commodification of housing built on such plots.

Another reason to critically reflect on the concept of gentrification is that it cannot adequately deal with processes happening in the Global South in which rather than focusing on the rehabilitation of “built environments for the middle and upper classes,” focus on mass demolitions of living spaces and eviction/displacement of the people living there (Shearer, 2020, 193). An extreme example is what happened to poor people/people living in informal settlements in Dhaka, Bangladesh (Lata, 2020) when the state and municipality completely withdrew from social housing. A few wealthy and powerful housing estate developers took control over land and housing markets. They developed and implemented housing projects for the middle classes, making little or no efforts for poorer sections of Dhaka’s population. On the contrary, hundreds of thousands of people were forced out of their informal settlements to provide space for housing and other developments.

The *Right to the City* (Lefebvre, 1968) has been replaced by neoliberal ideas and frameworks. More than that: people in informal settlements are criminalized beyond the notion that they illegally reside on particular lands. State authorities perceive slum dwellers as ‘improper citizens’, ‘inferior,’ and sources of many unwanted characteristics of a city like crime and congestion (Lata, 2020).

In Brazil, similar processes are expressed by the term *Higienização* (hygienization). State authorities propagate a rigid formula for cleaning up cities from unwanted, unhygienic elements. The protection of health and avoidance of epidemics for orderly citizens are provided as a superficial justification for such action (Garmany & Richmond, 2020). Meanwhile, real sentiments and perceptions about the poor are rooted much deeper. Urban (re)organization / urban displacement is undertaken to keep particular sections of society away from urban centers: beautification and *higienização* go hand in hand.

The South African apartheid city represents the climax of population segregation (Davies, 1981). Wherever segregation became an important element of urban planning, notions of hygiene and public health appear as corresponding ideas. Often so-called *cordon sanitaires* (buffer zones) were introduced for purposes of health, but also for control, security, and domination (Colombijn & Barwegen, 2009). They became symbols for social injustice (Garmany & Richmond, 2020).

Gentrification does not fully capture displacements of large numbers of very particular sections of society. What began as a colonial concept to distinguish and separate Indigenous



populations from colonial rulers has become a crucial spatial element to distinguish and separate social classes of Indigenous ethnic backgrounds. Still, local differences vary widely. Forced, often violent displacement of the ‘unhygienic’ poor becomes a method through which the creation of *hygienic places* leads to treatment of the urban poor “as an infection harmful to the greater social body” (Garmany & Richmond, 2020, 129). Economic processes highlighted by gentrification theory play important roles, but explanations for ‘extra-economic violence’ need to go beyond gentrification (Shearer, 2020, 195). Clearing urban areas of an unwanted population often goes hand-in-hand with subsequent upgrades of locations and improvement of infrastructure. Making places more attractive and displacing poorer sections are therefore two elements of the same process (Ghertner, 2014).

Where authorities and international development agencies introduced ‘sites-and-services’ schemes, resettlement and displacement from established livelihoods, social networks, and sub-cultural characteristics of poorer sections became an integral feature of moving people from their present places to areas “where land is cheaper – further into the periphery, and into more precarious or disaster-prone places” (van Noorloos, et al., 2020, 40). Crucial aspects of incremental housing schemes that involve resettlement include: access to and security of sites, and finance for construction activities, services and utilities, building materials, and construction workers / specialists. Yet, a central aspect not included in the reflections by van Noorloos et al. (2020) is the disruption of livelihood systems as a result of relocation.

### **An Overview of the History of Land Tenure in Suva**

The first European settlers, who arrived in Fiji at the turn of the 19th century, depended on the support and benevolence of local rulers. Relationships were reciprocal – a handful of Europeans brought items for trade, including firearms to support Indigenous leaders in tribal wars. Some Europeans enjoyed the protection of chiefs and were permitted to settle in or near iTaukei villages (Routledge, 1985; Derrick, 1950).

The situation changed considerably when the number of Europeans arriving increased, and their economic interests diversified. Control over land was not required for the ongoing raid on natural resources, including sandalwood, *bêche-de-mer* (sea cucumber) and other exotic products harvested from the wild. More essential was the cooperation of chiefs, who ‘arranged’ workers to harvest and (when necessary) process resources. However, as more Europeans arrived, colonial plantation agriculture slowly emerged. Coconut plantations provided the foundation of copra production, used to produce coconut oil. The establishment of cotton plantations was incentivized by the decline of American cotton production and soaring world market prices during the Civil War in North America (1861–1865).

At this point, real estate became a lucrative business in Fiji. Settlers no longer came as adventurers, prison escapees, ship-wrecked 19th-century beachcombers, nor as traders. Those arriving to start plantation agriculture needed (to buy) land. An era of land grabbing commenced to an extent that has not been seen since. It continues to have impacts on land tenure, especially in Fiji’s capital, Suva. From the 1860s, colonial companies from Australia, most importantly the Polynesian Company, acquired land on a large scale (Watt, 2019). In 1868, the company bought some 200,000 acres of land from Ratu Seru Cakobau, the self-proclaimed King of Fiji (Tui Viti), that included the entire Suva peninsula (Nicole, 2010).

In the mid-1860s, Cakobau got into trouble with the American government in relation to claims that the American commercial attaché Williams had against Fiji. On US

Independence Day (July 4) 1849, Williams' house on Nukulau Island was burned down by fireworks. Williams sought damages because, rather than helping to extinguish the fire, Fijians on Nukulau were alleged to have ransacked the attaché's house. Williams estimated his damages at USD 3,000. Whenever an American warship called at Fiji, he tried to put pressure on Cakobau to pay for the damages. Cakobau was able to avoid Williams' demands until June 1867, when the American warship USS Tuscarora called at Fiji. By now, Williams' demand had increased to USD 45,000 and the US government insisted on payment. As collateral, it seized three islands in the Lomaiviti group and forced Cakobau to sign a document committing him to pay a first installment in May 1868 (Watson, 2014).

A few days later William Moore, of the Wesleyan Missionary Society in Fiji, met with a Melbourne land speculator, W.H. Brewer. The two worked out a plan to relieve Cakobau of his worries: they proposed that Cakobau convey 200,000 acres of land to the Melbourne Polynesia Company, which would then assume Cakobau's debts in return. Moore's involvement was surprising, since the Wesleyan Missionary Society strictly prohibited missionaries from engaging in land transactions. Little bothered by this, not only did Moore become Cakobau's most important advisor in the negotiations with the Polynesia Company, but he also became one of the largest landowners in Fiji at the time (Samson, 1998).

Moore and his missionary colleagues Horsley, Brooks, and Langham persuaded Cakobau to conclude the deal with the Polynesia Company – against reservations expressed by British consul John Thurston. In addition to the almost 200,000 acres of land, the Polynesia Company was to receive exclusive powers in banking and control of Fiji's ports. The contract also provided for a right of first refusal over all land Ratu Cakobau sold in future (Thornley, 2002). The Polynesia Company agreed to assume all of Cakobau's debts and pay him an annual pension of USD 1,000.

Cakobau had promised the Polynesia Company land over which he had no control. The missionaries were well aware of this, but voices criticizing the land deal were few. Among them was the missionary Jesse Carey, who feared that the rightful owners of the land would fight this injustice (Thornley, 2002). However, he and other critical voices could not prevent Cakobau and six other Bauan chiefs from signing a treaty on July 25, 1868, that transferred large portions of the Suva Peninsula and Beqa Island, along with large tracts of land in Ba Province and Natewa Bay to the Polynesia Company.

Moore's involvement in the land speculation became the subject of an investigation by the New South Wales Methodist Conference. Moore was forced to resign as leader of the Methodist Church in Fiji and was replaced by Frederick Langham. The investigation revealed that Moore was not the only missionary that had acquired land in Fiji. Moore and other missionaries were mildly reprimanded for 'unwittingly' violating mission principles prohibiting land purchases. The deal between Ratu Cakobau and the Polynesia Company is a typical example of dubious land transactions in (pre-)colonial Fiji.

Later, when the British colonial government agreed to relocate the capital from Levuka, an alleged understanding was reached with the chief of Suva village to relocate to what is today known as Suvavou village (New Suva Village). The agreement was never put in writing and the descendants of Suva village have contested the validity of the agreement ever since (Chambers, 2008; Miyazaki, 2004). Around 500 cases of iTaukei being deprived of their land under fraudulent circumstances have been reported. Alienation of land usually happened through private (non-state) effort but "in many of those examples, the colonial government is said to have been implicated actually or constructively" (Chambers, 2008, 112).

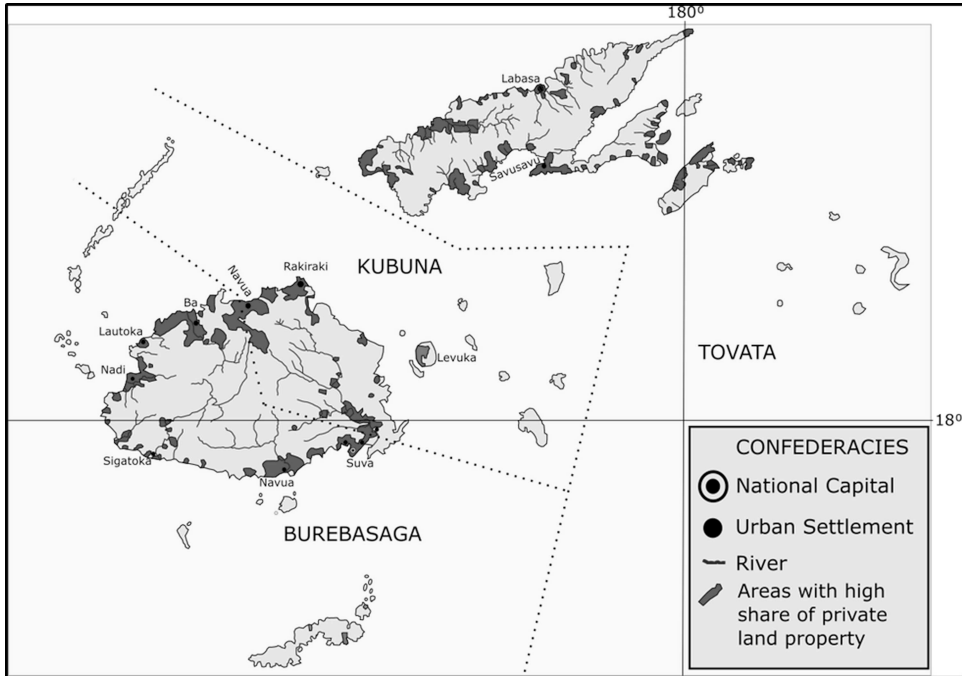


Figure 26.1 Private land in Fiji.

The Polynesia Company sold land in rural areas to settlers at high margins. Conflicts emerged as settlers occupied the best land in coastal areas. European plantations spread to the interior of Viti Levu along main rivers (Figure 26.1). The real estate boom was supported by chiefs in coastal areas. As Ratu Cakobau had sold land to Europeans that belonged to tribes in the interior, violent assaults by hill tribes against European settlers were frequent. Regular punitive expeditions by the colonial power, supported by chiefs of the eastern coastal plains, followed (Nicole, 2010).

Two crucial decisions were made by the first substantive British Governor, Sir Arthur Gordon in the second half of the 1870s, at the very beginning of colonial rule. The first was to ban further land sales in the colony. Land that was not already alienated in pre-colonial times became protected under the control of the iTaukei and their ‘traditional’ structure of paramount and lesser chiefs (Heath, 1974). Control over land rests with small family units (*tokatoka*), clans (*mataqali*), and tribes (*yavusa*) (Chapelle, 1978). Paramount chiefs exercised control over *mataqali* and *yavusa*. They protected ‘the way of the land’ (*vakavanua*), which was formally strengthened through institutions installed by the British. The Great Council of Chiefs (*Bose Levu Vakaturaga –BLV*), an important link between the colonial administration and Indigenous leaders, was established in 1876. The BLV became the most important Indigenous institution to advise the colonial power on how best to govern Fiji’s Indigenous population. It was “an instrument of colonial rule” (Norton, 2006, 98) rather than of Indigenous autonomy.

In 1876, a commission under Victor Williamson looked into claims concerning alienated land. Although claims by Europeans were often refused or reduced, some 400,000 acres of

land were registered as freehold (private), including a meaningful proportion of good agricultural land. In 1880, the Native Land and Fisheries Commission (NLFC) was established to investigate claims by Indigenous landowners. Around the same time, leases were introduced with a duration of 21 years. Crucial for today is the establishment of the Native Lands Commission under the 1905 Native Land Ordinance. The commission is central to the land tenure system in colonial Fiji; it confirmed Gordon's policy to disallow iTaukei to alienate their (native) land (Young, 2001).

In the 1880s, Suva became Fiji's colonial capital after land speculators put their weight behind the decision. Virtually all native land that had existed on the territory that became Suva, Fiji's capital, had disappeared. Today around 90 percent of the land in Fiji belongs to iTaukei groups, except in Suva where there is no native land. The grabbing of land had paved the way for Suva to become Fiji's capital.

After Suva became Fiji's colonial capital, it grew quickly on the western side of the peninsula, where the Queen's Wharf was constructed in 1883. Here Suva's commercial, administrative and residential functions were concentrated. Population numbers in Suva exploded due to migration from rural areas. Many people who came to Suva found themselves in informal settlements at the city's outskirts, such as in its eastern part. Once at the very rim of a modest colonial capital, today these settlements are located in a fast-growing urban agglomeration, surrounded by locations of prime commercial and residential development for the middle and higher middle classes.

### **Informal Settlements in the Eastern Part of Suva Peninsula**

Today, only 6 percent of Fiji's territory is private land, around 4 percent is owned by the state (incl. municipalities), and the rest is native land. Colonial economic activities concentrated initially on rural areas for agricultural plantations (after the 1850s) and mining sites (since the 1930s). World War II brought some push towards urbanization, but major changes commenced only when Fiji became independent in 1970. In 1911, just 4 percent of the country's population was living in urban areas; by 1966, this had increased to a third (Chandra, 1985). The 50 percent mark was crossed in 2004 (ADB, 2012). By 2022, just under 60 percent of Fiji's population were living in urban areas.

The modernization optimism that existed at the time of independence soon faded. A rapidly increasing urban population brought many unresolvable social, ecological, cultural, and planning challenges. The provision of infrastructure, including low-cost housing for a rapidly increasing urban population, lagged behind growth. Many informal settlements emerged in locations with adverse environmental conditions (Weber, 2021). Often these conditions are severe and detrimental to human habitation, 'dangerous places' by any measure (Weber, Kisson, & Koto, 2019).

The exact number of informal settlements in Fiji is unknown – they are not treated as special enumeration areas in the country's decennial censuses, instead being mixed with formal residential areas. In 2003, it was estimated that some 15 percent of Fiji's population lived in informal settlements, around 140,000 people distributed between 190 – 200 settlements (Kiddle, 2010). Figures from 2007 put the number of informal settlements in Suva alone at 85 and the numbers of residents at just under 55,000. UN Habitat (2019) estimated the number of informal settlements in Greater Suva at 117, followed by Lautoka (19), Nadi (14), Ba (5), Labasa (4), and Levuka (2).

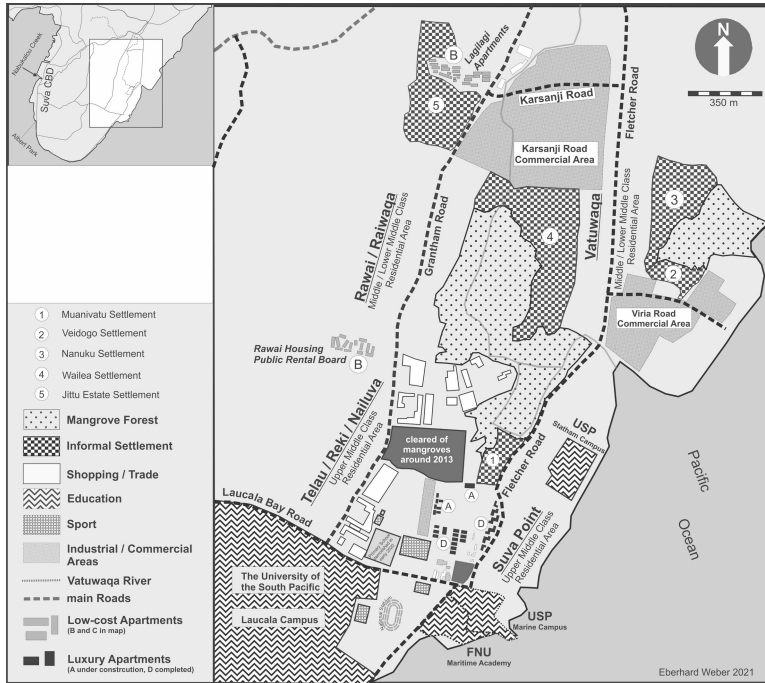


Figure 26.2 Southeastern part of Suva peninsula.

Nasinu, a town northeast of Suva, has the highest numbers of informal settlements. The largest settlements, however, are in the south-eastern part of Suva peninsula. Here there are fewer than ten settlements, but they are the biggest in Fiji. They are close to commercial areas, which provide employment to many residents of nearby settlements such as Veidogo and Nanuku. Both are earmarked for relocation to allow for the expansion of Viria Road Commercial Area, which lies to the south of the settlements (Figure 26.2; see also Devi, Lowry, & Weber, 2017). The two settlements combined have some 540 houses with around 2,600 residents. The first people to arrive were displaced by the Karsanji Commercial Area in the 1970s. Now they are expected to move again. Plans for this have existed since 2006, but resettlement has yet to commence as of May 2022.

Other large informal settlements are Waileka, one of the oldest and biggest informal settlement in Fiji with some 485 houses and approximately 2,500 residents, and Jittu Estate with some 470 houses and 2,400 residents. Muanivalu, the youngest settlement in the area, has some 120 houses, with around 600 residents. The settlement increased from seven houses, shown on aerial images in 2002, to some 90 houses in 2016, to almost 100 houses in 2019, and around 120 houses in 2022.

### ‘Interventions’ to Informal Settlements in the Eastern Part of Suva Peninsula

Informal settlements emerged near commercial areas in the outskirts of Suva, close to residents’ workplaces. Low, or even no rents, and low transportation costs help to keep industrial wages low. Food costs are also lower as many residents of informal settlements

are migrants who benefit from agricultural produce (including kava) sent from rural areas. They often live in trans-local household arrangements: some household members live in villages, others in urban areas. There is constant communication and flows of goods, money and people between different sections of the same households.

Efforts to criminalize residents of informal settlements are frequent but communicated in very subtle ways. The common expression for ‘informal settlement’ in Fiji, ‘squatter settlement’, highlights an illegal activity: to squat is to stay in a place with no right to do so. While attempts to evict people residing in informal settlements have occurred, they are relatively rare and not always successful. The ‘passive resistance’ of residents has made many such attempts futile – people just do not leave. Past evictions have affected smaller settlements, usually erected on private land, including land owned by religious and educational institutions (for details, see: Kiddle, 2010).

In early 2009, residents of the Villa Maria settlement received eviction notices signed by the then Archbishop of the Catholic Church, which wanted to use the land to build a school. Immigrants from Wallis and Futuna were residing on the land. The Church’s attempt to use its own land failed and the settlement continues to exist today. Informal, ‘customary’ tenure systems do indeed create spaces (Ghertner, 2014).

In June 2009, some 160 residents of Namara settlement received eviction notices to make space for a Housing Authority scheme. Most of the residents, descendants from Solomon Islanders who were brought to Fiji in the 19th century, indicated that they were not willing to leave. The Housing Authority developed alternative sites for them, allowing residents to stay in the settlement until the construction of alternative houses had been completed (Fiji Sun, September 11, 2009). It took until September 2013 and financial assistance of FJD 10,000 before the last residents were willing to move (Fiji Sun, September 15, 2013).

At times residents of informal settlements appear to be on the losing side of challenges as authorities regularly try to criminalize them (Fattah, & Walters, 2020; Mercan, & Şen, 2020; Storey, 2020). As is the case elsewhere, criminalization does not only refer to residents’ status as ‘squatters’ living illegally on land owned by others. In June 2010, residents of Jittu Estate came under pressure when the Minister for Local Government, Housing and Environment wanted to have all tenants removed and their houses dismantled. The Minister did not mean all residents, just tenants: residents who did not live in their own houses, but rented a house from others (Fiji Sun, June 10, 2010). Three days later, the same minister warned residents of Wailea, Jittu Estate, and Muanivatu to behave orderly or face eviction. They were told to clean their surroundings, keep drainages and creeks in good shape, and refrain from illegal activities (Fiji Sun, June 12, 2010). In both cases, it went no further than the threat, but these and other similar cases make it clear that authorities are not concerned only with strictly economic issues, but also issues of Higienezação (hygienization).

Public media regularly features two other accusations raised by authorities: 1) informal settlements are breeding grounds for petty crimes such as sex work, drug abuse, burglaries and thefts. (Fiji Sun, May 16, 2012; Li, 2020), and 2) residents of informal settlements are not poor (Fiji Sun, July 22, 2010). The ‘evidence’ provided is that many households possess dish antennas, taxis and other ‘luxury items’ (Fiji Sun, January 17, 2010). A variation of this construction is that ‘squatters’ have land or residential properties elsewhere and do not need to live in informal settlements. A related accusation is that people are making big money renting out properties they own in informal settlements (Fiji Sun, June 1, 2020). While such cases may exist, it is also the case that there is not enough affordable formal housing in Suva.

Informal settlements create spaces for rural immigrants. For authorities, rural to urban movements are unwelcome, while for migrants, they are part of a livelihood diversification strategy (Kuiper, & Greiner, 2021; Rooney, 2021). Moves to drive out all poor, unwanted elements from urban spaces, forcing them back to their villages, or to peri-urban areas is detrimental to people's efforts to secure their livelihoods through diversification of livelihood sources (Ntsonge, & Fraser, 2021).

### **Resettlement and Land Reclamation for Commercial Development and Middle-Class Housing**

Nanuku and Veidogo are informal settlements in the eastern part of Suva peninsula built into mangrove forests. They occupy land belonging to the family of a goldsmith that left Fiji in 1975 to start a jewelry business in Canada. They remained big real estate owners, around the Karsanji Road Commercial Area in Suva. In 2009, and again in 2016, the Fiji government announced plans to relocate both settlements. In 2016, the Attorney General personally visited Nanuku to inform people of the proposed resettlement to Makoi, some 10 km away (Fiji Sun July 13, 14 and 15, 2016). As of May 2022, nothing had yet happened. The property owner aims to complete resettlement as quickly as possible in order to sell land for the extension of Viria Road Commercial Area. The development is worth FJD 60 million, including FJD 12 million that the landowner has agreed to provide for sub-dividing 25 acres of land in Makoi into 300 plots, and for the provision of water, electricity and sewerage (Fiji Sun, June 1, 2020). Equipped with a 99-year lease, people are expected to build their houses according to their preferences following an incremental housing/site-and-service approach (Mohanty, 2020). The landowner has agreed to provide each household FJD 1,000 to cover the expense of moving to the new location. Many people, including authorities, are optimistic that a lease title will secure mortgage loans of up to FJD 10,000 for residents. This amount would be sufficient to start building a house, but not enough to complete it.

There is considerable confusion about the number of households and people earmarked for relocation. In October 2018, the Attorney-General announced the relocation of some 2,500 people living in 300 households (Fiji Sun, October 25, 2018). While the number of people is realistic, the number of households appears underreported. In August 2020, it was reported that 200 plots were available in Makoi (Fiji Sun, August 16, 2020). This would be an insufficient number of plots for all of the households currently residing in Nanuku and Veidogo. The analysis of aerial images reveals that some 540–560 households exist in the two settlements. Conflict over who receives a plot are inevitable. Some people have expressed concerns that the allocation of plots might become an issue in the 2022 elections.

According to the Nanuku settlement president, many residents do not qualify for lots in Makoi because they have land elsewhere or own houses that are rented out while they stay in Nanuku (Fiji Sun, June 1, 2020). Few iTaukei would qualify for a plot under such criteria ('have land elsewhere'). Many, if not all, have land in their villages, land that belongs to their mataqali (clan). They have a 'use right' over this land. The application of such criteria would be significantly detrimental to people's livelihood strategies, which are built on translocality and on having different members of the same household in different places in order to support the diversification of livelihoods and reduce risk.

The relocation plan ran into further trouble before it commenced. In early August 2020, it emerged that some people were selling land in Makoi, in the exact locations to which people from Veidogo and Nanuku were to be resettled. At least 80 people made deposit payments,

totalling more than FJ\$ 150,000, to secure plot titles in the sub-divided settlement in what became known as the ‘Makoi Land Scam.’ Receipts issued in exchange for the deposits bore the stamp of the Minister of Local Government & Housing. A person identified by media as one of the ‘masterminds’ of the ‘Makoi Land Scam’ was found dead hanging from a tree on August 20, 2020. No further information was provided (Fiji Sun, August 23, 2020).

Another settlement in the vicinity looks to have a different future. Under the *Revitalising Informal Settlements and Their Environments* (RISE) project, Muanivatu is undergoing a face-lift, due to be completed in 2024. Muanivatu is among 12 informal settlements in Greater Suva to be upgraded through the RISE-project, led by Monash University in Melbourne. The aim of the project, for which Muanivatu is ideally located, is to revitalize informal settlements through water sensitive approaches that are cost-effective and improve environmental conditions. Except for a few patches north and west of the settlement, the mangroves of Vatuwaqa River are completely destroyed (Weber, 2021). Residents are happy to be able to avoid eviction / relocation, having been issued five eviction notices, never yet implemented, during the short lifetime of the settlement (Weber, Kissoon, & Koto, 2019).

When people first settled in Muanivatu some 20 years ago, they built houses right into the mangrove forest. The environmental challenges of the area provided security from eviction, as nobody else was interested in using the land. Today the environmental situation in the settlement has worsened as commercial and housing development schemes are being built immediately adjacent to it. Land in surrounding locations has been reclaimed and filled up, so that it is now considerably higher than the settlement. Heavy rainfall, coinciding with king tides, regularly produces flooding (Weber, 2021).

The success of RISE interventions depend on the ability to retain the original residents and prevent gentrification in an increasingly attractive residential and commercial neighborhood.



*Figure 26.3* Construction of luxury apartments some 200 m from Muanivatu (Weber; Feb. 2021).



Less than 300 meters away, executive apartments go for monthly rents of between FJD 5,000 and 6,000 (Sky Apartments, 2021). Closer to Muanivatu, more apartment blocks are under construction (see Figure 26.3). Where RISE improves housing quality and environmental standards, there is considerable risk that people won't be able to stay in the long term. Elsewhere, there are cases where the upgrading of informal settlements has led to a type of gentrification (Balboni, Bryan, Morten, & Siddiqi, 2021; Cummings, 2015). This has occurred when residents of informal settlements / social housing projects were driven away by economic forces that were created when the quality of life improved in the locations where they lived.

When settlements like Muanivatu, Veidogo, and Nanuku were established a few decades ago, they were on the periphery of urban Suva. People built their houses in environments nobody else wanted to use because of severe environmental challenges: along rivers and creeks, and into mangrove forests. With the expansion of Suva, many informal settlements have found themselves occupying prime locations (Weber, 2021; Weber, Kissoon, & Koto, 2019).

### **Apartment-Type Housing for Poorer Sections of Suva's Population**

Demand from middle-class people for apartments along Grantham Road has led to long waiting lists. In the early 1960s, well before Fiji's independence, major housing projects for low-income earners were built. Multi-story apartment buildings were erected at Raiwai and Raiwaqa by the Public Rental Board (PRB). Rural migrants were motivated to move in and obligatory courses on living in the city were taught (Walsh, 1978, 156). The buildings were demolished in 2008 and many of the 2000 residents moved to informal settlements (Kiddle, 2010).

In 2014, the first residents were able to move into 500 new flats that had been built in Raiwai and Raiwaqa with the help of a loan of over FJD 20 million from the People's Republic of China. Less than two km north along Grantham Road, a local non-governmental organization (NGO), the People's Community Network (PCN) has built another apartment complex for people from informal settlements. The Lagilagi Housing Project was to provide affordable housing to residents of Jittu Estate settlement (Halter, & Matadradra, 2020). In November 2018 allegations arose suggesting that many residents were staying illegally in the Lagilagi apartments. It appears that bribes had helped illegitimate people to get to the top of the waiting list (Fiji Times, Nov. 15, 2018). In June 2019, the Fiji government took over the Lagilagi Housing Project (Walsh, 2019).

Apartments built for poorer sections of Suva's population often change hands and better-off people take over. In most instances, this goes unnoticed; changes in occupancy, and at times also in ownership is rarely formalized. Those for whom the apartments have been constructed receive an additional source of livelihood when they rent the flat out or when they sell it. For their own residence, they have to move further to the rim of the city, where they start living in informal settlements again.

What happened in Lagilagi and the PRB apartments in Raiwai may also happen to the people of Munaivatu once the RISE project is completed. When the quality of building structures improves, water supplies become reliable and safe, and sanitation services are upgraded, these neighbourhoods become highly attractive. It then becomes more likely that poor and vulnerable residents will be induced to leave.

The processes described earlier are not new to Suva. In 1993, Namadai informal settlement was upgraded by the Methodist Church of Fiji. The in-situ upgrade of Namadai

transformed the socio-economic and spatial landscape from an (illegal) informal settlement to an upgraded residential sub-division. By 2018, some 70 percent of the original residents still lived there, but 30 percent had moved elsewhere over the years. They either settled along a nearby proposed highway as squatters, moved back to their villages or bought residential lots and houses elsewhere (Koto, 2018).

### **Implications of Eviction/Resettlement on People's Livelihood Systems**

Tenure insecurity, and, specifically, the fear of eviction, makes people hesitant to invest in their houses and neighbourhood. The consequences of eviction are not just the loss of housing. Evictions and relocations have severe repercussions on complex and sensitive livelihood systems that are heavily dependent on multi-local arrangements, or translocality.

Within the next few years, life in informal settlements in eastern Suva will change drastically. The residents of Veidogo and Nanuku will be resettled, while those living in Muanivatu will see an upgrade of their settlement. Research conducted in the three settlements since 2016 shows that few of the people living there came directly from rural areas. Most residents had first settled in other informal settlements within Greater Suva, or other urban places in Fiji. Muanivatu is the first urban residence after leaving their villages for less than 40% of those living there. Despite such 'urban history,' more than 90 percent of the iTaukei perceive their origins as rural Fiji – even if they have never lived there. Parents, grandparents, or great-grandparents left their villages and moved to Suva. The iTaukei who are second, third, or even fourth generation residents of Suva retain very strong links to their rural origins. The village is where their clan (*mataqali*) has land over which they hold user rights. In difficult times, such as during the COVID-19 pandemic, they can return to their villages, and claim a piece of land for their own use (Weber, Kopf, & Vaha, 2021, 2022).

iTaukei maintain strong links to close relatives in their villages. These connections play an important role in their livelihood security. The most crucial consideration for people migrating from rural areas to towns and cities is often the reduction of livelihood risks: migration and the diversification of livelihoods are ways to respond to risks, threats, and shocks. Bertram and Watters (1985) coined the expression "transnational corporations of kin" in relation to international migration from Pacific Island countries to developed countries at the rim of the Pacific Ocean.

Such processes are reminiscent of discourses about modes of production in African and Asian societies that articulate the diversification of livelihood sources to minimize risks and enhance security (Elwert, Evers, & Wilkens, 1983; Neubert, 1986). There, households combine work within different modes of production, including for example capitalist wage labor in urban areas and subsistence production in the village. Households are divided with part remaining in rural areas and part moving to urban locations. They frequently communicate, visit each other, and exchange goods for private consumption or business. The 'exchange' of people such as pre-schoolers and school-aged children is another aspect of such translocal household networks.

This is entirely different to those Fijian residents of Indian descent, of whom few own land. Most have previously operated leased sugarcane farms. Virtually all have had to leave rural areas when their sugarcane leases were not renewed. This has happened to thousands of tenants since the middle of the 1990s. They lost their sources of livelihoods (sugarcane cultivation) and their houses that were built on leased land (Weber, 2005).

## Conclusion

Fiji has a large number of urban areas that have gone through many changes since they were first established in the first half of the 19th century. In many urban areas, informal settlements have emerged as an expression of rural to urban migration and in response to high land and rental prices. By far the largest number of informal settlements are in Greater Suva. Major economic activities such as tourism, kava and sugarcane cultivation have long been decentralized and rural-based, slowing the rate of rural to urban migration. People in rural areas are frequently able to find off-farm employment in tourism and commercial agricultural. Migration to Suva comes mainly from smaller outer islands to the east of Viti Levu (Lomaiviti, Lau islands) and from Kadavu Island to the south. Most migrants of Indian ancestry are former sugarcane farmers who ended up in Suva after initially migrating to a number of other locations after their sugar cane leases had expired.

The impact of Suva's pre-colonial history does not necessarily make it an ideal location for migrants, given that most land there is held by private owners. The transfer of the Suva peninsula by Ratu Seru Cakobau to the Polynesia Company in the 1860s made Suva a haven for private land speculation. This continues to this day, reaching areas where informal settlements are now perceived to stand in the way of urban commercial interests.

Poorer sections of Suva's society use their agency to make the best of a difficult situation. They frequently succeed in avoiding eviction / relocation from prime neighborhoods. The question, however, is whether housing security is sustainable or if, in the end, financial power will prevail. Tenure diversity exists in the sense that people have opportunities to negotiate the specific conditions concerning housing rights. The ongoing expansion of Suva City creates increasing pressure – locations that were once shunned by commercial investors have become lucrative neighborhoods for capitalist investment. The eastern part of Suva peninsula has become one such rapidly developing area. A few decades ago, the entire area was on the periphery of Suva peninsula. Today, it is one of the fastest growing commercial areas, greatly increasing the pressure on residents of informal settlements.

One might imagine that a social group that constitutes some 15 percent of Fiji's population would hold strong power through sheer numbers. However, politicians have neglected the interests of people living in informal settlements. For most of its history, Suva has been an urban area and informal settlements have been a crucial component of its social and economic fabric and a product of Suva's historical relationship with colonialism. There are many reasons to assume that this will continue to be so, but at the same time, there still is much need and potential to improve these places so that they can provide healthy living spaces for a large section of Suva's population.

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# TRANSNATIONAL NGO ADVOCACY TO ADDRESS LAND GRABBING INJUSTICES

## The Case of the Thilawa Special Economic Zone in Myanmar

*Setsuko Matsuzawa*

### **Introduction**

Special economic zones (SEZs) are economic programs whose purpose is to attract foreign direct investment (FDI) to bring about economic growth (World Bank Group 2017). SEZs are expected to generate economic benefits for not only a host country but also foreign investors who are enabled to expand their overseas businesses and enjoy tax incentives, cheaper labor costs, and relaxed environmental and labor regulations, among other benefits. In Asia, China's successful economic liberalization and its growth with SEZs in the Southeastern coastal region beginning in 1979 have made SEZs an ideal project for less developed nations to emulate (see for example, Laungaramsri 2015). Thus, policy makers in developing nations often hail SEZs as a symbol of economic development. Contrary to such a view, scholars have questioned whether the economic benefits of SEZs truly create external benefits to the national economy of a host country and its people, because they have found limited positive economic effects (Hardaker 2020), and poor working conditions, including human rights violations, in the SEZ enclaves (Nash & Fernández-Kelly 1983, Ong 2006). As global land and resource grabbing has entered into academic discourses, scholars have begun focusing more on the process of SEZ development, which typically includes land-taking and the displacement of people. In certain national contexts, SEZs have become a synonym for land grabs from farmers, incurring deaths, rapes, and the injuries of protesting farmers at the hands of the police (Levien 2012). Thus, SEZ development may lead to another form of human rights violations.

The purpose of this chapter is to add to recent scholarly endeavors by highlighting the process of SEZ development that led to an NGO campaign to expose injustices caused by the SEZ development. My study specifically examines the Thilawa SEZ project in Myanmar, a joint project between the governments of Myanmar and Japan. It is one of the three ongoing SEZ projects in Myanmar and the first to begin operation (in 2015). From the start of the SEZ's development, residents in the Phase I development area faced forced displacement by local governments without adequate, transparent, and participatory

consultations. This prompted Project-Affected Persons (PAPs) and nongovernmental organizations (NGOs) in Myanmar and Japan to launch an advocacy campaign to remedy the situation. Based on archival research from December 2020 to April 2021 on the Thilawa SEZ project taken from the websites of NGOs as well as the Japan International Cooperation Agency (hereafter JICA), a Japanese governmental agency, my research traces the NGO campaign by examining the workings of transnational NGO advocacy and the roles of NGOs in pressuring the Japanese government, in particular.

Scholarly works on the Thilawa SEZ project have raised issues of human security (Black & Hwang 2020), the roles of law in land grabs (Carter 2015; Nishimura 2017), technology transfer (Sadoi & Aung 2016), and the roles and the effects of SEZs in Myanmar's economy or politics (Hardaker 2020; Seekins 2015). My study will add to the global land and resource grabbing literature as it examines, in-depth, the workings of transnational NGO advocacy in the process of SEZ development.

Although Japan plays a significant role in global land acquisition, especially in large-scale land acquisitions (LSLAs) for agriculture (GRAIN 2008), the nation has been underreported in the land and resource grabbing literature (Hall 2020a).<sup>1</sup> As Japan's domestic market is rapidly shrinking due to the declining and ageing population, its FDI has focused more on expanding Japan's market share in overseas local markets (Kikuchi & Masutomo 2019) via economic projects, such as SEZs. Hence, the Japanese government and corporations will face more rigorous scrutiny by civil society as well as within academic circles.

Next, I first discuss scholarly conceptualizations of SEZs. Then, I provide an in-depth case study of the Thilawa SEZ project, focusing particularly on the controversies during Phase I (2012–2015) of the project. The case study examines local organizing as well as the workings of transnational NGO advocacy to address and remedy injustices in relation to land grabbing.

### **SEZ as a Transnational Space**

SEZ development is transnational in nature. An underdeveloped host country incapable of developing its economy on its own often seeks to attract foreign investors who are willing to invest in and help develop SEZs. Although a host nation locally governs SEZs, it guarantees foreign businesses various privileges, including long-term land user rights, in order to lure their direct investment. Thus, a SEZ is a place where local-global encounters occur on an unequal footing. The concept of land grabbing becomes relevant in this context because local land will be taken from local people (often forcibly and/or with inadequate consultation and compensation) to be converted to industrial and/or commercial land for outsiders' use. Local resources, including human resources, are also grabbed in the sense that the resource use by foreign investors intensifies as the host country tends to loosen its regulatory restrictions. Hence, SEZ development often exposes global inequalities between a host country and foreign investors as well as local inequalities based on class, ethnicity, or gender in the society of a host country. The following scholarly works provide useful conceptual frameworks for analyzing SEZs.

Victoria Reyes (2019) has coined the term, "global borderlands," which are foreign-controlled, semi-autonomous spaces where global-local interactions occur. According to Reyes, SEZs are a form of global borderland. She argues that, in global borderlands, the power dynamics in the global-local relations determine the spatialized configurations of inequalities based on nationality and class. This means that reconfigurations of the space

could take place as the power dynamics change. For example, the transnational connections of local resistance under an authoritarian state may trigger the formation of a “transnational advocacy network” (TAN) (Keck & Sikkink 1998), which may lead to a shifting power dynamic surrounding local resistance. Yet, the emergence of a TAN and its successful advocacy are certainly not always guaranteed.<sup>2</sup>

SEZs are also conceptualized as an example of a neoliberal project in which the market power determines the scope of sovereignty and the rights of citizens (Ong 2006). A neoliberal state may play a new role as a “land broker” (Levien 2018) in converting agricultural land to industrial and commercial land for the use of foreign investors in order to accumulate capital. Under this circumstance, certain rights of citizens, such as the right to retain and/or use land, may no longer be granted.

In the case of the Thilawa SEZ, the pre-existing inequalities based on nationality and class were reconfigured by the emergence of a TAN that consisted of PAPs, local NGOs in Myanmar and Japan, and international NGOs. The TAN especially held the Japanese government accountable for Japan’s own project guidelines as well as international standards when it supported PAPs in their attempt to regain their rights as citizens.

### **Phase I Controversy in the Thilawa SEZ Project**

In its news release on October 29th, 2019, JICA heralded the on-going Thilawa SEZ as a “Miracle of Thilawa,” reporting that the SEZ had generated 110 investment projects, hosted 76 companies with various national origins (as of September 1, 2019), and created over 37,000 jobs (JICA 2019). The Thilawa SEZ became Japan’s major Overseas Development Aid (ODA) project in Myanmar after Myanmar transitioned from military junta rule to a constitutional government in 2011. Prior to the initiation of the SEZ project, Japan forgave Myanmar’s 303.5 billion Yen (US\$3.72 billion) debt (Kikuchi & Masutomo 2019). Since then, Japan has been one of the leading ODA providers to Myanmar. In the fiscal year 2019, Japan’s ODA to Myanmar was 189.3 billion Yen (US\$1.8 billion), second only to China (Asahi Shimbun/Newspaper 2021).<sup>3</sup>

In December 2012, Myanmar and Japan signed a memorandum of understanding (MOU), or cooperation agreement, to develop the Thilawa SEZ project. The project aims to build manufacturing and commercial infrastructure in the Thilawa area, located about 23 km southeast of Yangon. The project size of 2,400 hectares (ha), involving about 900 households and more than 3,800 people, has been developed in phases. Class A (400 ha) during Phase I was opened for business in 2015 and resulted in resettling 68 households, totaling about 300 people (Mekong Watch 2017). The construction of Class B (700 ha) during Phase II is currently underway.

In addition to financial assistance, Japan provided Myanmar with technical assistance to create the 2014 SEZ law (JICA 2019). Under the law, participating companies in the Thilawa SEZ are entitled to a 50-year land use right, with an option to extend an additional 25 years (Mekong Watch 2017). This shows an aspect of land grabbing and the territorial ambiguity of a SEZ as a transnational space.

Despite JICA’s self-congratulatory remark on a “Miracle of Thilawa” several years later, the Thilawa SEZ development raised red flags from the start. Soon after the MOU was signed, residents in Thanlyin and Kyauktan counties in the Yangon region were verbally notified of eviction (Mekong Watch 2017). Then, the local governments posted eviction notices on the outer walls of houses, informing residents that they had to evict within 2



weeks or face 30-day imprisonment. The local governments deemed the residents in the area illegal occupants and not entitled to compensation. There had been involuntary resettlement projects earlier—in the 1980s and 1990s—that were not fully completed, and as a result, brought land ownership into question in some cases (Mekong Watch 2013a).

Residents in Alwan Sot village in Thanlyin County promptly wrote a refusal letter to President Thein Sein and two vice presidents, claiming that they legitimately possessed a right to cultivate agricultural land under a 2012 law (Mekong Watch 2013i). A copy of the letter was also sent to relevant Japanese ministers, the Japanese Ambassador to Myanmar, and JICA. The Japanese government swiftly reacted to this development, urging the Myanmar government to follow the MOU, which stipulates that the project must comply with international standards, including the provision of meaningful consultations with project-affected communities (Mekong Watch 2017). A meeting between residents and local governments was held three days after the Japanese government's urging. However, residents did not feel that the meeting resulted in a concrete compensation plan for them (Mekong Watch 2013b). Residents had still not agreed to a compensation plan when bulldozers were brought into Class A.

Mekong Watch, a Japanese NGO, issued a press release on the letter sent by 13 leaders among Myanmar farmers to the Thilawa SEZ Management Committee (TSEZMC), a Myanmar governmental agency, and the Yangon regional government. In the letter, the leaders stressed that they were not opposing the SEZ, but that they needed a guaranteed compensation plan before moving out (Mekong Watch 2013b). Representatives of both the farmers and fishermen from Kyauktan County also wrote a letter to JICA, complaining to the agency that the project was moving forward without transparency (Mekong Watch 2013f).

The letter writing campaigns by PAPs and NGOs yielded the first resident consultation meeting, which was held in June 2013, and organized by the Yangon regional government. The government announced that it would produce a resettlement plan in July based on a survey of PAPs in Class A. However, in a July 5th letter to the TSEZMC, resident leaders revealed that PAP participation in the government's survey had been insufficient because not all villagers and farmers had been contacted nor invited (Mekong Watch 2013j). After a second resident consultation meeting (held on July 30th) failed to reduce residents' anxieties concerning the timeline for resettlement and compensation, resident leaders again sent a letter to the TSEZMC (and copied it to relevant Japanese institutions). Dated August 6, it requested that the Committee sign a written agreement, within 30 days, to produce a resettlement plan based on transparent consultations with residents as well as a compensation scheme in accordance with international standards (Mekong Watch 2013k).

At the end of August 2013, JICA changed the Environmental Impact Assessment (EIA) category of the Thilawa SEZ from a "B" to an "A." According to JICA's Guidelines for Environmental and Social Considerations (hereafter JICA's Guidelines), a category "A" project has significant adverse environmental or social effects. The category change allowed JICA to request the Myanmar government to submit an Environmental Impact Assessment (EIA) report as well as a resettlement plan, both necessary submissions for a category "A" project (Mekong Watch 2013d).

During a third resident consultation meeting, held in September 2013, the Myanmar government merely distributed a summary of its Resettlement Action Plan (RAP) to attendants, rather than a full draft, and requested their comments by the end of the month. Soon after, many PAPs began receiving undue pressure to sign the resettlement and

compensation agreements. Some received threats. As a result, 77 out of 84 households in Class A signed the agreements. The NGOs, such as the Thilawa Social Development Group (TSDG), a community organization whose members are selected by communities, affected by Phases I and II of the Thilawa SEZ project; EarthRights International Myanmar (hereafter EarthRights International), a local office of EarthRights International, an international NGO; and Mekong Watch, all condemned this incident (Mekong Watch 2013c).

Some PAPs took the matter directly to JICA. Twenty-one community leaders submitted a letter to JICA on September 30, requesting a meeting with the representative for JICA's Yangon office (Mekong Watch 2013l). The meeting occurred on October 15, only after TSDG held a press conference at the office of the Myanmar journalist network (an association) and implicated Japan in a human rights violation (TSDG 2013a). At the meeting, JICA promised that it would ask the Myanmar government's cooperation in complying with JICA's Guidelines as well as international standards (TSDG 2013b).

A week later, the Yangon regional government held a consultation meeting with representatives of the PAPs. Facing the imminent start of the scheduled SEZ construction in November, the government requested all of the PAPs in Class A (regardless of their having signed the resettlement and compensation agreements) to vacate by November 8 (TSDG 2013b). This prompted TSDG to write a letter to JICA in an attempt to persuade the agency not to disburse the funds for Phase I development until the final version of the RAP had been accepted by the PAPs. The letter emphasized that coercion and threats had been used to obtain some residents' signatures on the agreements. It also listed point by point the ways by which the Myanmar government had violated JICA's Guidelines (TSDG 2013b).

JICA had been quiet despite TSDG's multiple letters requesting for its responses and meetings to discuss the PAPs' concerns about the project as well as informing JICA of the adverse effects of the project on their livelihood. In Class A, residents had already been displaced and the construction of the SEZ had begun without a final version of the RAP in which the PAPs agreed to the plan (TSDG 2014a).

In January 2014, the Myanmar Japan Thilawa Development Co. Ltd. (MJTD), which develops the SEZ, was established with funding from both Myanmar (TSEZMC funds 10 percent while nine Myanmar companies and public shareholders fund 41 percent) and Japan (JICA funds 10 percent while Japan's general trading companies fund 39 percent).<sup>4</sup> Without further discussions with the PAPs, JICA decided in April 2014 to disburse funds for MJTD to develop the Class A site. Then, JICA finally broke its silence with a phone call from its Yangon office to TSDG. JICA stated its position that TSEZMC had taken appropriate actions and had complied with JICA's Guidelines (Mekong Watch 2014f). TSDG did not accept this verbal communication and sent JICA a letter asking the agency to explain its position in writing. The letter also expressed TSDG's concerns that Phase II development would face the same problems if the Myanmar government continued to handle resettlement and compensation in the same manner as it had with Phase I development (TSDG 2014b).

When no official responses from JICA had emerged over the previous seven months, TSDG decided to use JICA's objection procedures (Mekong Watch 2014g). In June 2014, three TSDG requesters handed over in person a statement of their complaints to an Examiner at JICA's headquarters in Tokyo. This was the first time that JICA's objection procedures had been used. The Examiners found the complaints to merit an investigation (JICA 2014).

A JICA Examiner conducted a field visit from July 16 to 20, 2014, and held meetings with representatives from the Myanmar governments, the JICA Yangon office, the PAPs, the TGSD, and Mekong Watch. The Examiner also visited the planned relocation sites and the Class A site, and held a hearing with three TSDG requesters and resettled residents (Mekong Watch 2014a). In July and August, JICA organized two tripartite meetings to facilitate a dialogue between the Myanmar governments and the PAPs. TSDG, Mekong Watch, Paung Ku (a local NGO), the Myanmar governments, and JICA were the main participants (The Examiners 2014).

In November 2014, after five months of work, JICA's Examiners produced their investigation report. It concluded that JICA had complied with its Guidelines in relation to Phase I of the Thilawa SEZ development project. However, the Examiners suggested that JICA should improve the transparency of the project by holding multi-stakeholder meetings and by establishing an operational grievance mechanism (The Examiners 2014).

In the same month, the Physicians for Human Rights (PHR), a U.S.-based NGO, published a report, "A Foreseeable Disaster in Burma: Forced Displacement in the Thilawa Special Economic Zone." It concluded that the resettlement process as well as the relocation sites did not satisfy international guidelines (PHR 2014). This conclusion contradicts the Examiners' main conclusion. Drawing data from extensive interviews with the PAPs, obtained with help from TSDG and Mekong Watch, PHR found that 93 percent of all households it surveyed at the relocation site felt threatened, or feared repercussions, from their refusal to move (PHR 2014: 21).

### **Workings of Transnational NGO Advocacy**

In addition to local organizing to remedy injustices, the emergence of a TAN, including TSDG, Mekong Watch, EarthRights International, Human Rights Watch, and the U.S. Campaign for Burma, was observed. Such a network, though often loosely connected, makes coordinated and/or independent efforts, rallying around certain discourses. The network made significant contributions in addressing major issues in the process of SEZ development in this case study.

Mekong Watch specializes in monitoring development projects in the Mekong Region and engages in advocacy to prevent and mitigate the negative environmental and social impacts of development projects (Mekong Watch website). The NGO began advocating to prevent the foreseeable negative impacts of the planned Thilawa SEZ project even before the MOU had been signed by the two governments. The NGO met with JICA in September 2012 and recommended that it change the EIA category of the Thilawa SEZ project from a "B" to an "A" (Mekong Watch 2013d).

Mekong Watch's concerns became a reality when villagers in Class A received a two-week eviction notice from local governments, along with a threat of imprisonment, soon after the MOU had been signed. The NGO issued an urgent letter demanding that the Japanese government pressure the Myanmar government to avoid forced resettlement; it also repeated its request for a change to the EIA category of the project (Mekong Watch 2013m). The NGO also held an urgent seminar on the project at the House of Councilors (the upper house of Japan's National Diet) office building to raise awareness and advocate for changing the EIA category (Mekong Watch 2013n).

Based on its own fieldwork in Myanmar (Mekong Watch 2013e), Mekong Watch informed JICA and the Ministry of Foreign Affairs of Japan via a series of letters that the

Myanmar government had neglected appropriate project procedures because the government had not offered residents participatory and transparent consultations with regard to resettlement and compensation (Mekong Watch 2013f). The NGO's letters were often issued around the same time when the PAPs in Myanmar had issued their letters, and they shared similar points. This coordinated advocacy may have finally influenced JICA to change the EIA category.

Although the letter writing campaign by the PAPs and the NGOs finally led the Yangon regional government to hold a resident consultation meeting on resettlement and compensation, the PAPs felt that the process of formulating a resettlement and compensation plan was neither participatory nor transparent (Mekong Watch 2013g). Some residents expressed an interest in directly negotiating with JICA if TSEZMC would not compensate the PAPs for the loss of their lands in accordance with the World Bank's standards (The Yangon Times 2013). Despite the PAPs' complaints and concerns, the Myanmar government published, in a local newspaper, the move-out day from Class A without directly notifying the PAPs (The Voice Daily 2013).

The reports of duress caused by, and threats made by, the Yangon regional government began surfacing, which prompted Mekong Watch, in an urgent letter, to demand of the Japanese government, including JICA, that they urge the Myanmar government to stop suspected human rights violations (Mekong Watch 2013h). TSDG also used human rights discourse when it held a press conference (Mekong Watch 2014a) that forced the representative for JICA's Yangon office to meet with TSDG leaders.

Human rights discourse encouraged additional International NGOs to join a TAN and voice their concerns about human rights violations in Class A. Human Rights Watch, a U.S.-based International NGO, sent a letter to Japan's prime minister, requesting Japan to "view the Thilawa project as a cautionary case study" (Human Rights Watch 2013). The NGO suggested that Japan should make human rights a "cornerstone" of the upcoming Japan-ASEAN Summit. The NGO also urged Japan to press the Myanmar government "to protect the rights of communities facing widespread displacement and forced eviction for infrastructure, development, agriculture and natural resource extraction projects by Burmese and foreign investors throughout Burma" (Human Rights Watch 2013). This statement suggests that land and resource grabbing is prevalent in Burma (Myanmar). The U.S. Campaign for Burma (USCB), a U.S.-based membership organization, which promotes freedom, human rights, and democracy, issued a press release, condemning JICA for failing to responsibly manage its investment in the Thilawa SEZ project (USCB 2013).

Suspected cases of human rights violations in Class A continued to emerge. In urgent request letters to JICA in September 2014, Mekong Watch reported that threats and harassment were used to intimidate the PAPs during one of the Examiners' field investigation (Mekong Watch 2014b). The NGO expressed its grave concern that local governments were using arrests or criminal charges against the PAPs to force them into resettlement negotiations. For example, the Thanlyin County police arrested one of the TSDG requesters who had filed a complaint to JICA's Examiners (Mekong Watch 2014c).

In early December, 2014, the TSDG requesters responded to JICA's Examiners' Report. EarthRights International, and Mekong Watch separately responded to JICA's Examiners' Report. They all found the Examiners unable to fully study and understand the situation from which the PAPs had suffered. They all disagreed with the Examiners' main conclusion: that JICA had not violated its own Guidelines (Mekong Watch 2014d).

The opinion letter by the TSDG requesters (Requesters 2014) listed their counter-arguments regarding land rights, the drainage situation, drinking water quality at the relocation site, and threats made by the governments. These issues address the direct impacts of Phase I development on villagers' physical and psychological well-being. With regard to the claim of threats, the TSDG requesters cited data from the report by the Physicians for Human Rights (PHR) to counter the Examiners' conclusion that there was no evidence of systematic or open threats made by, or duress caused by, the Myanmar government.

Mekong Watch issued an opinion paper with a methodological emphasis. The NGO had exchanged opinions with JICA's Examiners via meetings and paper submissions while the Examiners were conducting the investigation (Mekong Watch 2014c). Thus, the NGO was disappointed that the Examiners relied upon and accepted data supplied by JICA rather than by collecting and analyzing original data. Mekong Watch noted that while the Examiners had recognized various problems in Phase I development, the Examiners' conclusion contradicted evidence acknowledged in the body of the same report. This contradiction caused the NGO to question whether the Examiners had truly been able to function independently from JICA (Mekong Watch 2014e).

EarthRights International, which had been working with some PAPs in Class A since 2013, to help them advocate for their cause, issued its response to the Examiners' Report along with two other reports. In the response letter, the NGO raised its concerns about the following themes: (1) Relocation and Land Related Issues; (2) Climate of Fear; (3) Environmental Impact Assessment (EIA) for Phase I; and (4) Failure to Address the Situation in Phase II of the Project (EarthRights International 2014a). In their report, "Analysis of the Environmental Impact Assessment for Phase I of the Thilawa Special Economic Zone Project in Myanmar" (EarthRights International 2014b), EarthRights International deemed the EIA for Phase I inadequate in light of procedures and substances, and thus concluded that the EIA complied with neither JICA's Guidelines nor international best practices. In another report, "An Analysis of the Affected Communities' Rights and Remedies Under Myanmar Law and JICA's Guidelines" (EarthRights International 2014c), the NGO highlighted the effects of the SEZ and questioned the legality of land confiscation.

These responses from the NGOs show that they have their own, ongoing sets of concerns about the project. Both Mekong Watch and EarthRights International respect and support TSDG's wish to be adequately compensated in accordance with international standards. This is important to mention because a TAN is another transnational space where the power dynamics based on nationality and class may create inequalities. NGOs from the Global North could easily impose their visions and agendas on their counterparts in the Global South.

In this case study, TSDG and the villagers in or near the Thilawa SEZ project site have persistently tried to conduct a dialogue with the governments involved via written petitions, press conferences, and JICA's objection mechanism. TSDG has had long-time partners from the beginning, such as EarthRights International and Mekong Watch. Together, NGOs have engaged in accountability politics, holding the Myanmar government and JICA accountable for JICA's Guidelines as well as international standards.

EarthRights International has the geographical advantage of having a Myanmar office, which makes it easy for the NGO to hold press conferences along with TSDG. The staffing of EarthRights International is unique because the NGO's staff members are also members

of other NGOs. For example, a Mekong Watch senior advisor is listed as a staff member at the website of EarthRights International. Such relationships would presumably make collaboration and information exchanges between NGOs relatively easier.

Mekong Watch's presence in Japan has particularly helped TSDG's grievances to be heard there because Mekong Watch has also engaged in written petitions, press releases, advocacy seminars, and meetings with JICA. The NGO also conducts fieldwork in Myanmar on a regular basis to directly hear from local communities and share the information with decision-makers in Japan. Hence, Mekong Watch has already established pipelines with local NGOs as well as JICA, and they bridge the two.

Local organizing and transnational advocacy campaigns are tactics drawn from previous social movements in Myanmar to counter foreign investment and the government's support for projects (Dale 2011). By sharing their strategies and claims, these NGOs have collaborated to amplify their voices and to complement each other's efforts. For example, Mekong Watch's website lists not only its own past press releases and letters, but also those of TSDG's and reports by ERI and PHR among others. Mekong Watch also cites from TSDG's letters and press releases when it issues its own press releases.

In the Thilawa SEZ development project, NGOs have increasingly been recognized as stakeholders. A suggestion by the Examiners led to the creation of the Multi-Stakeholder Advisory Group (MSAG) in 2015. MSAG consists of TSDG, local NGOs, international NGOs, TSEZMC, the Myanmar Japan Thilawa Development Co. Ltd. (MJTD), and international organizations, such as International Labour Organization (ILO). The Myanmar Center for Responsible Business (MCRB), a local NGO, heads MSAG and JICA's specialist team administers it. However, MSAG had no teeth due to the lack of an actual grievance mechanism (Wells 2015) until recently.

TSDG and EarthRights International collaborated to create the Community Driven Operational Grievance Mechanism (CDOGM) (Kaufman & McDonnell 2015). An alternative mechanism, the Thilawa Complaints Management Mechanism (TCMP), designed by a JICA expert team, was launched in 2018. EarthRights International soon criticized TCMP for falling short of international standards (EarthRights International 2018). It is interesting to observe that state and non-state actors compete on mechanisms and make competing claims about which is up to international standards. Throughout the SEZ development, "international standards" have been used for claim-making.

In 2016, experts from MCRB, EarthRights International, the International Commission of Jurists, Oxfam, and the World Wildlife Fund made proposals for the rules by which to implement the new Myanmar Investment Law. This shows that not only a foreign government (e.g., the Japanese government), but also NGOs may become involved in the creation of a legal framework or law in Myanmar. These examples of NGO involvements in a SEZ-related development demonstrate that NGOs may assume various roles, ranging from social movement participants to technical assistance providers, roles which carry the potential to change the power dynamics in a particular transnational space, such as SEZs.

Since the military coup d'état in Myanmar in February, 2021, Japan's reluctance to impose sanctions on the nation has received harsher criticism by the international community than it had in comparison to Japan's ambiguous stance on Myanmar's ongoing Rohingya crisis, which began in 2017. While the Japanese government keeps its communications channel open with both the National League for Democracy (NLD) and the military in Myanmar, it has already halted negotiations on new ODA projects. As of June 2022, Japan has not yet suspended ongoing ODA projects in Myanmar. Japan's business

interests in Myanmar face uncertainty as well as the risk that they will be perceived as cooperators with the military by Myanmar citizens (The Sankei Shimbun/newspaper 2021) as well as Japanese citizens.

### **Conclusion**

This study has explored the process of SEZ development that led to transnational NGO campaigns to address and remedy injustices caused by land grabbing. In advancing the SEZ project, the Myanmar government treated the PAPs as members of a class with no rights to the land. The case study shows that the pre-existing inequalities based on nationality and class were reconfigured in this transnational process. The PAPs were able to resist their imposed identity as illegal occupants and to combat their mistreatment by the government, via local organizing and collaboration with NGO partners in Myanmar and Japan (though their struggles continue). Human rights discourse further led to the formation of a TAN. The Myanmar government's unresponsiveness led to the network directly targeting the Japanese government, Myanmar's project partner, implicating Japan in human rights violations. Throughout their advocacy, non-state actors invoked JICA's Guidelines and international standards in their claim-making to make the governments accountable to their own MOU. The case study also showed that advocacy by domestic civil society (i.e., Mekong Watch) in Japan has significantly contributed to making the PAPs' claims be heard by the Japanese government.

The findings in this study present a different pattern from what the predominant literature describes as a TAN's leverage politics (e.g., Keck and Sikkink 1998) in which local activists are beholden to other members of a TAN and seek to apply external pressure to their own government. In this study, although the PAPs' demands were blocked by their unresponsive governments, the PAPs and the local NGOs in Myanmar not only engaged in information sharing with other members of the TAN but also directly engaged with, and applied direct pressure on, the Japanese government, via written petitions, press conferences, and JICA's objection mechanism. The study also showed that non-Myanmar NGOs directly engaged in their own information gatherings, without depending upon secondhand information shared by Myanmar NGOs, though a cooperative relationship existed. Thus, unlike the traditional understanding of a TAN's leverage politics, this study suggests that local-global encounters in a TAN could occur in a manner exhibiting more equal power relations (see for example, Matsuzawa 2019, 2011).

Future research should further explore the ways through which presumed inequalities could be reconfigured in a transnational space. Some analytical units would include state responsiveness to popular protests, state vulnerability to certain discourses (e.g., human rights violations and international standards), the existence of civil society in host nations as well as foreign investor nations, and the transnational connections of local civil society.

### **Notes**

- 1 Hall (2020b) argues that Japan's empirical record does not fit well with conceptualizations of "Asian Land Grabber."
- 2 Bedi (2013) points out the difficulty in organizing national or regional anti-SEZ resistance in India.
- 3 China is regarded as the largest donor though the nation does not disclose the figure of its overseas assistance.
- 4 Japan's general trading companies have been major players in overseas agriculture investment (Hall 2015).

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## **PART 9**

# **Land and Resource Grabbing**

**Resistance, Restitution and Remedies**



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# AFTER THE RUBBER BOOM

## A Cautionary Tale from Southern Laos and Northeastern Cambodia

*Ian G. Baird*

### Introduction

In April 2006, I was working for a non-government organization (NGO) in southern Laos. We had begun to survey villages in Bachieng District, Champasak Province, when we discovered that large rubber (*Hevea brasiliensis*) plantations were being developed there. Following some fieldwork, I wrote the following about our initial findings in various villages:

I thought you might be interested to know about a plantation concession that is of considerable concern to us nowadays. Our NGO has just begun working in Bachieng District in Champasak Province, in southern Laos, which is a partially mountainous district with an ethnic minority population of over 60%. According to ethnic minorities living along the road between Pakse and Paksong who I met recently, a Vietnamese rubber plantation is confiscating almost all of their agricultural land without consultation or compensation. Coffee and pineapple plantations are being taken from villagers so that rubber can be planted. Villagers are very upset, and say that they expect to become much poorer in the future, as some villages claim that they are only going to have their house land left. They mocked the government's policy to eradicate poverty. The situation is apparently similar for all the villages living near the road in Bachieng District between Pakse and Paksong. Locals claim that they are not receiving any compensation for their lost upland agricultural land, and that only government officials come to talk to them about the project, and never the company officials. They see no benefits from the plantation.

About a week after hearing the above, I asked the head of the district governor's office about the rubber concession. He confirmed that two Vietnamese companies have been granted 50-year rubber tree plantation concessions covering a total of 15,000 ha in Bachieng. The same official said that there are no shortages of land for villagers because of these large concessions, since there are over 84,000 ha of land in the district—plenty for everyone. However, he also acknowledged that so far the district has only been able to locate 10,000 ha of land for the concession, and that they were planning to ask Paksong to provide the rest in adjacent areas to Bachieng. He claimed that villagers whose land was

being taken were all receiving compensation, but muttered that it was coming slowly. He said people might be upset because they wanted more compensation than was being offered. He tried to play down any problems with the concessions, and claimed that the project would provide employment for local people. It is clear, however, that the local ethnic minorities who are losing their land see things in a very different light. Anyway, we plan to do more research about this situation in the future, as it appears that this plantation is affecting a large number of families in a number of villages.

I reproduce the aforementioned message to make a point. At the time, the focus was on how the villagers were losing their land to predatory Vietnamese rubber company concessions. Indeed, my writing from 2006 presents the type of concerns about the social and environmental impacts of plantations that were emerging elsewhere in southern Laos and north-eastern Cambodia at the time, and came to dominate the literature in the coming years (Dwyer 2007; Baird 2010; 2011; 2014; Hall 2011; Laungaramsri 2012; Kenney-Lazar 2012; Neef, Touch & Chiengthong 2013; Global Witness 2013; McAllister 2015; Gironde, Golay & Messerli 2015; Schoenberger, Hall & Vandergeest 2017; Li 2018). This literature can be considered a sub-set of a broader literature about a phenomenon that has come to be widely referred to as “global land grabbing” (Scoones 2009; Borras et al. 2011; Borras & Franco 2013; Li 2018), the “global land rush” (Scoones et al. 2013; Buxton, Campanale & Cotula 2012; Cotula 2012) or simply “land grabbing” (Baird 2014; Hall et al. 2015) literature. However, Tania Li (2018: 328) has pointed out that “researchers have paid less attention to what happens *after* the land grab”, a point I have also recently made (Baird 2020).

The purpose of this chapter is to review some of the serious challenges that rubber concession developers have experienced in southern Laos and northeastern Cambodia in recent years. I demonstrate that while plantations face many obstacles to success and that while circumstances vary considerably from place to place, rubber plantations development has been prone to difficulties for two main reasons. First, a particular frontier imaginary of investors often leads to poor planning, that in turn leads to various problems. Second, plantation investments tend to occur when market prices are high, for obvious reasons, but because agricultural commodity prices tend to rise and fall over time, it is often the case that by the time a plantation has developed (usually six or seven years), prices have dropped considerably.

## Methods

This research was conducted as part of broader investigations regarding the development of land concession-based plantations in southern Laos and northeastern Cambodia since the 1990s. This research was mainly conducted between 2014 and 2017, with support provided by a NASA-funded project of the East-West Center in Honolulu, Hawai'i, with Jefferson Fox as the project Principle Investigator. My own fieldwork focused on investigating the circumstances of a number of large-scale plantation concessions located in Savannakhet, Xekong, Salavan, Attapeu and Champasak Provinces in southern Laos, and in Ratanakiri and Stung Treng Provinces in northeastern Cambodia. Over the years, I travelled to rural areas affected by plantation concession development, where I observed the conditions of the plantations, and interviewed workers, local people living near the plantations, and company management and government officials. I also visited urban plantation company offices, where I spoke with some senior plantation company management. Table 28.1 provides basic information about each of the plantations where research was done.

Table 28.1 Rubber concessions investigated in Laos and Cambodia

<i>Locations Investigated</i>	<i>Company</i>	<i>Type of Company</i>	<i>Crop and Size</i>	<i>Year of Initial Investment</i>
Bachiang District, Champasak Province, and Lao Ngam District, Salavan Province, Laos	Viet-Lao Rubber Joint Stock Company (subsidiary of Vietnam Rubber Group)	Vietnam government-owned	Rubber, 10,000 ha	2004
Bachiang District, Champasak Province, and Lao Ngam District, Salavan Province, Laos	Dak Lak Rubber Company	Private Vietnamese	Rubber, 10,000 ha	2004
Bachiang District, Champasak Province, and Lao Ngam District, Salavan Province, Laos	Kaousouaotieng Company	Private Vietnamese	Rubber, 10,000 ha	2006
Bachiang District, Champasak Province, and Lao Ngam District, Salavan Province, Laos	Cong Ty Cao Su Nghi Lao-Viet (LVF) company (Lao-Viet Company)	Vietnam government-owned	Rubber, 5,000 ha	2006
Sanxai, Xaysetha and Phou Vong Districts, Attapeu Province, Laos	Hoang Anh Gia Lai (HAGL)	Private Vietnamese publically traded	Rubber, Cattle, Sugar cane, fruits, 40,000 ha (approx.)	Late 2000s
Khong District, Champasak Province, Laos	Ho Chi Minh City Company	Vietnam military-owned company in cooperation with Lao PDR military	Rubber, 2,000 ha	2009
Andong Meas District, Ratanakiri Province, Cambodia	Hoang Anh Andong Meas Co., Ltd. (HAGL)	Private Vietnamese publically traded	Rubber, 9,755 ha but reduced in size	2011
Voeunsai District, Ratanakiri Province, Cambodia	S.K Plantation Company (Pte)	Private Singaporean company	Rubber, 8,000 ha but later reduced in size, nothing planted	2012
Sesan District, Stung Treng Province, Cambodia	Sopheak Nika and Sal Sophea Peanich Investment Companies	Private Cambodian companies	Rubber, 19,917 ha for both, bit later reduced	2005 or 2006
Sesan District, Stung Treng Province, Cambodia	Grand Land Agriculture Co., Ltd.	Private Chinese Company	Rubber, 9,854 ha but reduced	2006
Sesan District, Stung Treng Province, Cambodia	Huayue Group (formerly Siv Guek Investment Co., Ltd.)	Private Chinese Company	Rubber, 10,000 ha but reduced	2006
Sesan District, Stung Treng Province, Cambodia	Phou Mady Investment Group Company, Ltd.	Private Chinese Company	Rubber, 10,000 ha but reduced	2006



### Challenges Facing Large-Scale Plantation Developers

The challenges to developing rubber and other plantations can be divided into five categories, although difficulties are frequently connected and intertwined. Thus, these categories should be conceptualized as heuristic tools, since the boundaries between them are fuzzy, permeable, and shifting. In the following sections, the root causes of these challenges, commodity price changes and the resource frontier mentality, are also connected. In this chapter, I focus only on rubber.<sup>1</sup>

#### Price Constraints

Among the most important challenges for large-scale plantation developers has long been commodity prices. While high rubber latex prices encouraged investment in the 2000s, declines in prices have negatively affected the plantations investigated for this study. Rubber prices were quite high in the 2000s, leading to increased wealth for farmers (Sturgeon 2012) and a massive boom in rubber plantation development in mainland Southeast Asia. This was true both for large and small plantations (Shi 2008), but, as already mentioned in the introduction, in 2011, world latex prices significantly declined (Shattuck 2021), and since then prices have only partially recovered (see Table 28.2). These price declines have led to financial losses or underperformance for investors.

Rubber prices have historically been highly correlated with petroleum prices, as there is some ability to replace latex with petroleum products, or vice versa. Therefore, the world oil price tends to affect the price of rubber. Another factor was the large amount of rubber development that occurred in various countries in Southeast Asia beginning in the 2000s, leading to an oversupply of latex (Grant 2014). While global rubber prices have recovered to some extent, they are not as high as they once were. These circumstances have negatively affected the bottom line for various Vietnamese companies with rubber plantations in southern Laos and northeastern Cambodia. Vongvisouk and Dwyer (2016) pointed out that dramatic declines in the prices of latex led to many rubber plantations going untapped in northern Laos. The Vientiane Times (2020) also reported that due to low market prices in recent years, some farmers have abandoned rubber in favour of other commercial crops, leading to hundreds of hectares of rubber trees being cut down.

Hoang Anh Gia Lai (HAGL) is one of the companies that has developed large-scale rubber plantations in southern Laos and northeastern Cambodia. Its former board chair, Doan Nguyen Duc, was considered, in 2008 and 2009, to be the richest man in Vietnam. However, since then his stature has dramatically declined (Viet Nam News 2021), and he no longer controls the company. HAGL had problems making debt payments to its creditors in

Table 28.2 Changes in rubber prices in Cambodia and Laos

	2011	2013–2014	2015	2016	2017	2020
Price per kg in Cambodia	US\$4.50	US\$1.80 to US\$2.00	–	US\$1.20	US\$2.40	–
Price per kg in Laos	US\$2.28	US\$0.57	Slight increase over 2015 price	US\$0.41	US\$0.38 to US\$0.50	US\$0.63 to US\$0.75

Sources: Khmer Times (2017); Vongvisouk and Dwyer (2016); Vientiane Times (2017, 2020).

Vietnam, and at one point Duc even suggested that if its Vietnamese creditors did not provide it with more flexibility, HAGL might have to sell half of its 40,000-hectare land concession in Attapeu to a Chinese company (VietNamNet Bridge 2016). The low price of rubber is the main reason for these difficulties, and for the company to increase its emphasis on fruit production.

Some plantation leaseholders have faced broader constraints related to financing. For example, HAGL's recent financial problems are partially due to lower than expected commodity prices, but are also a consequence of the underperformance of many of the company's other investments in Laos, which apart from plantations include banks, hotels, and hydropower dams. HAGL began investing in Laos in 2007 (VietNamNet Bridge 2013; 2017; Vientiane Times 2012).

Commodity pricing has been a serious challenge for large-scale plantations in southern Laos and northeastern Cambodia, as all the large-scale plantations mentioned earlier were initiated when commodity prices were relatively high. The example of HAGL shows that commodity prices have been a challenge, but that the non-plantation portfolio linked to plantations also carries its own risks.

### *Conflicts with Villagers and Activists*

Villagers living near tree plantations have often been negatively impacted. Therefore, locals have frequently objected to their development, and have sometimes caused considerable problems for companies that have infringed on villager farmlands or common grazing and forest lands, whether in southern Laos (Baird 2017; Baird & Le Billon 2012), or northeastern Cambodia (Schoenberger 2017; Baird 2017). Indeed, in other parts of the world, land conflicts with locals have cost investors billions of dollars (see Provost 2013). However, it is important to recognize that impacted farmers respond to land grabbing in various ways (Hall et al. 2015; Moreda 2015), including sometimes seeking greater market integration (Castellanos-Navarrete & Jansen 2015) or individual benefits from land concession developers (Mamonova 2015).

Baird (2017) reported that in Thateng District, Xekong Province, ethnic Katu villagers who lost all their land took control of approximately 120 hectares of rubber plantation, stopped tapping from occurring, and announced that the villagers would only return the part of the rubber plantation they controlled once they were relocated to somewhere with sufficient land for farming. This resistance reduced the productive potential of part of the concession, albeit a relatively small part of the 5,000-hectare plantation as a whole (Baird 2017). In another case, HAGL was pressured into building new houses for villagers in one community in Phou Vong District, Attapeu Province that disputed the company's takeover of much of the village's land.

In northeastern Cambodia, village resistance has occurred in different ways, and with varying degrees of success. For example, in Talao Village, Andong Meas District, Ratanakiri Province, villagers took direct action to take back a ten-hectare piece of upland area that was an important refuge from rainy season flooding, which a HAGL subsidiary had planted with rubber seedlings and fenced in. The villagers uprooted the seedlings and dismantled the fence. However, only a relatively small portion of the land lost by the village to HAGL was taken back (Baird 2017).

In Voeunsai District, Ratanakiri Province, to the south of the Sesan River, villagers strongly resisted the establishment of a large rubber plantation planned by S.K. Plantation

(Cambodia) Pte, a Singaporean company. Various tactics were used, from direct action linked to burning down company housing, to indirect threats against developers and their Phnom Penh-based Cambodian government counterparts, to villagers occupying parts of the planned concession to prevent it from being developed, to indirect political pressure being put on politicians. The villagers have been very successful in preventing the company from developing the concession (Baird 2017).

Apart from facing direct challenges from villagers, some plantation owners, particularly HAGL and the Vietnam Rubber Group (VRG), have experienced challenges from advocacy organizations concerned about the social and environmental impacts of plantation development. This is not surprising, as these are the two Vietnamese companies most involved in rubber plantation development in Laos and Cambodia. For example, in 2012, the VRG and its subsidiaries had 24 rubber development concessions between the two countries, 15 of which were in Cambodia and another 9 in Laos, with a total area of over 70,000 hectares (Giai Phong 2012). They were highlighted by the British environmental advocacy group, Global Witness, in a report entitled *Rubber Barons: How Vietnamese Companies and International Financiers Are Driving a Land Grabbing Crisis in Cambodia and Laos*, which was released in 2013 and criticized the companies for their rubber investments in both southern Laos and northeastern Cambodia (Global Witness 2013). According to Global Witness, HAGL and the VRG acquired more than 200,000 hectares of land through a series of non-transparent deals with the Lao and Cambodian governments (Global Witness 2013; Bangkok Post 2013).

Global Witness also campaigned to influence the International Finance Corporation (IFC), the private lending arm of the World Bank Group, since HAGL had previously received financial support from them through Vietnamese equity funds. In April 2014, HAGL reportedly stopped expanding its plantations in Cambodia, due to rubber price declines and allegations leveled against it, and taken up by the IFC. These allegations have undoubtedly cost HAGL considerable time and money. The Global Witness campaign also drew some attention from VRG in Laos, which claimed after the release of the Global Witness (2013) report that it would resolve all outstanding issues with villagers affected by their plantations in Laos and Cambodia (Vientiane Times 2014b), although it is unclear if any significant changes have actually occurred since the announcement was made.

One example of NGOs supporting villagers to gain land back from companies relates to the Sopheak Nika and the Sal Sophea Peanich rubber concessions in Sesan District, Stung Treng Province. In 2006, the NGO Development and Partnerships in Action (DPA) started working with the ethnic Brao people living in Kadot Village to help them obtain some of their land back. Ultimately, they were able to negotiate the return of 30% of the land that each company had been granted, so that it could be used to establish community forests. Villagers would also gain control of some land for swidden agriculture.<sup>2</sup> This was undoubtedly costly for the companies.

The point is that opposition from villagers, in various forms, and from other activists supporting them, has led companies to lose land, incur considerable expenses in hiring expertise, endure reputational damage, experience equipment loss due to vandalism, and lose time. The root cause of these difficulties has often been poor planning, including insufficient consideration of local concerns. Instead, these are the types of problems that can be expected to occur due to a resource frontier mindset, in which investors imagine that there are vast areas of unused land available for the taking, provided that action is taken soon. This greatly contributes to insufficient efforts being made to address villagers' concerns and to prevent villager resistance.

### ***Management Difficulties***

Another important and generally underreported challenge that many plantation companies encounter are “management difficulties”, which includes corruption. Management problems often emerge when plantations are being developed, and are frequently associated with poor management decisions, some of which can be attributed to a frontier mentality.

In Attapeu Province, southern Laos, lower to mid-level Vietnamese employees of HAGL have caused serious problems through embezzling equipment and supplies, including selling discounted company gasoline to private citizens. To address this problem, in 2014 HAGL started contracting Lao police to stay with different groups of employees. These police officers were paid 1,500,000 kip (US\$1 = 8,000 kip) per month on top of their regular government salaries. Their job is specifically to prevent company assets from being pilfered. The police officers rotate to different groupings of workers within the concession every three months to ensure that the police do not develop close relations with regular company employees, which might result in collusion or a lack of law enforcement.<sup>3</sup> This added to the company’s payroll, but it was apparently largely successful in stopping the rampant employee embezzlement that previously occurred, although at an originally unanticipated cost to the company.

Another problem with management that emerged elsewhere in Laos is that some rubber tappers have added sand, small stones, and wood resin to the rubber to increase its weight and make more money, resulting in some latex being of so low quality that it could not be processed and had to be disposed of (Vientiane Times 2021). This jeopardized company profits but also their reputations, if they or Laos becomes associated with low quality rubber in the future.

There are many other examples of management difficulties similar to the ones described above, but these types of impacts deserve more attention. The core constraint is poor planning and shortsighted thinking, which often comes with the type of rapid project implementation associated with high commodity prices and a resource frontier mentality.

### ***Technical and Environmental Problems***

Plantations often face technical and environmental challenges. These include everything from choosing the wrong type of machinery to unexpected equipment breakdowns, and from planting the wrong types of seedlings to difficulties maintaining transportation routes and other essential infrastructure. Other potential environmental challenges relate to weather events and poor soils. These challenges are often linked to poor planning associated with the cyclical crisis of capitalism. There are also important environmental factors. For example, Ahrends et al. (2015) have pointed out that the expansion of rubber plantations in recent years in mainland Southeast Asia has resulted in newer developments being situated on lower quality land, including land with poor soils and places susceptible to erosion, and areas vulnerable to wind storms, frost and other weather-related threats.

Illustrative of this, at HAGL’s concession in Phou Vong District, Attapeu Province, sizable areas of rubber trees have died, apparently due to poor-quality rocky soil layers existing about one metre below the surface, thus leading to serious growth constraints. Of the company’s 20,000 hectares of rubber in Attapeu Province, one HAGL manager estimated that 15% had to be cut down.<sup>4</sup> Moreover, even the rubber trees that were producing latex for HAGL were not yielding nearly as much latex as expected, thus constituting

another serious challenge for HAGL.<sup>5</sup> HAGL tried to use more fertilizer to increase production, but this effort was not able to overcome these environmental problems.<sup>6</sup>

One of the most significant technical and environmental problems relates to using inappropriate land and soil for planting rubber trees. Indeed, it appears that many rubber plantation investors assumed that rubber trees could grow almost anywhere, and that growth and latex production would be essentially equal regardless of where plantations were developed. This assumption led to disaster. A good example of this involved the Ho Chi Minh City Company rubber plantation in Khong District, Champasak Province, Laos, where less than 1,000 of the original 2,000 hectares of planted rubber trees are alive,<sup>7</sup> with these surviving but undersized trees unlikely to produce much latex. The Ho Chi Minh City Company rubber plantation in Sanxai District, Attapeu Province faced similar problems due to poor tree growth.

Initially two other foreign investors, one Thai and one Malaysian, also attempted to establish rubber plantations in Khong District. All were part of a “rubber rush” of the 2000s associated with high commodity prices and the frontier mentality. However, according to local government officials, once the managers of those companies realized the serious environmental constraints, they cut their losses and withdrew.<sup>8</sup>

Three Chinese rubber plantation companies, Grand Land Agricultural Development (Cambodia) Co., Ltd., Phou Mady Investment Group Co., Ltd., and the Huayue Group (formerly Siv Guek Investments), each of which received approximately 10,000 ha land concessions to develop large rubber plantations in Sesan District, Stung Treng Province, have also been devastated. Again, large parts of their concessions have proven to have inappropriate soils for rubber cultivation, resulting in most of the seedlings planted dying or dramatically underperforming.

The Vietnam Rubber Group’s plantations in Bachieng District, Champasak Province, southern Laos, have experienced challenges due to strong windstorms, like the ones that Ahrends et al. (2015) reported to be a threat to rubber plantations in some parts of mainland Southeast Asia. In 2014, for example, a storm in Bachieng destroyed 259 hectares of rubber trees valued at 184 billion kip or US\$23 million (calculated based on the amount of latex the area was expected to produce over a 15-year period) and partially damaged another 298 hectares (Vientiane Times 2014a). The strong winds broke the trunks of many trees, making them unproductive. According to the Vientiane Times newspaper, the Lao government agreed to allow the VRG a seven-year land lease fee exemption for the area which was completely destroyed. The authorities also agreed to waive import tariffs for equipment, seedlings, fertilizer and other items needed to reestablish the destroyed plantations (Vientiane Times 2014a). To reduce the chances of this happening again, VRG lopped off some of the high branches of mature rubber trees, so that the upper parts of the trees would be lighter and thus less susceptible to wind damage.<sup>9</sup> However, the company had to pay people to do this work.

Flooding and fire destroyed some rubber plantations in Sesan District, Stung Treng Province. For example, Sopheak Nika lost part of its rubber plantation due to unanticipated flooding. Grand Land Agricultural Development attempted to develop teak plantations in the same district after experiencing problems with rubber but forest fires, which are common in the dry season, have destroyed most of the trees.<sup>10</sup>

There are many examples of companies being badly affected by poor planning, whether it be related to land quality consideration, assessment of weather conditions or other technical and environmental problems. This lack of planning relates to companies being overly

optimistic about their circumstances, which is the type of problem associated with the resource frontier mindset.

### ***Lack of Government Support at Various Levels***

Some plantation developers have had trouble due to a lack of government support for ensuring that they are able to implement the agreements they have signed, something that has also been reported elsewhere (Baird 2020). The key support that investors have sometimes failed to receive from the government relates to adjudicating problems that investors have encountered so that they are able to implement projects as planned. Without government support, it is often difficult for foreign investors to resolve critical problems, including conflicts with villagers and local level officials. For example, Chinese investors in Laos have sometimes failed to receive Lao government support for large rubber land concessions when local people have complained about or refused to cooperate with Chinese investors.

One problem related to government policy implementation that has negatively affected Vietnamese rubber companies, especially HAGL, was that when they started operations in Laos, labour laws existed, but were hardly enforced. Therefore, HAGL developed their business model with the expectation that they would not have to buy workers' insurance. Later, however, those laws were enforced, and the government did not protect the interests of the company, but rather protected the interests of workers. Therefore, companies must now pay about US\$30 per employee for health insurance. Previously, HAGL often bought insurance and developed proper paperwork for about half its Vietnamese employees, while illegally hiring the other half. However, once the Lao government began enforcing the labour laws, HAGL was forced to incur significant unexpected expenses (Baird et al. 2019).<sup>11</sup> This lack of government support would appear to be a product of poor planning related to the resource frontier mindset.

### **Conclusions**

In this chapter, I have considered the reasons why many rubber plantation companies operating in southern Laos and northeastern Cambodia have faced significant challenges. Indeed, the problems are so serious that some companies have abandoned their investments, or seem likely to do so in the near future. This includes the Thai and Malaysian companies that attempted to develop rubber plantations in Khong District, Champasak Province. In addition, government officials in various provinces in Laos and Cambodia have become extremely skeptical of the value of developing these sorts of concessions. Illustrative of this, one Lao government official stated that, "The [Champasak Province] government doesn't want to give out new [concessions]. The province has learned many lessons", particularly about the problems that large-scale plantation concessions can cause for local people and the environment.<sup>12</sup> Indeed, the Lao government has become concerned about the effectiveness of investments in rubber plantations, and some years ago it decided to prohibit the establishment of any new rubber plantations in the country (Vientiane Times 2014a), a moratorium that was reaffirmed in July 2015 (Vientiane Times 2015). In May 2012, the Council of Minister of the Government of Cambodia also put an indefinite moratorium on new plantations, and ordered the review of existing land concessions (Di Certo and Meas 2012). The governments have done little to solve past concession problems, but they have at least reduced the amount of new concession-related problems occurring.

Many scholars and activists have argued against developing large-scale plantations in southern Laos and northeastern Cambodia due to the serious social and environmental impacts these developments have caused. This chapter, however, indicates that rubber plantation companies are also facing serious challenges, a finding that is supported by other research that indicates that plantation development is often fraught with difficulties. It is hard to pinpoint just one or two challenges that are particularly problematic, as each circumstance is different. What may constitute a significant problem for one plantation may not be nearly as problematic in another context. Nevertheless, this chapter indicates that large rubber plantation developers are facing considerable difficulties, including suffering serious financial losses because of price and market constraints, conflicts with villagers and activists, management difficulties, environmental and technical problems, and a lack of government support at various levels. Moreover, government revenue from plantations has not met expectations, since plantation companies have often been unable to pay their plantation lease fees—or have renegotiated them—due to the problems they are facing. Overall, the circumstances fit well with Tania Li's (2015: 560) statement, "Transnational farmland investments in much of the Global South are risky for all parties involved: agribusiness firms and their financial backers; host-country governments; and the people on the spot". Some might argue that the companies deserve these problems, considering the lack of concern that they have typically shown towards the welfare of local people or the environment.

Here, I have argued that the various challenges to rubber plantation development identified in southern Laos and northeastern Cambodia often emerge due to two "root causes": (1) rubber plantations that take years to develop and are usually developed when commodity prices are high, but are only mature enough to harvest years later when prices have declined, and (2) the resource frontier mindset causes rushed and poor planning that eventually leads to serious problems once projects are actually implemented. In the past, investors have often tried to secure investment opportunities quickly to take advantage of time-sensitive opportunities, but this study indicates that such rushed and poor planning can result in serious problems once project implementation occurs. Large-scale plantations are not easy to develop, and cutting corners to rush project implementation is unlikely to lead to the desired results.

Finally, it seems appropriate to ask why these rubber plantations—if they are not benefiting locals, governments or investors—were developed in the first place. Indeed, they appear to frequently constitute "lose-lose-lose" scenarios for villagers, the government and investors, and I am not claiming that all rubber plantations have failed in this way. However, this chapter raises serious questions about the significant overall risks associated with developing large-scale rubber plantations in southern Laos and northeastern Cambodia.

Ultimately, the demise of various rubber plantation concessions in Laos and Cambodia offers opportunities for returning the land to those displaced from it to establish the plantations in the first place. Indeed, this is what should happen. However, experiences indicate that this is unlikely to be the case unless villagers and their advocates lobby hard. For example, as outlined by Baird (2020: 391-2), a 16,000-hectare plantation concession allocated to Asia Tech Co. in the early 1990s failed in the late 1990s, but most of the land in the concession was not returned to the villagers who lost it. Instead, it was reallocated to another concession owned by Paksong Highlands Company. Therefore, villagers and their advocates will need to fight to get their land back. Certainly, it cannot be assumed that the

land will automatically be returned to those who lost it in the first place. Thus, the decline of the plantations should not be interpreted as the end of the struggle.

### Notes

- 1 However, see Baird (2020) for information about how this framework also applies to other crops.
- 2 Saveuan, village headman, *pers. comm.*, Kadot Village, June 2014.
- 3 Khamson, employee of HAGL, *pers. comm.*, Phou Vong, June 2017.
- 4 Khamson, employee of HAGL, *pers. comm.*, Phou Vong District, June 2017.
- 5 Bounthan, former Attapeu Province government official, *pers. comm.*, Attapeu Town, June 2017.
- 6 Khamson, employee of HAGL, *pers. comm.*, Phou Vong District, June 2017.
- 7 Vietnamese local manager of Ho Chi Minh City Company, *pers. comm.*, Khong District, June 2017.
- 8 Vixay Inthaphaisy, Khong District Deputy Forestry Unit chief, *pers. comm.*, Khong District, June 2017.
- 9 Vietnam Rubber Group Employee, *pers. comm.*, Bachieng District, June 2017.
- 10 Villagers, *pers. comm.*, Phluk Village, July 2014.
- 11 Also, Khamson, HAGL employee, *pers. comm.*, Phou Vong District, June 2017.
- 12 Khamphet, Champasak Province official, *pers. comm.*, Pakse, November 2016.

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# GENDER AND DISPOSSESSION IN INDIA

## Dynamics of Women's Participation in Anti-Land Grabbing Struggles

*Saba Joshi*

### Introduction

In India, since the early 1990s—a period marked by economic reforms promoting liberalization and privatization—land acquisition for private sector expansion has increased. Distinct from the post-Independence developmentalist agenda that sought land for large infrastructure building projects, land dispossession in 21st-century India accords new roles to the central and subnational governments, and brings to the fore a range of new private actors involved in the governance of land. Yet, while the modes and motives underpinning land grabbing have changed, resistance against land acquisition continues to be an imperative for those whose livelihoods are tied to land. “Land wars” between rural citizens—including small farmers and Indigenous populations—and the state or private sector doing development projects are ubiquitous in neoliberal India.

Contemporary struggles over land and natural resources are prolific sites for exploring the formation and articulation of distinct political subjectivities (Wolford et al., 2013). In India, recent scholarship has prominently focused on caste identities shaped through land dispossession and claim-making (Nielsen, Saren & Oskarsson, 2020). There is also a substantial body of literature that explores *adivasi*<sup>1</sup> identity and its connection to land and environmental movements (see for e.g. Baviskar, 2005; Nilsen, 2012; Bates & Shah, 2017). Some studies have also emphasised the distinctly cross-class and caste character of movements over land in India (Levien, 2013).

Despite the attention paid to identity politics in India's anti-dispossession struggles, gender as an axis of domination that intersects with caste, class, and ethnicity in shaping collective action against dispossession, has received relatively little attention. We know from several studies that women are often involved in cross-sectional collective action against land dispossession in India, but what enables/disenables their participation? How does gender—as a system of social codes and beliefs associated with femininity and masculinity—shape dynamics of collective action against land dispossession?

In this chapter, I identify three themes that illustrate the dynamics of gendered participation in anti-land grabbing movements in India. These are social reproduction, leadership, and transformative outcomes. I argue that these three features make visible the significant

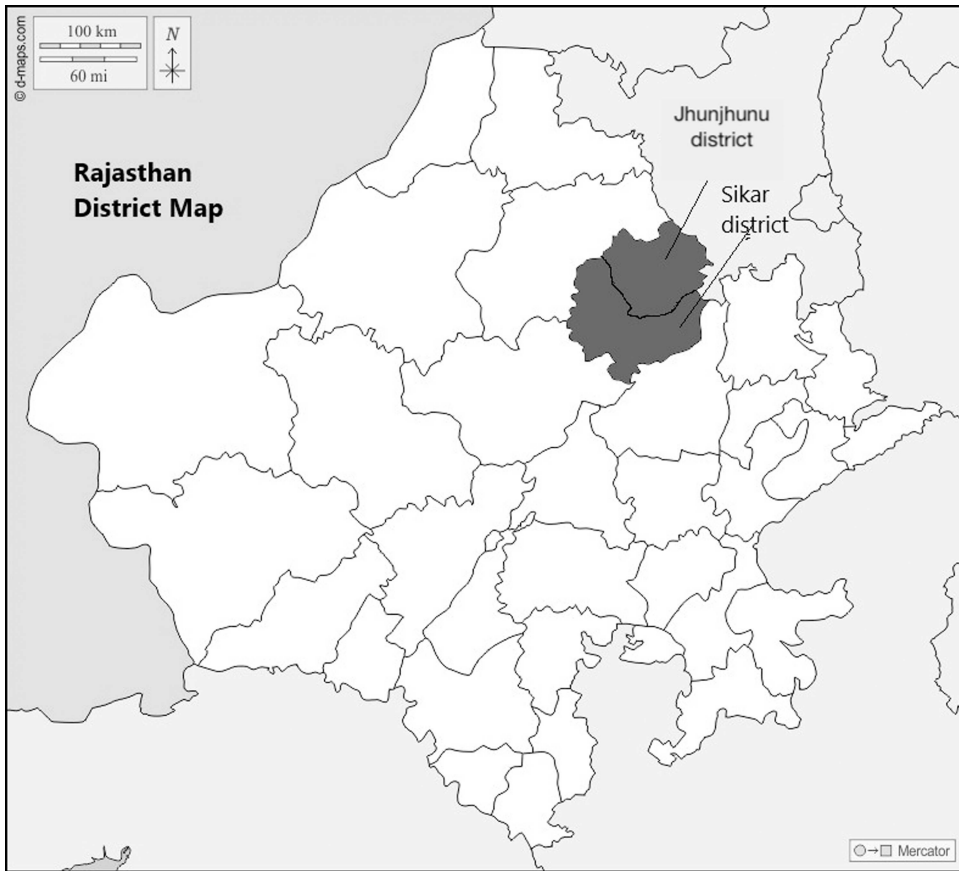


Figure 29.1 Study sites in Rajasthan.

gender differences in women and men’s roles and experiences of collective action against land dispossession. Alongside analyses drawn from existing studies on women in anti-dispossession studies, I draw on insights and observations generated through interviews with anti-land grabbing activists in two Indian states, Rajasthan, and Chhattisgarh, conducted in 2021 and 2022. Figures 29.1 and 29.2 mark the districts I visited in the two states.

This chapter begins with a discussion on comparative research on gender and land dispossession in India. Broadening Michael Levien’s theorization of India’s “land wars” (2013), I argue here that the politics of dispossession produces a specific type of gender politics, which conjugates with differences across ethnicity, class and local histories of land use and agriculture. Building on feminist research in agrarian studies and political ecology, I outline three key themes—social reproduction, women’s leadership, and transformative outcomes, contending that these features cut across land conflicts in the country. My aim here is not to suggest that these features present a complete picture of gendered dimensions of land conflicts in India. Rather, by illustrating these three generic features, the aim of this chapter is to provide a starting point towards generating a research agenda for future comparative research on gender and land dispossession in India and beyond.

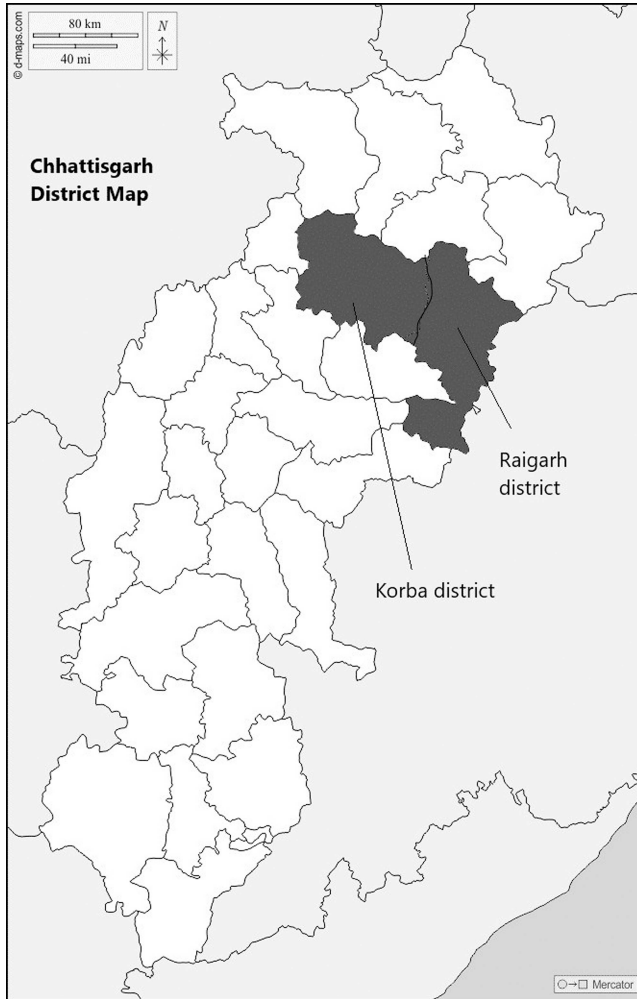


Figure 29.2 Study sites in Chhattisgarh.

The next section presents a framework for understanding gender relations within the broader literature on land grabbing and collective action in India. Following this, I describe each of the three cross-cutting themes.

### **Gender, Dispossession, and Collective Action: A Framework for Analysis**

Land grabbing produces variegated political responses and impacts, rooted in locally specific agro-ecological environments and histories, political systems, and socio-cultural backgrounds (Borras Jr & Franco, 2013; Hall et al., 2015). Given the wide range of political reactions to land grabbing and their distinctive trajectories, how can we compare contentious politics against dispossession?

Using India as his empirical bases, Michael Levien (2013) argues that anti-dispossession struggles share several similarities that are shaped by the process of dispossession itself. Such movements share characteristics in terms of their organizations, social composition, targets, strategies, goals, and ideologies. In identifying these six generic features shared by anti-land grabbing movements in India, Levien sets up a comparative framework for understanding the dynamics of such movements and the variation among them, particularly in terms of their ideological articulation and goals. However, this framework, like most other analyses of dispossession in India, provides little insight into the gender dynamics of dispossession.

Feminist perspectives examining global land grabbing provide a crucial starting point for understanding women's experiences of dispossession (Doss, Summerfield & Tsikata, 2014; Park & White, 2017). Elmhirst et al.'s (2017) study of oil palm plantations in Indonesia, drawing on feminist political ecology, provides a theoretical model for mapping differently gendered outcomes across varied contexts. Their article shows how contrasts in agro-ecological, historical, cultural, and political environments, as well as different modes of dispossession, differently conjugate with gendered social relations in processes of agrarian transition. Their "conjunctural and intersectional" framework (Elmhirst et al., 2017, p. 1137) allows for understanding varying gendered experiences as integrally produced by these diverse contexts, and inflected by other markers of social identity such as age, marital status, ethnicity, and class. In this way, their approach "messes with gender" by refusing to construct it as a single, ahistorical axes of difference and thus "accommodating a more complex understanding of the entanglement of racialized and gendered power" (Mollett & Faria, 2013, p. 123).

Levien and Elmhirst's frameworks—which apply opposing logics of comparison<sup>2</sup>—yield several insights that aid the comparative analysis of gender across anti-dispossession movements in India. Using Levien (2013), making women visible in movements' organizations, social composition, targets, strategies, goals, and ideologies, is a first step towards building a comparative framework of analyses. For instance, we may ask how do women participate in the articulation of movement goals? To what extent are women's individual interests (such as land ownership) reflected in collective action over dispossession? How does the involvement or leadership of women contribute to the strategies adopted by movement organisations?

On the other hand, Elmhirst et al.'s (2017) intersectional feminist lens opens possibilities to disentangle the relationships between caste, class, and regional histories and varied experiences of women's collective action in India. Comparing gendered experiences and outcomes of dispossessions thus requires paying attention to how gendered social relations are produced in locally specific ways, while illuminating women's labour (both visible and invisible), positions, decision-making capacities, and entitlements in processes of collective action.

Supplementing these frameworks are empirical insights brought forth in the substantial literature on women's activism against land dispossession across the world. Scholarship on contemporary forms of land grabbing have highlighted the links between women's active engagement in overt collective action against dispossession to gendered division of labour in households and farming (Joshi, 2020b; Morgan, 2017; Park & Maffii, 2017). These studies suggest that gendered construction of women's responsibilities for the social reproduction of the household and the community creates ingress for women's roles in resistance (Joshi, 2020a).

By emphasizing the connection between the gendered households and gendered production processes, studies of women's resistance speak to politics of agrarian change and social relations encompassing land grabbing. Indeed, early interventions on global land grabbing emphasized the significance of dispossession through the lens of agrarian political economy, that is, changes in land use, property relations, and divisions of labour (Borras Jr & Franco, 2012). In this regard, the focus was on mapping the gendered effects of dispossession on women's labour, food security, and power relations within the community and the household (see for e.g. Joshi, 2020b; Beban & Martignoni, 2021; Dzanku, Tsikata & Ankrah, 2021).

Similarly, women's property rights—including both ownership and control over land—and how these are transformed in processes of land grabbing remains an important area of focus. Building on the longstanding feminist debates on the links between land titling and women's empowerment (see for e.g. Razavi, 2003), scholars have probed to what extent land titles—individual, communal or joint—provided tenure security when faced with large-scale land acquisitions (Doss, Summerfield & Tsikata, 2014, pp. 10–11). In the case of India, where the question of women's rights to land have been a longstanding political and policy concern, this is particularly pertinent. Several gender progressive laws, such as the amendment to the Hindu Succession Act (2005) giving Hindu women legal equality in their rights to all forms of property, have been enacted in post-independence India. Yet despite these interventions at both the centre and state levels, women's land ownership in India remains low with regional variations showing that southern Indian states displaying higher gender equity (Agarwal, Anthwal & Mahesh, 2021). Relating these inequities to ongoing anti-dispossession struggles, the question of how women's participation in collective action impacts their prospects of land ownership in India remains significant, yet underexplored.

### **Examining Gender Dynamics of Anti-Land Grabbing Resistance: Three Cross-Cutting Themes**

In this section, I discuss three key themes—social reproduction, women's leadership, and transformative outcomes—and their linkages with the politics of dispossession in India. As I argued earlier, these three themes relate to existing studies on women's participation in anti-land grab movements in India and gendered experiences of dispossession. I flesh out these themes drawing on extant research on women's participation in anti-land grab struggles, supplemented by insights from field research I conducted in Chhattisgarh and Rajasthan in 2021 and 2022.<sup>3</sup>

#### ***Social Reproduction***

The feminist concept of social reproduction makes “private”, domestic spheres of life integral to our understanding of political economy. Through its lens, the distinct yet “conjoined spaces—spaces of production of value (points of production) and spaces for reproduction of labour power”—are theoretically integrated in the study of capitalism (Bhattacharya, 2017, p. 30). The concept originates in feminist critique of Marxist and neoclassical theoretical discourse on labour and economic production. This critique has been revisited across decades in feminist writings across several disciplines and has emerged as the seedbed for developing distinct theoretical concepts that subvert gender-blind

political economic ontologies (Elson, 1998). Additionally, these insights have bolstered explorations into the gendering constructions of femininity and masculinity that embed and “naturalize” hierarchical labour relations in households, markets, and global processes of production. A feminist reworking of the notion of social reproduction, thus, assimilates biological and generational reproduction, with the gendered reproduction of institutions, ideologies, and socio-economic systems (Bakker, 2007).

Applying the notion of social reproduction to ongoing land struggles illuminates two important gendered elements of activism against dispossession in India and elsewhere. First, it allows us to explore how unpaid care labour in households—food provisioning, cleaning, caring for children and elderly family members, fetching firewood and water etc.—that is primarily performed by women, is impacted both by the outcomes of dispossession and their participation in activism (see for e.g. Joshi, 2020b, 2022). This implies paying attention to how gendered labour may be reorganized in processes of dispossession and how gendered hierarchies may be re-made or transformed during activism.

Second, the notion of social reproduction also helps illuminate the ways in which women’s roles in anti-dispossession struggles may be constructed vis-a-vis their roles in care and social reproductive work. Maria Mies’ concept of “housewifization” famously captures how women’s role in the domestic sphere generates their construction as “housewives” not workers in labour markets, which justifies their marginalized status at the workplace (Mies, 1998). Similarly, when women engage in activism over land and natural resources, what gendered and feminized constructions accompany their presence in the public sphere?

Kenneth Bo Nielsen’s study (2014) of women’s participation in the Singur movement links women’s active presence in a highly publicized struggle against land acquisition in West Bengal in 2006, to their responsibilities for social reproduction of the household. For women in Singur, participating in the anti-dispossession movement was attractive as it involved transgression from everyday domesticity and control asserted within the patriarchal household. At the same time, women framed their participation in relation to their domestic duties, pointing to the importance of land for maintaining their gendered roles as food and care providers. Thus, while women were not landowners, land dispossession directly impacted their household duties, such as managing livestock and gathering fuel for household needs, and thus justified their participation in resistance (Nielsen, 2014, pp. 210, 215).

Similarly, Leven finds that in the context of land dispossession caused by a special economic zone (SEZ)<sup>4</sup> in Rajasthan, women were acutely impacted in their social reproductive activities due to the impact of loss of grazing lands, causing loss of access to dairy from livestock, food grains and firewood for cooking. Such examples underscore the centrality of social reproduction in the political economy of agrarian change, and the inter-connections theorized in feminist critical agrarian studies, between largely invisible, female reproductive labour and commodities in circuits of accumulation (Razavi, 2009).

While anti-land grab struggles yield sites for women to transgress their traditional gendered duties, they also reproduce essentialized notions of femininity. Nilsen (2010, p. 154) finds that in the iconic Narmada valley movement in central India that opposed state-led land acquisition for the construction of a large multi-purpose dam, women activists argued that their participation brought “uncorrupted sensibilities into the movement, such as a ‘relationship to the land and the river’” and “moral resources”. Such statements mirror both eco-feminist notions of women’s essential connections with the environment (Mies & Shiva, 1993), as well as gendered ideologies of the Indian national movement where



women were seen as representatives of authentic, cultural and spiritual values, firmly rooted in the domestic sphere (Thapar, 1993).

The aforementioned examples illustrate that in anti-dispossession movements, contradictory gendered logics shape the terms of women's participation, while they are required to transgress the domestic sphere to occupy a role in public contention, their construction as virtuous, domestic subjects remain unchallenged and indeed, beneficial for construction of the collective struggle. Similar to other contexts where women's roles in struggles over land and natural resources are frequently linked to their reproductive and caregiving roles in the households as wives and mothers (see for e.g. Park, 2018), we see how social reproduction of the agrarian household which relies on the gendered division of labour is thus enlivened in anti-dispossession movements.

### *Leadership*

A common feature across anti-dispossession movements in India is the importance of displaying cross-sectional solidarity in villagers' struggles against the government. The iconic *Narmada Bachao Andolan* in central India, the struggles against SEZs in the coastal state of Goa, the Singur movement in West Bengal, are all examples of anti-dispossession movements that successfully built and projected an image of cross-sectional solidarity among affected citizens. In each of these movements, women's visible involvement was also a crucial dimension of cross-sectional participation in struggles (see Nilsen, 2010; Nielsen, 2014; Sampat, 2015).

However, the extent to which women's participation in public events such as protest marches and sit-ins, translates to leadership, that is, playing a role in decision making and negotiating movement demands with external parties, is a more complex question, requiring a nuanced reading of empirical contexts.

My interviews in a village facing an imminent threat of dispossession in Rajasthan illustrated how participation in women's public resistance activities was not necessarily indicative of gender equal decision-making and leadership with the movement. The women and men I spoke with in Jhunjhunu district described the active contribution of the "women's wing" of their *Kisan Sangharsh Samiti* (Farmers' Struggle Committee), highlighting the visible role that women played in public resistance activities. Parvati,<sup>5</sup> a woman in her 60s, explained how she became the leader of the women's wing:

Right at the start, I became involved with the movement to save our land. I stepped forward to participate and other [male] leaders encouraged me to mobilize women and lead the women's group ... . There were many women that joined the movement, we went on protest marches, led rallies etc. I have even travelled to Delhi twice to stage protests there.

*(Individual interview, Rajasthan, 12 March 2021)*<sup>6</sup>

But while women like Parvati and other women activists I met in Rajasthan cited their participation in public events and marches, they also mentioned that they were often not included when movement leaders took crucial decisions on strategy and negotiations with the government and key allies. Nor were they included or informed of discussions relating to legal cases that stemming from their movements. While observing village group meetings in Sikar district, I noted how, in keeping with local customs in Rajasthan, women observed the

practice of veiling their face (*ghoonghat*) in front of their male counterparts in movement meetings. This implied that particularly younger women rarely spoke in the presence of male members of their movement but were vociferous and outspoken when they left (Field notes, Sikar, 2021).

Analogous to what Nielsen (2018, p. location 3740) discusses in the case of the Singur—where women were often “physically absent” from many important fora, but nevertheless “figured prominently as public movement symbols”—my discussions with women activists in Rajasthan revealed that their presence was primarily in public, organized events and less frequently in internal movement meetings. In our discussions (in the absence of male leaders), the women admitted that they had limited up-to-date information about the status of their land conflict. Bhagwan, an activist from Sikar, in her 60s, discussed this saying:

It is hard for us to know what is going on in the court case that the [male] leader initiated on our behalf ... . I don't know much about the law, nor have I been to any trainings on land rights etc ... I am not educated, so I can't read the documents anyway. I get all my information from the male leader. I don't know if we can trust him entirely ... he is not from the community, and we don't know if he is representing us or here to fool us.

*(Individual interview, Rajasthan, 10 March 2021)*

Bhagwan's admission of the gendered hierarchies in movement, unmistakably reflects the stark gender divide in access to education and literacy in Rajasthan. The 2011 census revealed that in Sikar district, literacy rates for men were 85 percent versus 58 percent for women, while in Jhunjhunu, this ratio was 86.9 to 60.9 (Census of India, 2011b, p. 14, 2011a, p. 14). These figures are lower than the national average literacy rate for women which stood at 65.6 percent in 2011. For women like Bhagwan, differences in her level of education vis-a-vis male members of the movement result in her marginalization in movement activities that involve liaising with external allies/lawyers supporting their case and advocating with government officials.

Scholars examining women's participation in anti-land grab struggles in other contexts have similarly grappled with the issue of whether women's participation translates into leadership. Lamb et al. (2017), for example, find in the context of Cambodia that women occupying the frontline in movements countering dispossession did not increase their leadership in governance roles, particularly in the post-eviction phase. In Indonesia, despite women from the Samba community playing an important role in challenging oil palm plantations, village meetings and key decisions impacting the communities' access to land were taken by men (Morgan, 2017, p. 1187).

While there are several counterexamples that ascertain women's autonomy in leadership and decision-making in anti-land grabbing movements (Brickell, 2014; Joshi, 2022), what becomes evident from the cases described earlier is that women's participation in a collective struggle does not immediately ensure that their voices are equally heard within the movement organizations. In India, where there are significant regional differences in patriarchal norms that intersect with caste and other marginalized identities (which in turn impact gender gaps in educational attainment and literacy), it is important to be attentive to the varieties of women's participation in land and natural resource struggles. As the next section argues, these differences in quality of women's participation in struggles—as leaders, or

secondary members of the collective—play an important role in determining the extent to which more gender transformative outcomes are achieved in the post-movement phase.

### *Transformative Outcomes*

Movements countering land grabs in India have been conceived as “single-issue movements” that emerge spontaneously in response to external threats of dispossession, rather than from pre-existing political or social movement organizations (Levien, 2013, p. 366). At the same time, a vast literature on social movements indicates that being part of a collective often generates important collective and individual identities for its members, and “submerged networks” that may serve objectives beyond the immediate movement goals (Staggenborg, 1998; Polletta & Jasper, 2001). Participating in activism for rural women in India, where politics and public life is largely dominated by men, involves transgressing gendered notions of domesticity, and countering feminized ideals of submissiveness and timidity. Therefore, while anti-dispossession movements may not have arisen from existing political groups, how does participation in collective action shape future political identities and power relations, particularly for women? What gendered transformations result from their activism at a personal and/or societal level?

Bina Agarwal (1994, p. 436) makes a distinction between “individual covert” and “group overt gender action” in movements over land in India, where the latter is likely to be more transformative for gender relations. She argues that the shift from the former to the latter is likely to occur where (a) there is a rise in group consciousness among women, based on experiences of gender inequity and (b) when group action takes an organized form (Agarwal, 1994, pp. 436–437).

Agarwal’s analysis compares historical examples from women’s participation in two pre-Independence peasant struggles over land in Tebhaga (pre-partition Bengal) and Telangana (formerly Andhra Pradesh state), and the peasant movement in Bodhgaya (Bihar) that began in 1978. She shows that despite women’s active role in the Telangana and Tebhaga movements, little attention was paid to gender inequality in these struggles, and women were excluded from assuming leadership roles. As a result, women gained little individual rights when land was redistributed after movements’ goals were achieved. An experienced revolutionary from Telangana’s words captures women’s dismay at re-establishment of traditional gendered divisions of labour: “What do you think it means, to wield weapons in the struggle and sit before sewing machines now?” (Agarwal, 1994, p. 443).

In contrast, in the movement initiated by landless labourers and sharecroppers in Boghgaya, women’s land interests, alongside issues such as gender-based violence, and women’s education were raised within the movement. Here, women “articulated both their gender and class interest in a group overt form” (Agarwal, 1994, p. 451) and women received shares from their husbands’ landed property. Importantly, she notes the role of middle-class feminist allies—drawn from the feminist movement that gained traction in Indian cities during the 1970s and 1980s—in raising gender-progressive consciousness in post-independence Indian peasant struggles (Agarwal, 1994, p. 453).

In contemporary struggles over dispossession, scholars find that while women’s participation in activism involves transgression of patriarchal norms, this does not necessarily equate to transformative of gender power relations and hierarchies within households and communities. For instance, in the anti-dam struggle in Narmada valley, Nilsen’s argues that women’s participation, required active subversion of “the grammar of patriarchal relations of domination”

(Nilsen, 2010, p. 156). But such subversion was not long-lasting since the patriarchal structuration of family life remained intact and women were pushed back into their domestic lives as soon as the immediate goals of mobilization were achieved (Nilsen, 2010, p. 157).

In the Singur movement, despite the significant presence of women in rallies and demonstrations, there was limited reflection in the movement concerning women's rights to land and inheritance (Nielsen, 2014, p. 215). At the same time, Nielsen argues that for many women, the experience of activism "led to a significant broadening of experiential and imaginative horizons" which included new forms of knowledge and skills (Nielsen, 2014, p. 215).

Such broadening of experiential horizons was also a transformative outcome for women activists I met in Raigarh, Chhattisgarh. Here, *adivasi* women were active leaders in contesting dispossession caused by coal mining in their villages, and their roles in activism and advocacy in their communities had become stepping stones for assuming political roles within their community. Pushpa, a widow in her late 40s, described how she was elected *sarpanch* (head of the local village council) following her active role as a movement leader in her village:

I never thought that I would be a *sarpanch* but the people I worked with in the movement recognized my contributions in organizing the women and participating in sit-ins and blockades. They recognized me as someone that would help them and other villages. I am poor ... I didn't have the means to spend money on the election campaign, but the other movement members helped me and filled my application form.

*(Interview, Chhattisgarh, 22 March 2021)*

For Pushpa, activism had a transformative effect on her public standing in the village. Despite her lack of education and limited financial means, she was recognized by others in the movement as worthy of occupying a political position, due to the trust and respect she garnered during their collective struggle. However, like Singur, Pushpa and other women land activists I met in Raigarh, had little to say about gender-based inequalities linked to women's land rights, access to inheritance and gender-based violence. For them, participating in collective struggles was more intimately linked to their identity as *adivasi* people and their constitutional rights to *jal, jangal, zameen* (water, forests, land).

The aforementioned examples highlight that participation in collective action frequently generates transformations in women's personal and social lives. In moments of mobilization, women are able to surpass the bounds of gendered duties within the household to assume public roles and in certain cases, such roles are sustained beyond the movement. At the same time, the rupture in patriarchal relations that occurs during contentious politics is not always indicative of long-term transformation in gendered social relations. The lack of reflection on women's individual land rights in movements suggests that in many ways, anti-dispossession struggles remain "single-issue movements", even when women are active participants and leaders. This indicates that factors enabling women's participation in such struggles need to be read separately from those that enable women's leadership and ultimately transformation of patriarchal structures.

## **Conclusion**

In this chapter, I have argued that despite being a largely overlooked area of research in the Indian context, the politics of dispossession produces and is constituted by gender relations, marked by differences across caste, class, ethnicity, and local histories. Adopting feminist

perspectives on the dynamics of social movements over land in India makes evident the centrality of gender in enabling and constraining participation in collective action. This implies, amongst other things, that structural conditions shape whether women participate, take on leadership positions, impact on movement agendas, and the transformative outcomes such participation is likely to have on women's lives.

Drawing insights from primary field research in Rajasthan and Chhattisgarh and building on the existing literature on gender and dispossession in India, I have discussed three cross-cutting themes that capture the gendered dynamics of women's participation. First, the theme of social reproduction sheds light on how unpaid labour performed by women in households interacts with processes of dispossession, including shaping women's motivations to become activists and gendered constructions that accompany their roles in the public sphere. Second, the theme of leadership highlights the gendered hierarchies in movement participation, wherein differences in education levels, exposure and local/regional patriarchal norms determine whether women are included in strategic decision-making and public-facing leadership roles. Lastly, the theme of transformative outcomes explores the extent to which participation in activism produces micro (individual) or macro (societal) shifts in gendered power relations in households or beyond.

In sum, this chapter has discussed several analytical inroads towards unpacking the gendered dimensions of anti-dispossession movements in India. Keeping in mind the significance of intersectionality in feminist political ecology (Mollett & Faria, 2013, 2018), I have argued that women's experiences across anti-dispossession struggles in India are generated via multiple, overlapping individual (caste, gender, and class identities) and contextual (regional histories, agro-ecological milieu, and geographical location) features of resistance, and their intersections. While the interactions of these macro and micro-level elements are likely to produce varying accounts of women's participation in collective action, the wealth of studies in feminist agrarian political economy proposes several elements that frame gendered analyses across variation. Casting Henry Bernstein's (2010) four guiding questions for agrarian political economy—who owns what? who does what? who gets what? what do they do with it?—in feminist light, we see that questions of gendered labour, structures of property relations, and redistributive outcomes of collective action are central themes in the study of resistance against dispossession.

### Notes

- 1 *Adivasi* (trans: the original people), sometimes referred to as “tribal” or “Indigenous peoples”, denotes groups identified as Schedule Tribes (ST) in India's constitution. Approximately 100 million people were classified as ST according to the 2011 government census.
- 2 While Levien's framework determines common features across various anti-dispossession movements and thus highlights the similarities across cases, Elmhirst et al. (2017) understand gendered experiences across differences, such as varied agrarian histories and modes of dispossession.
- 3 In February–March 2021 and April 2022, I interviewed village-level groups in two districts in Chhattisgarh (Korba and Raigarh) and Rajasthan (Sikar and Jhunjhunu). The focus of these interviews was to explore the gender dynamics of ongoing public struggles against land dispossession. In selecting study sites, I focused on those villages that are currently or have until recently been actively engaged in organized, public anti-dispossession struggles. Second, since the focus of my research was women's participation, I sought to identify movements where women were publicly involved in resistance activities.
- 4 SEZs in India were introduced under the 2005 Special Economic Zones Act, allowing for the creation of designated territories intended to serve as “export enclaves”, where taxes and

administrative requirements for export-oriented businesses are substantially reduced (Jenkins, Kennedy & Mukhopadhyay, 2014, pp. 2–3). SEZs in India are owned and operated by private entities.

- 5 To maintain the anonymity of research participants, none of their real names have been used in this chapter. I also do not identify the names of their villages.
- 6 All interviews cited here were conducted in Hindi. All translations are my own.

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# THE ROLE OF EMOTIONS IN RESISTANCE MOVEMENTS AGAINST LAND AND RESOURCE GRABS

## New Evidence from Cambodia

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### **Introduction**

Emotions matter in struggles over land; they influence resource access, use, and control, and shape people's lives and relations with each other and the state. However, literature on land and resource grabs has only recently started to give attention to emotion. In this chapter, we draw on fieldwork in Cambodia to show how emotions can both enable and disable land grabs. Social movement scholars have shown how emotions have potential to encourage collective action, but critics caution that these accounts are overly simplistic (Woodward & Lea, 2010), due to the tendency to universalise emotions, rather than understanding how they are generated by dynamic socio-political contexts of state, corporate, and civic power. There is also a tendency to investigate social movements at specific points in time, rather than understanding the emotional dimensions of people's changing relationships with land and ecologies over years of protracted struggles. We therefore build on an emerging Feminist Political Ecology (FPE) scholarship on emotions in resource conflict, that recognises how the material (human and non-human life) and affective (emotions, feelings) dimensions of land grabs co-constitute political power and the potential for generating socio-ecological change.

We take a long-term view of land grabs in Cambodia to argue that emotions shape land grabs in two ways. First, emotions enable land grabs. State and corporate actors' practices of coercion such as threats, violent force, obfuscation, or attempts to buy off movement leaders produces fear, confusion, and distrust in communities whose land is earmarked for development, which can paralyse resistance and fracture social movements, thus enabling land grabs to proceed. Discourses of promised prosperity, gift-giving, and plantation employment can also enable land grabs, through the production of desire for development and gratitude amongst communities. Our understanding of emotions as socially and spatially constituted is indebted to a rich literature on emotions and affect in geography and across the social sciences (Pain, 2009; Schoenberger & Beban, 2018). The state's production of emotions in its subjects has long been recognised as a tool of governance, and state

manufacturing of consent is made possible, as Ann Stoler (2004, 10) pointed out, by “shaping appropriate and reasoned affect, by directing affective judgments [and] by severing some affective bonds and establishing others”.

Second, emotions disable land grabs. People organise into social movements and engage in ‘emotion work’ to build collective solidarity and encourage action. Traditional notions in psychology categorise emotions into two dichotomous categories: ‘positive’ emotions that are pleasant feeling (such as joy, love) and ‘negative’ emotions that are unpleasant feeling (such as fear, anger, sorrow), where ‘positive’ emotions are seen to enable collective action, and ‘negative’ emotions to impede action (An et al., 2017). In this article, we show how ‘negative’ emotions such as fear can at times propel collective action, and at other times, paralyse resistance. Our long-term view of how land grabs play out reveals how emotions and their effects on collective action are shaped by shifting socio-political contexts and ecologies.

We substantiate our argument through an analysis of two communities involved in waves of land grabbing over the last 15 years in two different regions of Cambodia. Land grabs in Cambodia take many forms, including concessions, hydropower dams, conservation, and elite land concentration. The government has granted more than two million hectares of land (approximately 53% of arable land) for agro-industrial plantations since the early 2000s, and Cambodia had one of the highest rates of deforestation in the world through the mid-2000s. These grabs have resulted from economic and environmental policies that encourage large-scale resource extraction, commercialised farming, and biodiversity conservation (Milne & Mahanty, 2015; Oldenburg & Neef, 2014). Cambodia’s ruling party has become more authoritarian in recent years, cracking down on political opposition and ushering in new forms of surveillance and repressive laws limiting resistance (Beban et al., 2020). However, Cambodia’s hybrid regime with democratic and authoritarian elements still enables spaces of openness that people exploit to produce hope and material social change (Beban et al., 2020; Kirchherr, 2018).

Land grabbing in Cambodia has negative impacts for ecologies, excludes local communities from land and commons resources, and exacerbates inequalities along class, gender, and ethnic divisions (Dararath et al., 2011). Rural people facing enclosure of their forest, farming and residential lands, and water resources resist and organise themselves into social movements, despite threats and violence. Yet, over time, as commons resources diminish and people turn to wage labour and urban migration, our analysis shows how difficult it is for people to continue mobilising collectively. However, they continue to perform ‘emotion work’ in small ways and group action to maintain solidarity and effect socio-ecological change.

In what follows, we review the literature to examine the role of emotion in land grabbing. We situate the study in the context of Cambodia, and describe our methodological approach. We then analyse how emotions produced by state and corporate actors enable land grabbing, how the ‘emotion work’ of collectives can enable resistance to land grabbing, and how these responses shift over the long-term. We draw primarily from our experiences working in Cambodia, but suggest that this resonates with broader issues of resource violence in the Global South.

### **Literature Review**

This chapter brings together three fields of scholarship: feminist political ecology, state power, and social movement theory. First, scholarship on emotion in FPE (Beban, 2021;

Elmhirst, 2012; González-Hidalgo & Zografos, 2020; Sultana, 2015) shows how affect, expression, mood, and feelings influence resource access, use, and control (Faria, 2014; Pain, 2009; Schoenberger & Beban, 2018; Singh, 2012), and shape people's sense of self, relationships with their communities, ecologies and the state, and everyday lives (Beban et al., 2020; Buijs & Lawrence, 2013; Chung, 2020; Grant & Le Billon, 2019). Understanding emotions as socially and spatially constituted comes from literature in geography and the social sciences (Pain, 2009). For example, fear is felt differently in different times and by different people; in environments of systemic violence and where people hold collective memories of violence (such as in post-conflict settings), small threatening acts may engender a sense of vulnerability tied to social positioning (Pain, 2009). Gender, race, and social status shape people's available emotional responses (Sultana, 2011; Nightingale, 2013). Emotions also emerge from people's relationships with land and broader ecologies, and the emotional dimension of resistance shifts across time and space as political and social contexts change (Nightingale, 2013).

Scholarship in state formation and agrarian studies reveals how land and water are central to the production of state authority (Lund, 2016). State actors mediate corporate access to land, and different kinds of state power articulate in land grabs, as government leaders call on the courts, police, military, and 'shadowy elements' to implement land deals (Wolford et al., 2013, 205). The violence that accompanies land grabbing is therefore not outside the modern state, but constitutive of it (Grajales, 2013). While the Marxist roots of agrarian studies encourage an analysis centred on material dimensions of power, literature shows how the powers that exclude people from land and enable land grabs to occur—legal manoeuvres, the market, force, and discourses of development that legitimate land deals—are infused with emotion (Hall et al., 2011). Emotions can be manipulated for political ends in resource struggles, particularly amidst rising xenophobia and populist authoritarianism (Pain, 2009; Schoenberger & Beban, 2018). Geopolitical analysis shows how leaders cultivate a 'culture of fear', actively crafting xenophobia to marshal support for the US war on terror, or weaponising COVID-19 to legitimise repressive laws (Gurcan & Kahraman, 2020; Shirlow & Pain, 2003). State and corporate actors produce fear as a tool of governance that facilitates land grabs, by spreading rumours, obfuscating land claims, delaying decisions, threatening, and violently evicting people from their land (Schoenberger & Beban, 2018). Alongside this, powerful actors produce gratefulness, nationalist pride, and hope through conferring the promise of development and prosperity (Faria, 2014; High, 2014; Singh, 2012; Wright, 2012).

Social movement scholars have used emotion since the late 1990s to understand how movements succeed and fail (Goodwin et al., 2001; Gould, 2009). The embodied, emotional aspects of resistance matter not just because emotions are personally felt, but also because they connect individuals (Ahmed, 2004). Positive emotions, such as respect and love for nature, promote protection of the environment and sustain movements by motivating people to adhere to their traditions of caring for commons resources (Singh, 2012). Conversely, negative emotions such as fear, pain and suffering are deemed discouraging for collective action (Sultana, 2011). However, negative emotions can also enhance collective action when resources are in jeopardy (Gould, 2009) because they can be transformed into positive catalysts for collective action (González-Hidalgo & Zografos, 2020).

We follow others in suggesting that the categorising of emotions as a binary of positive and negative limits analysis, as this ignores context and tends to assume that 'positive' emotions are beneficial for movements in ways that ignore the complexity of power relations

within collectives and between movements and outside actors (González-Hidalgo & Zografos, 2020). We add to this work by showing how emotions such as fear can be experienced both as paralytic and motivating to action. Our comparative analysis and long-term view allows us to examine two different examples of collective resistance to land grabbing over time, to reveal the changing political ecological context that co-produced changing emotions.

In protracted struggles over land and resources, one of the key questions for social movement actors is: how is resistance sustained over time? Initial emotions of anger that propel action may be short-lived, giving way to apathy and fear (Goodwin et al., 2001). Furthermore, the political-ecological context within which social movements emerge is not static; activists negotiate changing relationships with non-governmental organisations (NGOs) and political actors, enclosure of resources that forces people to adapt to new ways of living, and shifting popularity and neglect of their cause over time (Thayer, 2010). Social movements experience peaks and troughs of mobilisation; at times of ‘troughs’, the emotion cultures of social movements may sustain groups, or may fracture them (Goodwin et al., 2001). To understand what contributes to the long-term success of movements resisting land grabs, it is therefore imperative that we analyse not only the spectacular moments of struggle, but also the ‘troughs’ and the ways in which people embroiled in land grabs act in small everyday ways to generate solidarity.

Alongside the political ecological context of struggle, we need to understand how collective emotions are generated by the history associated with suffering and past experiences in resistance. If there has been some success, protesters may draw on emotions associated with these experiences to mobilise more support (Lilja, Baaz, Schulz, & Vinthagen, 2017). Thus, in order to understand the role of emotions in resource struggles, it is important to unpack local histories, leadership, decision-making processes, and political opportunities (Sultana, 2011). In the Cambodian context, collective trauma from the recent history of war, suffering, and injustice contribute to the expression of pain in land activists’ protests (Hennings, 2019). The historic notion of pain can be strategically applied to evoke and mobilise collective responses linked to the pain of communities evicted by the government and their associates. Suffering from forced mass eviction by the Khmer Rouge regime (1975–1979) is provocatively linked to the suffering caused by such displacement (Hennings, 2019). Similarly, Moore (2005) suggests that suffering, struggle, identity, and place are intertwined. Therefore, a long-term view enables us to understand how changing socio-political contexts, ecologies, and collective memories shape the changing dynamics of emotion intertwined with material change.

### **Methodology**

As researchers trained in feminist epistemology and methodology, we recognise that emotions emerge not only in words but also through encounters between people and their environments (Ahmed, 2004). Thus, we sought to be aware of non-verbal elements of communication and of the embodied sense of our own reactions (Beban & Schoenberger, 2019). We used a qualitative approach, undertaking in-depth interviews with local people in order to understand the lifeworlds of our participants, and we undertook participant ethnography, taking part in agricultural practices, community meetings, festivals and protest actions, as well as observing everyday interactions.

We undertook fieldwork for the two cases independently, each making several visits to the respective field sites as part of academic and NGO research projects between 2010 and 2019. Hak undertook fieldwork in Srae Ampil village, an Indigenous Bunong community in Srae Preah commune, Mondulhiri province, from 2010 to 2013 as part of her NGO work, and returned in 2018 for PhD research. Supported by Bunong research assistants, the interviews were conducted with people who had lived in the village for at least six years, to ensure they could speak to the long-term dynamics of responses to land grabbing. Beban undertook fieldwork for the Kampong Chhnang case study between 2013 and 2020. This included two years of ethnographic research in 2013–2014, and regular field visits of between three days and three weeks between 2015 and 2020. Interviews were conducted in Khmer language with support from a Khmer research assistant.

## **Context**

### ***Case 1: Srae Ampil Village, Mondulhiri Province***

Srae Ampil is a Bunong Indigenous majority village located in Snoul Wildlife Sanctuary. The village land area is 1,273 ha, of which 523 ha is proposed for collective ownership under a Communal Land Title (CLT) application—a legal designation that aims to protect Indigenous communal land, but has received little government support (Beban, 2021). A local NGO supported the village to apply for the CLT in 2008, but it has not yet received a CLT certificate. While the wait for the CLT has dragged on, the village has faced several waves of land grabs, illegal logging, and illegal fishing by state actors (through law and regulation), agribusiness, and individuals (villagers and outsiders).

Prior to the sanctuary's establishment, Bunong villagers accessed the forest for non-timber forest products, wood and land for swidden cultivation. These customary land use practices have been adversely affected by the conservation programme and agro-industrial Economic Land Concessions (ELC) since the early 2000s (see Hak, McAndrew, & Neef, 2018). Land ownership is not permitted within the sanctuary, but villagers can access, cultivate, and harvest crops. Villagers have gradually shifted from forest-based livelihoods to commercial crops (cassava, cashew nuts, and wetland rice) since 2012, due to dwindling access to common land for swidden farming, depletion of forest resources, and increased access to markets and traders (Hak et al., 2018).

In 2010, the government granted an ELC of 6,525 ha under a 50-year lease to the Sovann Reachsei (SVR) company. This included 500 ha of forest in which villagers tapped gum and liquid resin trees. When villagers saw the company logging their trees, they organised community forest patrols to prevent it, and a standoff ensued. Villagers gathered with the support of the village chief and Indigenous Community (IC) committee members to object to what they saw as the company's encroachment on their traditional lands. However, the government claimed that the forest is on state public land and villagers could not claim ownership. When the community's efforts to gain local government support failed, the IC leader and other prominent village activists organised village meetings, protests, forest patrols, petitions, radio broadcasts, and negotiations with the company representative and local government. These actions continued in 2015 and culminated in the company offering monetary compensation and the return of half of the 500-ha land area to villagers in 2017.

During this period of conflict, villagers had a strong sense of solidarity and cooperation. They worked together not only to resist the land grab but also to fight illegal fishing,

logging, and land encroachment. When the government announced a major campaign in 2013 to solve land conflicts by registering land under private title—a campaign known as “Order 01”—the community refused to allow surveyors in because they were committed to registering their land under communal title. Nevertheless, this momentum gradually diminished due to a breakdown of trust within the community and a growing number of villagers who lost patience with the lengthy CLT process and opted to receive private land titles, as we analyse below.

### ***Case 2: Boribor, Kampong Chhnang Province***

Boribor in Kampong Chhnang province is a Khmer-majority region at the base of the Cardamon mountains. The community consists of families that have farmed the land for generations (many of whom were forced to leave in the 1970s, and returned in the 1990s), and newer migrants who came in search of forest land to clear and farm. In 1997, the government granted the country’s largest ELC in this area, at more than 300,000 hectares. The first time that villagers knew of this was when bulldozers began tearing down the forest in 2001 to establish a tree plantation. With the assistance of several small NGOs and strong local leadership, villagers from seven communes formed the Phnom Gok Network and organised a wave of protest actions. This culminated in a protest that succeeded in blocking the main highway to the capital city, despite threats of violence and a bomb explosion that injured several protestors. The plantation company left after this wave of protests (likely both due to the resistance as well as a downturn in the acacia market).

The plantation activity recommenced in 2011, but by this time, it was more difficult to unify in resistance. Massive real estate growth in the mid-2000s had led to land speculation by urban investors in the area. This shift, combined with a rapidly growing population, a cash crop boom, urban growth, and widespread logging, meant that land ownership was growing more unequal, young people left in droves for jobs in the city, and commons resources were enclosed by individual land plots. The Phnom Gok Network continued meeting throughout this period and focused their activities around managing and seeking official recognition for community forests, as well as regular community meetings and spirit festivals. However, it was difficult to maintain solidarity, particularly in the face of the government’s 2012–2014 “Order 01” land titling campaign, which enabled some farmers to gain individual land title certificates for their farms, but also facilitated a wave of land grabbing of community forests and other communal areas. During the period of our research, a large irrigation dam was proposed that encroached on local farmers’ fields, precipitating a further wave of resistance, as we explore further in the text.

### **How Emotions Enable Land Grabs**

Land grabs are enabled by state and corporate agents’ coercive actions that produce fear and uncertainty, as well as desire, gratitude, and dependence, amongst people whose land is earmarked for development. In both case studies in Cambodia, state and company actors strategically ‘picked off’ movement leaders in communities resisting land grabs, alternately threatening and luring people in, in order to repress resistance and encourage support for ELC-led development. In Kampong Chhnang, movement leaders described the threats that pervade their everyday life, such as local government officials and police routinely coming to ‘check in’ on their family, being left off lists for government assistance that they are

eligible to receive, being followed dangerously closely while driving, or receiving phone calls from unknown numbers at strange times of the night. There is a real threat of violence behind these acts, with several members of the network arrested, imprisoned, and one fleeing the area due to death threats. Phnom Gok Network members recalled these encounters with state officials, sometimes visibly shaking as they retold stories of harassment. Particularly disconcerting is the uncertainty produced alongside the fear. People often struggled to articulate why these encounters were so frightening, and they generated a paranoia in everyday life (every car following too close or knock on the door may be cause for concern). Sometimes it is bureaucratic foot dragging (such as the years long delays in CLTs and the undermining of these processes through private title campaigns) that ends up defeating community resistance, because people cannot keep up the time and energy to resist.

Alongside the production of fear, state and corporate actors seek to produce desire and dependence in communities. The leaders of the Phnom Gok Network have been offered various forms of payment to cease their activism, including cash, special access to government services, and official positions within the government. This strategy of co-opting leaders is well established in social movement work. In Cambodia, it is very effective due to the lack of trust within communities and between community members and local leaders, making it easy for fragile social bonds to be broken by suspicion and jealousy. This low trust has emerged from decades of conflict, where the Khmer Rouge actively sought to sow fear and distrust by encouraging people to report their neighbours' transgressions to the authorities (Zucker, 2011). The current ruling party has built up its base through awarding land and resource contracts to supporters, building a patronage system whereby local leaders are expected to funnel funds generated from local resource grabs back up the chain of state power (Un and So, 2009). Local leaders and community members involved in land grabbing obfuscate their actions, creating uncertainty over who is on whose side. It is difficult in this environment for social movements to build trust.

State actors therefore discourage resistance to land grabs by producing fear and uncertainty, alongside the cultivation of desire and gratitude. This occurred in Sre Ampil where, in an attempt to resolve conflict in a community that had lost land to an ELC, the community leader and his associates were sometimes threatened by the senior district official and sometimes invited out drinking. On one occasion, the senior district official invited the community leader out for a drink, leaned over to him and said sharply:

We (referring to villagers and authorities) are all Khmer and therefore we must follow the law. It is not the country of '*jun jeat*' (Indigenous) or '*munus prey*' (forest people). ELCs are for economic development and poverty reduction for our country, therefore it would be considerate to accept the company's compensation offer for your land.

*(Bunong Community Leader, Srae Ampil, 2018)*

The community leader took the senior district official's words to be a threat: if he continued the protest against the company's land clearing, it would mean that he was acting against the government and the law. This message also explicitly reinforced a racialisation of development: that Indigenous people must become Khmer by accepting it. And, because the company promised to develop the community by building roads, a school, and a health post, the message was that his activism also acted against the wellbeing of the community.

Encounters such as this persuaded him to tone down his messages to the community and to advocate for accepting the compensation offered.

At the same time, the community leader was offered a job in the newly established plantation, and told that this was an important management role. However, after working for the company only a few months, he felt useless and disappointed. He was paid USD 200 per month, which is a fairly high salary for the area and may have been used to attract these leaders. However, the role required more than 60 hours per week working as a security guard, with no health insurance, sick leave, or annual leave, and his salary was often paid very late. The management role he was promised never transpired. He finally resigned (as did his friends employed at the same time), but the damage had been done. Villagers were confused as to why those who used to be leaders protesting against the company now worked for it. During our last interview in 2018, the community leader felt cheated. The promised development had not materialised. He attempted to continue mobilising the community to protect their commons resources and secure a Communal Land Title, but they had lost trust in him, as well as in the CLT process. By 2017, forty households out of 115 had revoked their IC membership, and many in the community said they wished to register their land individually.

This case illustrates the emotional dimensions of state and corporate power, and resonates with the experiences of people in Kampong Chhnang who experienced both threats and violent withdrawal of social services, alongside offers of jobs and government positions, and promises of economic development. The community leader in Srae Ampil was both courted and threatened. This treatment had a racialised dimension, as the senior district official's suggestion that the community leader is a 'forest person' (*mnuu prey*) and not Khmer caused him to feel ashamed and lower in status.

### **How Emotions Disable Land Grabs**

People that organise against land grabs also draw upon emotions to generate a sense of collective energy, transforming fear into anger or bravery, constantly having to counter the emotions produced through encounters with the state. The work of transforming emotion takes place through micro-emotion work in the everyday, as well as in moments of overt collective. Movement leaders in the Phnom Gok Network actively sought to transform fear and growing tensions within the movement by cultivating bravery and joy through both informal practices such as introducing dancing, humour and laughter to tense meetings, speeches that recalled past acts of bravery in the collective, as well as group parties and festivals.

In 2015, the community network held an emergency meeting to discuss a proposed irrigation development project that was slated to cut across people's land and enclose water resources. The first author was present when around 40 members of the movement gathered nervously at a local NGO office. Tensions were high and rumours flew, as no one knew who was behind the irrigation scheme and who might lose land. The Phnom Gok Network already faced challenges. A recent land titling campaign (the Order 01 campaign noted earlier) had enabled around half of the members to gain certification for their land, which potentially gave them greater access to legal protection and compensation, while others had missed out on land titles. The meeting grew increasingly quiet as, one by one, people talked about their fear that they would lose their land. Some people cried. People started to bicker with each other. On the second afternoon, two prominent women in the network accused one of the activists of selling out to the authorities. But as the activist angrily stood to



defend herself, loud Khmer folk music suddenly blared out from the back of the room. One of the leaders of the movement was standing at the back with an old CD player. She stopped the meeting and cajoled people into dancing. After an hour of dancing, people took turns at singing, performing improvised songs about the community. I sensed the tense bodies around me (including my own) relax, people smiled, and the activists that had argued began talking to each other. I felt the collaborative performance of the dancing and singing was a conscious effort to resist fear and uncertainty. That evening, people worked in small groups to devise strategies of resistance to the irrigation project. The groups spread out on the floor; laughter and loud conversations punctuated the space. By the end of the third day, the meeting adjourned with concrete strategies for small groups to implement in their own communities (see Beban, 2021 for a longer analysis of the case).

The community network also engages in other actions that generate collective sociality, such as protest festivals at places where powerful spirits reside, which bring together activists from different communities. At one spirit festival Beban attended, over 200 people gathered to eat, dance, and hold a spirit possession ceremony many hours from a main road on an isolated mountain. This was certainly not a visible protest strategy, but acted to build solidarity among network members from different communes and to harness the power of land spirits for the network. The location was a mass burial site in the Khmer Rouge period, and was felt to have spiritual energy due to this horrific past. In this way, harnessing the struggles of past conflict gave hope and strength to the current struggle. The optimism was palpable in the singing and laughing on the bumpy cart ride out to the festival, the dancing, and the excitement of a spirit possession ceremony. The festival could be seen as a way to mitigate fear—not directly confronting the authorities but building up strength, collective bravery, and perhaps divine intervention.

These practices helped maintain communal solidarity throughout turbulent political ecological change. The Network continued its actions in resistance to the dam projects, and secured compensation and conditions around the construction of bridges over the canals, and access for fishing and water use. Many people during Beban's latest field visit in 2020 were satisfied with the compensation received and hopeful about the potential to stay on the land in the future. Others, however, who had not joined the Network's resistance efforts, had accepted earlier low compensation packages and felt cheated. Some said it was just a matter of time before they would be forced off the land, and many seemed to hover between an expectation of development and a profound fear.

While the case of Kampong Chhnang shows social movements subverting fear, in the case of Srae Ampil village, the community leader was initially able to use fear to mobilise villagers to participate in protest when the community faced land loss to an ELC company in 2010. He met with villagers, spreading the urgent message that they would lose land if they did not take action now. This strategy worked largely because he had a history of successfully leading mobilisation in 2008, and others were willing to follow him. Anger and pain expressed at public occasions (meetings or traditional rituals) and family gatherings motivated people to take part in collective action, as many villagers recounted to Hak during interviews:

I almost cried when I saw the company cut down our trees. The villagers asked the district chief, police and others for help but did not receive [help]. We [confronted the company] and were arrested and detained overnight at the district police office.

*(Bunong man, 50s, Srae Ampil, 2012)*

Everyone was upset. We lost our forest, the forest with big resin trees became land with no trees. If we did not attend the protests, we would lose even our own houses.  
(*Bunong woman, 60s, Srae Ampil, 2018*).

At first (*in the early 1990s*) we were told that the forest is a conservation forest. A few years later, company workers escorted by soldiers cut down our resin trees and claimed our forest! Finally, the company came here! [loud voice] We could not remain silent anymore or we could lose our home.  
(*Bunong woman, 50s, Srae Ampil, 2018*)

These quotes reveal the sadness and anger people felt when they witnessed the logging, and their desire to take action even in the face of violent retribution from the company and local officials. However, a confrontation between the company guards and villagers in 2011 changed the direction of the community's protest. When villagers sought to stop the company's workers from clearing land, the district authorities detained three male village representatives. During interviews in 2012, a village chief tearfully recalled his anger when he was detained, and the ensuing feeling of disappointment when he realised the authorities would take no action to stop company workers from clearing land, and, instead, would criminalise villagers who resisted. He cried during the interview—something Hak was surprised to see, as in her experience crying among men is not common in Cambodia, especially if they are sitting with women. The incident shocked many people in the village, and fear of reprisal for collective action grew. After that incident, villagers agreed to reduce their confrontation strategies (such as protest and broadcast via radio) to a cooperative approach through informal meetings between the community leaders, the company and the senior district official. In this way, the villagers' anger and fear of losing their homes was effective in enabling an initial surge of protest action, while the growing fear of violent reprisal was effective in encouraging a shift in collective action to a more conciliatory approach involving forest patrols, petitions, and negotiations.

During the long period of conflict with the company between 2010 to 2014, the community leader kept villagers informed of negotiation progress in his meetings with the company and district officials. However, from late 2014, he seemed to isolate himself from villagers. Village meetings were not organised. Some villagers saw him leaving the company premises, causing suspicion about his relationship with the company. Then, in early 2017, he began working for the company and built a house, which cost about USD 20,000 (an exorbitant amount in rural Cambodia). This cemented the villagers' feelings that he had sold out to the company and authorities, and caused them to lose trust in him. Village authorities also encouraged villagers to seek individual land title rather than continuing to advocate for communal land. During interviews in 2017, villagers expressed their disappointment and hopelessness at continuing collective action. One widow, who had been active in the early protests, said in a shaking voice that liquid resin trees were felled with no compensation and her land was taken over by the company because she did not have labour to clear the land. She said she feels powerless for taking such action and does not believe that the community would be able to protect their land in the future. Similar sentiments of apathy and hopelessness resonated throughout the interviews.

The changing political ecological context is thus crucial for understanding the emotional dynamics of land grabs and resistance. Prior to 2014, communal forests were still available to support food and livelihoods (through collecting liquid resin and gum resin for selling,

collecting fruits and foods from forest for family consumption, hunting and small-scale logging). Forest clearing by the ELC company encouraged families to move from shifting cultivation to cultivation of cash crops in order to lay claim to land. The ability to mobilise villagers for collective action has weakened. For example, in 2012, many villagers participated in regular community patrols of the local water reservoir to crack down on illegal fishing, but by late 2017, these patrols were no longer held. The villagers said there are no fish in the dam's reservoir, thus there is no need to patrol. Likewise, village meetings to plan actions against illegal logging were well attended in 2010, but by 2017, most villagers said they did not attend because they preferred to tend their farm rather than wasting time attending the village meeting. These examples all point to the broader social shift engendered by the enclosure of commons resources, and the shift to private land title. These combined with political factors, including the government crackdown on civil society to break up the community's solidarity.

### **Discussion: How Do Emotions Operate in the Long-Term in Social Movements Resisting Land Grabs?**

Land grabs are often not acute moments of dispossession; rather, people experience “in situ displacement” (Feldman & Geisler, 2012, 974), when they are “displaced in place” through the loss of entitlements, social exclusion, and alienation, and face protracted struggles over resources. In this environment, people's everyday lives and their relationships with land and with each other are shaped by a constant weight of uncertainty over their ability to survive on the land. Resistance to land grabbing must find ways to channel and subvert the emotions produced by the coercive actions of state and corporate actors, in order to generate potential for collective resistance. In both study sites, however, the broader political ecology changed significantly over the period of land conflict, shaping the possibilities for collective action. These cases show how emotional dimensions of collective action shape, and are shaped by, the changing ecological context.

Mobilisation fractured in Sre Ampil not only because the community leader failed to support villages but also due to the rise of opposition party supporters that led to the government cracking down on activism and a community patrol person killed by military, as well as rising illegal logging, cash cropping, and the destruction of commons resources. As people lost their access to communal resources, and they became busy with their farms, they lost interest in mobilising collectively. In Kampong Chhnang, collective action also fractured, particularly after the land titling campaign which increased inequality in the village and led to the parcelling out of communal resources. However, in both cases, we showed ways in which people sought to continue generating solidarity to continue collective struggle. This chapter reveals the importance of “emotion work” to channel and reshape emotions as a crucial factor in social movement success, albeit an aspect of mobilisation that has only recently gained scholarly attention (Ruiz-Junco, 2013). In rural Cambodia, emotion work is the labour to subvert fear that takes place in meetings, in casual encounters, through communing together over food, stories, music, and spiritual practices, as well as in overt protest. It is not just the large public demonstrations or meetings with officials that require bravery; community activists work every day to develop what Valeria Procupez (2015) terms ‘collective patience’ to continue their struggles, even as they are faced with the dissembling, delay, and uncertain coercive power of the state and capital.

These cases also show the potential, and limits, of legal instruments for sustaining collective action. We saw that the CLT process has been ineffective in most Indigenous communities due to state sidelining of the law. However, in the early stages of the Sre Ampil action against land encroachment, the CLT was useful as a tool for generating social cohesion, connecting with outside actors (such as conservation NGOs) who could support the movement, and giving a focal point to the struggle. This ability to connect broke apart, however, when the CLT had limited effect and the government's push for private land title encouraged many villagers to apply for private title, fracturing social relationships in the community. Therefore, in the long-term, the CLT did not enable movement success. In the Khmer community of Kampong Chhnang, although the community was not eligible for CLT, they have been successful in establishing community forests with NGO support, and this has provided a focal point for continued mobilisation (through forest patrols, meetings, and a sense of communal resources). This was one tool that enabled the community to continue uniting in collective action in the period when the ELC company was inactive, between 2004 and 2011. When forest clearing for the plantation began anew in 2011, it was the community forest leaders that mobilised people to join together in resistance. But, like the CLTs, the community forests have also been limiting—ongoing issues with logging by both outsiders and people within the communities has inflamed tensions within small communities. In the long term, therefore, the communities' efforts to mobilise against land grabbing required ongoing emotion work to sustain struggle.

This reaffirming of people's relationship with the land through collective performances of mobilisation has effects for individuals, for the group, and for the wider audience of onlookers and opponents (Barker 2001). 'Micro-emotion work' such as the intervention of dancing and singing at the community meeting and spirit festival in Kampong Chhnang, or the community leader's rousing villagers to participate in protests through inciting fear and anger at potential land loss, channel emotions into action. This process of producing "collective self-confidence" in the face of state repression must be continuously constructed, as Colin Barker (2001, 201) reminds us: "Unity [i]s always provisional, open to new affective impulses from within and without, and thus ha[s] always to be secured". The subverting of fear into a sense of bravery and joy witnessed in the acts of mobilisation in Kampong Chhnang, or the channelling of fear into a collective fear of land loss in Sre Ampil, receives less attention in scholarship on emotions in social movements than the channeling of fear, anxiety, and grief into anger (Gould, 2009; Jasper, 2011). Negative emotions such as fear and anger can be positive catalysts for initiating, empowering, and keeping the momentum of a movement. However, in the context of potential state violence, anger is useful only insofar as it motivates people to act collectively, but anger is risky, and often ends up turning itself on the group.

Comparing our two cases also reveals the importance of affective ties to land in mobilising shared emotions and collective action. In Srae Ampil, the fact that villagers could maintain the momentum of collective action from 2008 to 2015 was due to the fact that ancestral land was grabbed, raising strong feelings of nostalgia, love for the land, and anger among villagers (González-Hidalgo & Zografos, 2020). The memories of the past coupled with current emotions reflected not only the experiences of intrusion but also their cultural connection to the land. The Bunong worldview holds that land and forest are refuge for their ancestors' souls and spirits who look after them and their livelihoods (Vater, 2006). Thus, the destruction of their refuge means more than the material deprivation of their livelihood sources. This cultural criticality was evident through the villagers' demand of the company to offer an apology ceremony as part of compensation. Clearly, emotional

attachments to the forest in the ancestral and cultural sense go beyond resource extraction and livelihoods. These bonds are powerfully emotive, reflecting what was truly at stake for the villagers—they were losing not only material livelihoods but also the physical and cultural spaces in which their ancestors were housed. The Srae Ampil case therefore shows the affective links of cultural ties to land that bind villagers' identity and incentivised and amplified their struggles against land grabbing.

Our findings also illustrate the role of local leaders and their emotions which affect and encourage members' morale and participation in resistance. Yet, we also illuminate the contradictory ways in which the same emotions can deter from active resistance. Repeated encroachments such as the case shown in the Bunong village of Srae Ampil traumatised the affected villagers and their local leaders, but helped them generate certain emotions like fears, anger, and grief that united and motivated them to support a strong resistance. Nonetheless, when the trust in local leaders was broken due to jealousy and suspicion of collusion, the collective action could not be sustained. This analysis shows the importance of a long-term view that is attentive to changing socio-political and ecological contexts and the ways these shape the emotions of movement leaders.

### **Conclusion**

In this chapter, we have argued for the importance of taking a long-term view of how land grabs play out, which reveals how emotions and their effects on collective action are shaped by shifting socio-political contexts and ecologies. Social movements are rarely one-time responses to conflict and dispossession; collective mobilisation occurs in the context of protracted struggles over resources. We drew on long-term fieldwork in a Khmer community and an ethnic minority community in rural Cambodia to show that fear, anger and sorrow can operate differently in different contexts of mobilisation. Our perspective reveals how 'negative' emotions such as fear and anger can at times propel collective action, and at other times, paralyse resistance. Fear tends to paralyse people and thus disable resistance. This is often a barrier, as it prevents people from taking action. However, at times, such as in our case of a long-term struggle over land in an Indigenous community, this paralytic fear can be useful when rash behaviour would be dangerous.

Furthermore, our study shows that people are able to turn fear into anger or gratitude and bravery. In contexts of authoritarian-style governance, state and corporate actors' practices of violence, intimidation, and obfuscation produce fear and uncertainty amongst people living in areas threatened by land grabs, while simultaneously, state discourses of promised prosperity, gift giving, and plantation employment can produce desire for development and gratitude. These emotional responses can all facilitate land grabs by paralysing resistance, fracturing collective mobilisation, and encouraging consent. But when people organise into social movements and engage in 'emotion work' to build solidarity, generating feelings of joy and love towards the land and community, and anger and sorrow at the land that they are losing, they can encourage collective action to resist land grabs.

This kind of 'emotion work' is practised through the way they talk with their members, share stories, and create an 'us' against 'them' collective. Anger is a more active emotion—it propels people to do something. But it is also intense and can lead people to act (react) in violence and further escalate situations. Conversely, emotions of gratitude and bravery can encourage a shared sociality that is less intense than anger, but might be more effective over the long-term.

In sum, emotions are shaped by and shape power, which both enable and hinder collective action. Emotions should thus be a part of an inquiry into resource struggles. Examining only material claims and tangible responses can miss the role of emotional resources that strengthen or weaken collective action.

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# FILLING GAPS IN INTERNATIONAL HUMAN RIGHTS LAW TO ADDRESS GLOBAL LAND AND RESOURCE GRABBING

## Extraterritorial Human Rights Law Obligations of States and the Rights of Future Generations

*Fons Coomans, Rolf Künnemann, and Andreas Neef*

### **Introduction**

Many of the issues and problems discussed in this book about the exploitation and grabbing of land and other natural resources imply that the lives, livelihoods and human rights of people are adversely affected. Economic activities by domestic and foreign (corporate) actors are often only subject to national laws and policies which are usually quite permissive. One of the questions posed in this chapter is whether international human rights law has developed over the years to provide protection to people who experience the negative consequences of economic and financial globalisation in the context of the use and abuse of resources. Traditionally, human rights law (treaties in particular) applies only to the territories of states that have ratified such treaties, and only states are legally bound by these agreements. Yet, as a result of processes of globalisation, the conduct of states, corporate actors and international organisations increasingly has effects beyond national borders. Does international human rights law also apply in such circumstances? This has been defined as the extraterritorial scope of international human rights law. Over the last 20 years, several developments have taken place to fill in the normative and accountability gaps that have arisen in international human rights law aimed at providing protection to victims of foreign economic activities. The legal basis for such developments can be found in existing human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights. However, the legal framework has been further clarified and interpreted by soft law documents and legal expert opinions, such as the Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011).<sup>1</sup>

Meanwhile, the rights of future generations remain a blind spot in international human rights law to date. Yet illegitimate appropriation and exploitation of different types of



resources does not only affect the human rights of members of present generations. It is clear that the long-term depletion of natural resources, loss of biodiversity and global warming through global land and resource grabbing have a negative cumulative impact on the human rights of future generations. This chapter will therefore also discuss the question what the contribution of international human rights law can be in protecting the human rights of future generations. It will analyse the role of the precautionary principle and the different types of domestic and extraterritorial human rights obligations states currently and in the future have to guarantee a sustainable and dignified life for members of future generations.

### **The Human Rights Legal Framework and Extraterritorial Obligations of States**

Which human rights are affected by grabbing of resources? The right to land is affected when farmers lose farmland or when forests of Indigenous communities are cut for soya or biofuel plantations. More fundamentally, the right to food of farmers and their families is at stake when deprivation of land leads to hunger or food insecurity. Forced evictions may occur when local communities have to move for mining activities: their right to adequate housing will be at risk, and they may lose access to water. More generally, land and resource grabbing may lead to an erosion of the right to an adequate standard of living, as the livelihood of local communities and their subsistence may be in jeopardy. In many cases, land and resource grabbing compromises the rights of Indigenous peoples as enshrined in the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), including their rights to territorial integrity and self-determination (e.g., Watson, 2018; Mutu, Chapter 3 in this volume).

#### **Box 31.1 Key human rights principles affected by land and resource grabbing**

- The right to own property, including land
- The right to adequate housing
- The right to protection from forced displacement
- The right to food
- The right to water and sanitation
- The right to an adequate standard of living
- The rights of Indigenous peoples

*Source:* Adapted from Neef, 2021

Traditionally, human rights only apply on the territory of states which have ratified human rights treaties (territorial scope). Effects of processes of (economic) globalization compel to reconsider this view: states have human rights obligations beyond national borders relating to their own conduct and that of (transnational) corporations (extra-territorial scope). There is thus a need to fill gaps in human rights protection as a result of processes of economic globalization. This is particularly relevant with respect to:

- the lack of human rights regulation (normative standards) and accountability of transnational corporations;
- the absence of human rights accountability of international organizations, in particular international financial institutions (IMF, World Bank, IFC);
- the ineffective application of human rights law to investment and trade laws, policies and disputes;
- the lack of recognition of duties to fulfil economic, social and cultural rights abroad, through obligations of international assistance and cooperation.

In light of these challenges, it is crucial to expand and apply legal concepts and notions which were developed traditionally for a domestic framework (protection of human rights on the territory of States Parties to a treaty) to a context beyond national borders in order to adjust to changed and changing economic, social and political realities. In the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, extraterritorial human rights obligations have been defined as:

- a obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State's territory; and
- b obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realize human rights universally.<sup>2</sup>

Extraterritorial obligations can be found in different sources of international human rights law (cf. Dhanarajan, 2015; Skogly, 2021). The legal basis can be derived from treaty law which is legally binding (hard law) and an increasing number of soft law sources which are not as such legally binding, but authoritative (for an overview and discussion, see Langford, Coomans, & Gómez Isa, 2013). Treaty law includes the United Nations Charter (Arts. 55 + 56) and Article 2(1) ICESCR. The latter provision stipulates that each state undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means. This implies that states have voluntarily accepted a positive obligation to cooperate to help realize social, economic and cultural human rights beyond borders. Condoning grabbing of resources or failure to regulate the activities of multinational corporations abroad is contrary to such an obligation.

Soft law sources are of increasing importance: they set normative standards and give authoritative guidance to states for the practical implementation of these norms, however these are not legally binding. An example is the FAO Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forests in the Context of National Food Security (2012) (for discussions on the effectiveness of the Voluntary Guidelines in mitigating land grabs, see, e.g., Cotula, 2012; Paoloni & Onorati, 2014; Brüntrup et al., 2014; Neef, 2019). Another important soft law source is General Comment No. 24 adopted by the UN Committee on Economic, Social and Cultural Rights on State Obligations under the ICESCR in the Context of Business Activities.<sup>3</sup> A General Comment provides for an authoritative interpretation and explanation of a treaty. It also gives guidance to states on how to implement their treaty obligations.

Finally, international customary law provides that a state may not allow its territory to be used to cause damage on the territory of another state, such as dumping wastewater of mining activities in a border river which may pollute the soil in a neighbouring country. The responsibility of a state is particularly at stake when the negative impact on the enjoyment of human rights abroad was foreseeable.

International human rights law confers obligations and responsibilities on different actors in an extraterritorial context. First of all, the host state, that is the state where the grabbing of resources occurs, has an obligation to regulate the activities of transnational corporations on its territory.<sup>4</sup> The home state where the (transnational) company, or its parent, is registered or domiciled has an obligation to regulate, oversee and sanction the conduct of the company abroad.<sup>5</sup> In this context, General Comment 24 mentioned earlier is important. The Committee has stated that it would be contrary to the principle of international cooperation and assistance

to allow a State to remain passive where an actor domiciled in its territory and/or jurisdiction, and thus under its control or authority, harms the rights of others in other States, or where conduct by such an actor may lead to foreseeable harm being caused.<sup>6</sup>

As a consequence, the extraterritorial obligation to protect requires states to prevent and redress infringements of human rights that occur outside their territories as a result of activities of corporations over which they exercise control. This applies in particular when violations are reasonably foreseeable, such as in projects in the oil and mining industry.<sup>7</sup> In addition, the FAO Guidelines stipulate that where transnational corporations are involved, their home states have roles to play in assisting both those corporations and host states to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights (FAO, 2012).

Finally, the foreign private actor (parent company or foreign subsidiary) has a responsibility to respect human rights in its business activities. The well-known Ruggie Guidelines on Business and Human Rights, adopted by the UN Human Rights Council, provide for normative standards for states and (foreign) business operations.<sup>8</sup> These contain recommendations for companies, not legally binding standards. A serious weakness of the Ruggie Principles is that these do not provide for an obligation for states to regulate activities abroad of companies domiciled in their countries.<sup>9</sup> In 2014, the UN Human Rights Council decided to establish an open-ended intergovernmental working group on business corporations with respect to human rights, whose task is to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.<sup>10</sup> Its mandate is to agree on a set of state obligations to regulate the conduct of corporations with a view to preventing human rights abuses, act with due diligence in their business activities and provide remedies to victims. The negotiations on such a treaty are politically sensitive with opposing views from different stakeholders (states, corporations, nongovernmental organizations (NGOs), Indigenous groups and civil society). At the time of writing, the process of drafting and negotiating is still ongoing.<sup>11</sup>

The human rights legal framework that is applicable in an extraterritorial context is still in need of strengthening and further development. According to some states, extraterritorial human rights obligations do not exist because they have not explicitly agreed upon by states. In their view, the current legal basis for extraterritorial obligations is absent or weak. In addition, states do not want to limit the operational freedom of corporations abroad by setting standards (for a discussion, see Langford, Coomans & Gómez Isa, 2013, p. 62–65).

Home states only refer to the responsibility of corporations, while host states are unable or unwilling to regulate the conduct of corporations. Full recognition and observance of extraterritorial human rights obligations in law, policy and practice presupposes and requires political will and determination by states.

### **The Human Rights of Future Generations**

For many Indigenous peoples, their societal view of obligations towards human beings included everybody in the past, present and future of their communities. An example is the reference to future generations in the Iroquois constitution. Iroquois Chief Oren Lyons relates this provision as follows:

When you sit and you council for the welfare of the people, think not of yourself nor of your family nor even your generation. Make your decisions on behalf of the seventh generation coming. Those faces looking up from the earth, layer upon layer waiting their time. Defend them, protect them, they're helpless, they're in your hands. That's your duty, your responsibility.<sup>12</sup>

*(cf. Lyons, 1980)*

Indigenous concepts of land ownership and their underlying notion of intergenerational justice are probably best expressed by the quote of a Yoruba chief who famously declared “I conceive that land belongs to a vast family, of which many are dead, few are living, and countless numbers are yet to be born” (quoted in Berry, 1992, p. 342).

Contemporary land and resource grabbing and the exploitation of the planet's natural resources associated with it encroach on the lives and livelihoods of future generations. Never before in history has a generation burdened and threatened future generations in such an existential way. Presently, dominant laws regulating political and economic life are part of this plot, creating a situation where future generations will have substantially fewer resources to enjoy. The more than 35-year-old definition by the World Commission on Environment and Development (Brundlandt Commission) of “sustainable development” as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (WCED, 1987) seems increasingly unattainable, unless radical shifts occur in the manner our resources are governed by the current generation and protected for future ones.

Between the late 18th and the mid-20th centuries, human rights law was mainly national, enshrined in constitutions. With the founding of the UN, human rights entered international law: their purpose to serve the human needs and dignity of all now includes the community of states. Human needs have been defined in detail in human rights law and include not only such basic needs as adequate food, water and housing but also political participation and freedom from torture, slavery and various forms of economic and cultural exploitation. Nowhere in human rights law, it is stated that the “human needs of all” refer only to the human needs of those who are alive. On the contrary: the whole program of human rights in the context of the UN and elsewhere is future-oriented. The UN Charter wants to shape the community of states in a way that meets the needs of the future. Its preamble starts: “We the people of the UN determined to save succeeding generations from the scourge of war, ... and to reaffirm our faith in fundamental human rights and the dignity and worth of the human person”.

### ***The Current Gap***

While philosophers have pondered about present society's ethical obligations to future people for a long time (see, e.g., Parfit, 1984; Mulgan, 2006, 2014), legal scholars have had difficulties in providing the legal basis for protecting the rights of future persons. The Universal Declaration of Human Rights Art. 1 enshrines that "all human beings are born free and equal in dignity and rights". As this is true in general ("are born"), it is also true for the births to come: future persons are equal in rights to the present generations. This envisages a long chain of equal rights into the future. From their start, human rights have suffered reductionism despite their enshrined universality: slaves were excluded until the 19th century, women and Indigenous peoples well into the 20th century. Future persons (and to some extent stateless people) are still excluded today.

In many judgements, positive reference has been made to the human and/or constitutional rights of future generations. Yet when plaintiffs seek standing on behalf of future generations, judges become reluctant: only in three cases to date has such standing been explicitly granted. There are gaps when it comes to dealing with the human rights of future people. Not only in court – but in general. The common practice of discounting future harms of current forms of resource exploitation and environmental destruction – often associated with land and resource grabbing – remains a major obstacle to closing the gap (cf. Mulgan, 2014).

### ***Future Persons***

Future persons are persons who will exist in the future only. They are "will-be-persons", not "could-be-persons". And they are not negligible in quantity. Already in 20 years from now, they will have outnumbered present children and youth. The identities and opportunities of future persons strongly depend on the conduct of present generations. For human rights purposes, this is no obstacle: we deal with present conduct only and need to apply the data available now. Future persons cannot be named now, but they can be specified, for example, "the oldest person in Mumbai by the end of 2180". We know that the human rights of this future person are the same as ours. And we need not deal with her interests beyond these rights.

There are present states' obligations to act on this person's human rights. While other citizens of Mumbai in 2180 may face a similar breach of human rights obligations, bringing a case on behalf of an individual is the normal legal procedure to address such issues. "Persons in Mumbai at the end of 2180" specifies a class of future persons, each with individual human rights. Besides bringing individual cases, it could also make sense to bring a case on behalf of this class. The future class most often referred to in current litigation is "the future generations of country X". It includes all future persons without specification other than the place of residence.

### ***States' Obligations***

States bear the obligation to ensure that everybody enjoys their human rights. The identity of everybody is not important, but the specifications are – and they inform the states' obligations. States have to minimize risks that the specified future person will fail to enjoy human rights and will have to face a situation of deficiency. This can imply extraterritorial obligations of states.

Future states should be considered *bona fide*: It has to be assumed that they will meet their human rights obligations towards the specified person – within the context set for them by present states. The efforts needed by future states, for example in terms of their fulfil-obligations, may depend on present states' conduct. If there are various courses available for present states, the one must be chosen that places minimum reliance on fulfil-provide-obligations of future states: Future persons (as much as persons today) must not be forced to rely on their states' fulfil-provide-obligations.

An important principle for human rights obligations in situations of uncertainty is the precautionary principle. In the 1980s (in the context of the sustainable environment discourse), it began to achieve a degree of consensus as the basic approach to uncertainty. At the 1992 UN Conference on Environment and Development, it was incorporated into the final resolutions (the 2030 Agenda for Sustainable Development and the SDGs).<sup>13</sup> Since then it has gained general acceptance and increased importance.

The precautionary principle recognizes that uncertainty is an intrinsic element of nature. Against this background, the principle then says that states (and societies) have to be risk-averse: they must not put future people at risk of deficiencies and compromised rights. There are two types of uncertainties here: our understanding and observations of nature, and the impact of contemplated policy measures, for example on people in Mumbai in the year 2180.

States have to base their conduct towards future persons not on the respective future situation that is most likely, but on the situation with highest possible harm (worst-case scenario), even if this situation is currently unlikely. In a second step, the least risk choice has to be made among those current policies that will avoid future deficiencies or harm. If severe future harm is expected, and if there seems to be more than sufficient time to avert that harm, the respective measures nevertheless have to be taken as soon as possible.

### ***Remedy and Representation***

A remedy is a crucial ingredient of a right. In private law, “remedy“ refers to repairing harm or damage suffered – usually via compensation. In human rights law, however, remedy has a different meaning: the key term here is not harm, but violation. The historic role and permanent purpose of human rights is to establish, obligate and control states and their communities so that the human needs of all (including future persons) are met. Remedies, to be effective, must be capable of leading to a prompt, thorough and impartial investigation, cessation of the breach of States obligations, if it is ongoing, and adequate reparation, including as necessary, restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

Remedial action has to correct present states when they breach their obligations. Hence, taking remedial human rights action is not concerned with the question of “damage or harm suffered”. Compensation (as part of reparation) appears instead in a different form: “fulfilment funds” have been suggested to be set aside by current states to support future states when those (under their fulfil-obligations) have to overcome future persons' human rights deficiencies resulting from present violations. Providing such funds does not make the violation undone, nor does it relieve.

A major gap exists in the representation of future persons and their human rights in current political and legal systems. The World Commission on Environment and Development noted in 1987 (in para 25) “We act as we do because we can get away with it ... [future generations] cannot challenge our decisions”. For children, mentally disabled

persons, many elderly, who seem to be in a similar situation, ways have been found to safeguard their human rights – by representation. Representation therefore is not unusual in law, even if the rights-holders are not in a position to mandate their representatives.

Political representatives must be able to wield the power necessary to defend future generations. In the Iroquois context mentioned earlier, for example, the representation of future generations is vested with the clan mothers. They have powers to propose and remove the chiefs. As far as legal representation is concerned, plaintiffs in courts increasingly seek standing on behalf of future generations.<sup>14</sup> In the Dutch *Urgenda Case*, an *action popularis* opened up the possibility of representing future generations.<sup>15</sup>

A strong system of legal representatives (trustees, guardians and others) is needed. They should be duty-bound to seek legal remedy for future persons and groups against violations of their human rights. Systems are discussed combining natural guardians and institutional trustees. Guardians are naturally related to the threatened future persons, for example, because those are likely to be the offspring of their extended families and communities. Trustees are institutional entities who step in to assist the guardians or who take action themselves. Moreover legal standing should be granted to organisations with a special competence on the matters of the affected future person(s), even though they are not guardians or trustees.

Closing the gaps on future generations' human rights will help to address the grabbing and destruction of those resources that will have to be used by future generations to meet their human needs. The Maastricht Initiative on the Human Rights of Future Generations is a group of legal experts, academics, representatives of NGOs and civil society organizations. Its aim is to lay down a legal expert opinion on the human rights of future generations defined in terms of right holders and duty bearers. This expert opinion intends to fill the normative gap existing in international human rights on this issue. It is evident that a number of state obligations in this area will have an extraterritorial dimension, such as on climate change in relation to the right to a healthy environment and the right to life. But also the future depletion of natural resources can be defined in terms of the right to land, water and an adequate standard of living of members of future generations which give rise to extraterritorial human rights obligations of present states.

The basics of a legal framework to protect the human rights of members of future generations already exists. However, it needs to be progressively developed. The challenge is to extend its scope and apply it to human beings that do not exist yet. States need to be conscious of and contribute to this development which is the common concern of humankind. This requires political will, determination and courage. The Maastricht Initiative will adopt in February 2023 a legal expert opinion consisting of some 30 “Maastricht Principles on the Human Rights of Future Generations” with an extensive legal commentary to overcome the discrimination of future persons in human rights law.

## Notes

- 1 <http://www.etoconsortium.org>. The Preamble of the Principles stipulates that the Principles are drawn from international law and aim to clarify the content of extraterritorial State obligations to realize economic, social and cultural rights.
- 2 Maastricht Principle 8.
- 3 UN Doc. E/C.12/GC/24 (2017).
- 4 Maastricht Principle 24.
- 5 Maastricht Principle 25.

- 6 General Comment No. 24, para. 27.
- 7 General Comment No. 24, para. 30, 32.
- 8 Guiding Principles on Business and Human Rights (2011), UN Doc. A/HRC/17/31.
- 9 Commentary to Guiding Principle I.A.2, The State Duty to Protect Human Rights.
- 10 UN Human Rights Council Resolution 26/9 (2014).
- 11 <https://www.ohchr.org/en/hrbodies/hrc/wgtranscorp/pages/igwgontnc.aspx>
- 12 <https://nnigovernance.arizona.edu/oren-lyons-looking-toward-seventh-generation>
- 13 UN Doc. A/RES/70/1 (2015).
- 14 See the Judgment of the Colombian Constitutional Court in Case STC 4360–2018 (5 April 2018).
- 15 Urgenda Case, The Hague Court of Appeal, 9 October 2018, ECLI:NL:GHDHA:2018:2610.

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