

# NEW CHALLENGES AND STRATEGIES IN THE DEFENSE OF LAND AND TERRITORY



## LRAN Briefing Paper Series No. 4

Land Research Action Network (LRAN), Global Campaign for Agrarian Reform (GCAR)  
with Focus on the Global South, Rede Social de Justiça e Direitos Humanos, and La Via Campesina  
With the support of Brot für die Welt (Bread for the World)



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### **About LRAN**

The Land Research Action Network (LRAN) is a group of activist-researchers working on land, agrarian reform, and resource access issues. LRAN was formed in response to a gap in research/analysis support for grassroots movements around the world that are engaged in struggles over access and rights to land and other resources. For more information about LRAN, please visit [landaction.org](http://landaction.org).

LRAN is part of the Global Campaign for Agrarian Reform which is led by La Via Campesina and also includes FIAN International.

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# Contents

- 7 Introduction**  
**Defending Land and Territory, Advancing Alternatives**  
By Mary Ann Manahan
- 11 Outsourcing Land Deals and the Financialization of Brazil's Farmlands**  
By Fábio T. Pitta and Maria Luisa Mendonça
- 17 Free Trade, Investments, and Assaults on the Commons**  
By Shalmali Guttal
- 27 Looking at Water Grabbing from a Human Rights Lens**  
By Yifang Tang
- 35 How the Myanmar Government's Repressive Land Laws are Catalyzing Conflict and Insecurity: An Analysis of the Vacant, Fallow, and Virgin Land Management Law**  
By Saw Alex Htoo and Frank Scott
- 45 When Asserting Your Rights Means Risking Your Life: Violence, Criminalization, and Impunity in the Struggles for Food, Land, and Healthy Environment**  
By Julia Spanier and Sofia Monsalve
- 53 Rural Women and Grassroots Feminism**  
By Maria Luisa Mendonça and Mary Ann Manahan
- 59 Youth Transforming Territories and Breaking Borders**  
By Nils McCune

- 65** **Community Land Title as Alternative Land Management in Thailand**  
By Supatsak Pobsuk
- 75** **Human Rights-Based Governance of Land and Natural Resources**  
By Shalmali Guttal and Mary Ann Manahan
- 81** **Popular Agrarian Reform: The New Call for Agrarian Reform in the 21st Century**  
By Peter Rosset
- 87** **International Conference of Agrarian Reform Marabá Declaration**  
By La Via Campesina
- 93** **Contemporary Challenges for the Global Campaign for Agrarian Reform**  
By Faustino Torrez

# Introduction

## Defending Land and Territory, Advancing Alternatives

By Mary Ann Manhan

Where the Itacaiunas and Tocantins Rivers meet, in the state of Pará in Brazil, lies the municipality of Marabá. Marabá is home to six urban centers, a vast Amazon agricultural frontier, and an economy reliant on the steel industry and a growing trade and services sectors. The city is a melting pot of different cultures and peoples. But 20 years ago, it bore witness to the brutal massacre of 25 rural landless workers in southeast Pará. Known as the El Dorado dos Carajás massacre, the event involved victims who were members of the Movimento sem Terra (Landless Rural Workers) that marched from their homes to the city of Belém to defend their land and territories and then blocked and dispersed violently by 150 police who had no identification badges on their uniforms. Only two commanders of the police team have so far been convicted in relation to the massacre; to honor the martyrs, La Via Campesina, the international peasant movement, declared April 17th as the International Day of Peasant Struggle.

The choice of Marabá, Pará as the venue for the International Conference on Agrarian Reform organized by La Via Campesina on April 13-17, 2016, was therefore not a coincidence. The conference gathered more than 130 representatives of LVC's member organizations and allies from four continents, 10 regions, and 28 countries. The defense of land and territories as well as collective processes for imagining and building a different kind of society were the central themes of the five-day gathering, which eventually yielded the *Marabá*

*Declaration* that contained the shared analysis, reflection, and commitments of the participants. Building on the spirit of the declaration, this latest LRAN Briefing Series is devoted to further advancing the rural social movements' discourses and debates around land and territories.

The series unpacks new threats and challenges that rural social movements around the world are facing. Maria Mendonça and Fabio Pitta critically examine the role of global financial capital in land speculation, environmental destruction, and resource grabbing in Brazil. In *Outsourcing Land Deals and Financialization of Brazil's Farmlands*, Mendonça and Pitta describe the intricate web of connections and processes of how "speculation in the Brazilian land market involves the use of pension funds, real estate, agribusiness, and banking companies" or what they refer to as *financialization*.

Similarly, Yifang Tang in her article *Water Grabbing from a Human Rights Lens* narrates that "land grabbing has often gone hand-in-hand with control of freshwater resources which are essential for food production." This accumulation strategy of capital has led to human rights violations of local communities by powerful actors, particularly the right of access to and control over water resources. Tang argues that a human rights framework provides a holistic approach in understanding not only the immediate outcomes of water grabbing but also the processes connected to the grabbing and their broader implications.



Mística (opening ceremony) of the International Conference of Agrarian Reform organized by La Vía Campesina, commemorating the 20 years of the El Dorado dos Carajás massacre, April 17, 2016, International Day of Peasant Struggle. Photo by Viviana Rojas Flores - La Vía Campesina

Such processes involve free trade and investments, which according to Shalmali Guttal “present complex threats to the commons that range from the capture of land, water, biodiversity, medicinal plants, and local knowledge, to the privatization of water, public spaces, education, and health care.” Guttal’s *Free Trade, Investments, and Assaults on the Commons* offers an analysis and examples of how large-scale investment projects have appropriated what she calls as the “commons,” which as a result is undermining public interest and engendering harmful social impacts, evictions, and environmental abuses.

Usually, these free trade and investment projects are aided by the state through its power of eminent domain and enactments of laws and policies. Saw Alex Htoo and Frank Scott explain that amendments

in the 2012 Vacant, Fallow, and Virgin (VFV) Land Management Law will lead to the massive dispossession of smallholder farmers of their land and livelihoods, particularly in ethnic nationality areas, which foments on-going armed conflicts between the Myanmar state and ethnic groups, and therefore, puts the formal peace negotiations at risk. The amendments are designed to attract foreign investments into the country but “the 2012 VFV law and 2018 amendments are symptom of a way of thinking about land that originated during the colonial period. Land that did not have a purpose that fit neatly into a government-imposed category has been defined as waste land and now VFV land.”

The defense of lands and territories by rural social movements are often met with criminalization,



impunity, and violence. In *Criminalization, Impunity, and Violence in the Struggle for the Right to Adequate Food and Nutrition*, Julia Spanier and Sofia Monsalve argues that “more than 50 percent of the 312 human rights defenders killed in 2017 were those defending land, environment, and indigenous peoples in their struggle against resource extraction, large-scale projects, and other forms of corporate exploitation.” The author illustrates the various tactics and strategies that state and non-state actors use to clamp down on popular resistance and dissent using case snapshots from Africa and Latin America.

Like the *Marabá Declaration* that outlines renewed unities and commitments to continue people’s resistance, and advocates for movement-led alternatives such as popular agrarian reform and food sovereignty, Nils McCune’s article tackles the important role of the youth in agrarian struggles, arguing that “no movement to transform society has ever been successful without a youthful leadership.” McCune also discusses how agroecology as a struggle for territories serves as tool of young people not only to transform the meaning of the land but also to forge “identity and harvest a sense of territory as the fruit of thoughtful and shared work.”

Maria Mendonça and Mary Ann Manahan put a spotlight on the intersections of capitalism and patriarchy as key analysis in the advancement of La Via Campesina’s “grassroots feminism that calls for social transformation based on new gender relations.” By highlighting the voices of women farmworkers from Brazil’s sugarcane lands, Mendonça and Manahan discuss the multiple burdens and threats that rural women face in their struggle for land, food, and livelihoods as well as their demands, strategies of resistance and organizing, and how peasant women advance their agenda in various spaces and platforms.

One of these demands is land and resource governance that recognizes, respects, and upholds people’s and communities’ human rights. In *Human*

**The articles in this compilation tell us what is happening with land and natural wealth around the world, and to the people who depend on them. These narratives testify to the continuing, and perhaps, permanent struggles for people’s rights to land, territories, and livelihoods across the world. They are testimonies too of how alternatives thrive even in the most difficult and repressive situations; and serve as reminders that when ordinary people come together, extraordinary things and change can happen**

*Rights-Based Governance of Land and Natural Resources*, Shalmali Guttal and Mary Ann Manahan narrate how people's movements and community rights advocates are turning to the human rights framework to inform their defense of land and territories. But the strength of the framework "will depend significantly on the extent to which it can be used to resist, rollback, and eventually prevent land and resource grabbing, and to progressively realize the rights to land and resources of small-scale food producers, rural peoples, and indigenous peoples—especially women." "For this to happen, politics have to be brought back," is one of the main claims of this piece.

Indeed, the decision on who can and how to use, manage, protect, and share land and resources involve politics and deals with issues of power. Supatsak Pobsuk's *Community Land Title as Alternative Land Management in Thailand* offer an insight into the political contest on land and resource rights between the central government/state and communities. As an alternative to the growing centralization and privatization of farmlands in Thailand, community land titles are proposed and practiced, embodying the concept of community rights and collective, democratic decision making that allow "community members to own land together; while allowing individuals to use and access lands based on agreed upon rules for both individual needs and community benefits."

This alternative model is part of what Peter Rosset calls as *Popular Agrarian Reform: The New Call for Agrarian Reform in the 21st Century*. Rosset contends that the new conjuncture necessitates new visions of agrarian reform, land, and territory by rural social movements. Learning from the lessons and limitations of past agrarian reform initiatives by states and powerful multilateral development actors such as the World Bank, the new call for a popular agrarian reform involves pro-poor alliances: "the idea is that peasants, indigenous peoples, migrant pastoralists, indigenous peoples, fisherfolk, and other popular sectors in the countryside can fight together with the urban poor in favor of popular territories, to produce healthy food in harmony with nature, using agroecology based on popular and ancestral knowledge."

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# Outsourcing Land Deals and the Financialization of Brazil's Farmlands

By Fábio T. Pitta and Maria Luisa Mendonça

The 2008 global economic crisis has intensified the role of financial capital in farmland markets around the world. Speculation in land has facilitated the circulation of financial capital in the context of international economic instability. This trend is further stimulated by foreign investment funds in search for new assets. Farmlands in Brazil have become the target for speculative capital, especially after the collapse of the housing market in the United States and Europe.

The economic crisis has generated a change in the profile of agribusiness in Brazil through mergers and joint ventures not only with foreign agricultural corporations, but also with financial groups and oil companies.<sup>1</sup> These mergers have also increased their assets such as land, machinery, and subsidiaries. As large corporations took greater control over land and agricultural commodities in Brazil, the increasing price of their shares in stock markets facilitated their access to new sources of credit to further expand.

When the price of sugar began to fall along with agricultural commodity prices in general in 2008,<sup>2</sup> several Brazilian sugarcane companies went bankrupt. However, reduction in agricultural commodity prices did not affect the price of agricultural land in Brazil, which continued to rise and attract international investments. The social and environmental impacts of this process continue today.<sup>3</sup>

## The role of TIAA-CREF

After the 2008 economic crisis, the potential for Brazilian agribusiness corporations to access credit on the basis of promising future production declined significantly.<sup>4</sup> With the sharp drop in agricultural commodity prices, several sugar and ethanol mills with debts in US dollars went bankrupt. This led to mergers as a strategy for these companies to increase their assets in order to access new credit.

One example was the creation of a rural real estate company in 2008, Radar Agricultural Properties, as a joint venture between the largest sugarcane corporation in Brazil, Cosan (with 18.9 percent of shares), and a financial company called Mansilla, which was the main shareholder at that time.<sup>5</sup> Data from 2012 indicated that Radar controlled 151,468 hectares of land, the estimated value of which was R\$2.35 billion in Brazilian currency or about 1 billion in US dollars.<sup>6</sup> That year, land prices rose by an average of 56 percent,<sup>7</sup> and Radar's portfolio increased by 93 percent compared to that of 2011. Currently, Radar owns 555 properties in Brazil, or approximately 270,000 hectares of land at a declared value of R\$5.2 billion.<sup>8</sup>

The principal source of capital for Radar to operate is TIAA-CREF, a Fortune 100 financial services organization that manages pension funds in the United States valued at approximately US\$1 trillion. In order to operate on international land, TIAA has created a subsidiary, TIAA-CREF Global Agriculture,



Indigenous people in Brazil are displaced by agribusiness plantations. *Photo by Cristiano Navarro*

which collects interest-bearing capital from other sources, such as pension funds AP2 in Sweden; Caisse de Dépôts et Placement du Québec and British Columbia Investment Management Corporation (bcIMC) in Canada; Stichting Pensionenfonds AEP in the Netherlands; Ärzteversorgung Westfalen Lippe in Germany; Cummins UK Pension Plan Trustee Ltd., Environment Agency Pension Fund, and Greater Manchester Pension Fund in England; and New Mexico State Investment Council in the United States.<sup>9</sup>

To operate in Brazil, TIAA-CREF Global Agriculture has also created Mansilla (that controls Radar in partnership with Cosan), Tellus, and Nova Gaia Brasil Participações. These companies operate as Brazilian subsidiaries to channel foreign investments, as Brazilian law limits foreign ownership of land. This process allows, for example, Tellus to float debentures (a fixed-rate debt instrument) on the market, which

are then bought by Radar and Nova Gaia. The initial investment comes from Cosan and TIAA-CREF Global Agriculture, although it appears to come from several other investors. Tellus uses these resources to buy land through other subsidiaries,<sup>10</sup> called “financial vehicles.” Tellus pays investors the interest on the debentures, completing the path by which the money returns to its real investors with profits.<sup>11</sup>

This process reveals how international pension funds promote a type of outsourcing of land deals, using local companies to operate in Brazil, as a way to exempt themselves from accountability for violating land ownership laws and causing displacement of rural communities and environmental destruction. The outsourcing mechanism consists of creating several companies and subsidiaries with the same administrators, making it appear that they have different owners. These companies then negotiate for land among themselves. For example, Cosan and



TIAA-CREF Global Agriculture HoldCo (through other companies such as Mansilla and Terra Viva Brasil Participações Ltda) are partners in Radar and Tellus, respectively.

Outsourcing land deals through international pension funds insulates these companies from liability from the harmful impacts of land speculation, as they consider themselves partners in these deals. Also, the creation of several interrelated companies obscures the location of the farms they acquire.

When a large pension fund like TIAA creates specific funds to invest in farmland markets, the result is inflation caused by speculation in land prices, even if the prices of agricultural commodities decrease. This reveals a disconnection between land markers and commodity markers, which explains the speculative nature of these tendencies. But in order to justify the increase in land prices, these companies stimulate the expansion of monocropping of agricultural commodities such as sugarcane, soybean, corn, cotton, and eucalyptus, which have devastating environmental and social impacts.<sup>12</sup>

Speculation in the Brazilian land market involves the use of pension funds, real estate, agribusiness, and banking companies. The state also plays a central role as agent for financing and granting public land to the private sector. Other agricultural real estate companies that have been created in recent years now play a role in this speculation business. SLC Agrícola, for example, which is the largest grain producer in Brazil, manages SLC Land in partnership with international pension funds.<sup>13</sup> Even if an international pension fund such as TIAA does not acquire land directly, its investments in Brazilian subsidiaries generate speculation in farmland markets.

In order to provide lines of subsidized credit to agribusiness corporations, the Brazilian state expands its debt resulting from the sale of national treasury bonds in financial markets. According to the

2013-2014 Agriculture and Livestock Plan,<sup>14</sup> the amount of public funds allocated to agribusiness through the rural credit mechanism increased more than fivefold over the past decade, jumping from R\$27 billion in the period 2003-2004 to R\$136 billion in 2013, a harvest year.

Agribusiness corporations use their access to credit to operate in financial markets, as in the case of sugarcane companies taking out publicly funded loans and using them to speculate in foreign exchange derivatives. Several sugarcane and ethanol plants took advantage of government loans at subsidized interest rates to speculate on the appreciation of the Brazilian currency (*real*, R\$) in relation to the US dollar during the years prior to the 2008 economic crisis. When the dollar rose again, many mills went bankrupt. In 2011, the sector accumulated more than R\$4 billion in losses in foreign exchange transactions (Pitta, 2016). Coincidentally, in January 2012, the Brazilian government freed up R\$4 billion for the sugarcane industry, which were to be used specifically for plantation renewal (Mendonça, Pitta, Xavier, 2014). Most subsidized credit for agribusiness has been made available through the *Banco Nacional de Desenvolvimento Econômico e Social* (Brazilian Development Bank, BNDES). The interest rates are lower than those the state pays when it offers public debt in the form of government bonds in financial markets, in order to attract investments.<sup>15</sup> This state policy has been used to promote agricultural exports and gain access to foreign currencies, allowing national actors (private and public) to obtain new loans and roll over their debts.<sup>16</sup>

Since 2003, the Brazilian government has provided special incentives, such as credit, market security, and infrastructure to the sugarcane industry by attempting to turn ethanol into a commodity traded in international financial markets.<sup>17</sup> The sugarcane industry grew exponentially between 2003 and 2008, when the number of sugar and ethanol companies in Brazil increased from 338 to 495.<sup>18</sup> However, after

2008, the sector has had difficulty accessing credit to invest in production and pay previous debts, leading many companies to declare bankruptcy.<sup>19</sup> Between 2008 and 2014, the number of sugar and ethanol companies decreased from 495 to 375.<sup>20</sup>

The aim of government support for agribusiness is to reach a positive balance of trade and attract foreign investments in order to increase financial assets, including government bonds. During the rising phase of agricultural commodity prices from 2003 until 2008,<sup>21</sup> financial assets were also increasing, so that financial capital's intermediation appeared as if it were generating profit from production. In the recessive phase since the 2008 crisis, asset prices and commodity prices started to deflate.<sup>22</sup>

## Land grabbing in the Cerrado

Brazil's Northeast region of MATOPIBA consists of the states of Maranhão, Tocantins, Piauí, and Bahia. The Cerrado or Brazilian savannah (the richest savannah in the world in terms of biodiversity and size) that stretches across these states has been the target of agricultural real estate speculation and agribusiness expansion,<sup>23</sup> fueled by fiscal incentives and credit subsidies from the Brazilian government to finance mono-cropping of soybeans, corn, eucalyptus, cotton, and sugar cane. Agribusiness corporations has also benefitted from state-sponsored infrastructure projects such as roadways and railroads connecting the region to the commodity export terminals in the northeast coast, such as the ports of Itaqui in Maranhão, Pecém in Ceará, and Suape in Pernambuco.

MATOPIBA is a main region for the operations of TIAA-CREF Global Agriculture and other related companies, which buy land at a low price in the process of farm formation.<sup>24</sup> With the introduction of mono-cropping of agricultural produce in these areas, agribusiness companies have been destroying the native Cerrado vegetation and its rich

biodiversity. Many of the farms in the “chapadas” (high plains) of the Cerrado region are established through land grabbing of public lands, involving the enclosure of areas that for centuries have been the home of peasant communities who have legal land rights according to Brazilian law. Land grabbing, consists of illegally forging ownership, fencing the areas, expelling local peasants, and then selling or leasing the “new” properties as if they were legalized.

The expansion of mono-cropping and land speculation in the high plains of Cerrado are also affecting the areas known as *baixões* or lowlands, which are residential areas also used for food production by local communities. Many of the lowland areas have been grabbed, leading to the displacement of peasant communities. This happened in the case of lands acquired by Radar and Tellus in the states of Maranhão and Piauí, where most of the area were formerly public lands.<sup>25</sup>

Agribusiness corporations expand mono-cropping of commodities in the *chapadas*, with a mechanized and irrigated agricultural system that causes deforestation of the native Cerrado and pollutes the water sources. These corporations also expropriate the lowlands from rural communities to comply with certification schemes that demand a certain percentage of forest reserves. As a consequence, they are destroying the savanna biodiversity in the *chapadas* and enclosing the lowlands. Polluting the soil and water sources with chemical inputs has a devastating effect on local communities' food production.


The destruction of the Cerrado due to the expansion of agribusiness has also altered the rainfall patterns in the region, which now suffers from drought. Many rivers have dried up, as their sources were destroyed by soybean plantations that depleted and polluted the groundwater, thus also affecting the water supply in the lowlands. Rural communities

living in the low-lands depend on this water for human consumption, fishing, and food production. Without the rivers and the wetlands, survival in the lowlands is at risk.

The use of agrochemical also has serious impacts. Aerial spraying often used by agribusiness corporations pollutes rivers and the water table, kills fish and the rural communities' crops, contaminates food, and causes diseases such as cancer. The use of chemical inputs is creating an environmental imbalance and increasing the number of pests affecting the crops of the communities living nearby, thereby undermining their food production. Moreover, the deforestation of the Cerrado's plateaus is pushing the local fauna out of the area, destroying biodiversity and causing extinction of endangered species.

Land speculation in the MATOPIBA region is engendering expropriation of peasant, indigenous, and rural Afro-Brazilian communities (quilombolos), forcing them into degrading often slavery-like conditions of work in plantations. As these communities are forced to migrate to urban areas, their housing, food, and labor conditions deteriorate. For many women migrating from rural to urban areas, the only option available in the latter is domestic work. Land speculation and market concentration are leading to more social and economic inequality, as hundreds of rural communities lose their lands as means of subsistence.

The international campaign to denounce land speculation in Brazil has generated greater visibility and support for local communities that are demanding land rights. As a result of this mobilization and organizing process, several land deals are being investigated by a local judge in the state of Piauí. The communities are demanding for secure land rights and compensation for the damage created by land grabbing and speculation. The campaign is a result of LRAN and Rede Social's work to build national and international solidarity with local communities and to denounce land grabbing in the region.<sup>26</sup>



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## Notes

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- 8 Radar: [www.cosan.com.br/pt-br/negocios/radar/performance](http://www.cosan.com.br/pt-br/negocios/radar/performance).
- 9 <https://www.grain.org/article/entries/5336-foreign-pension-funds-and-land-grabbing-in-brazil>
- 10 According to TIAA-CREF documents, Tellus and Radar also negotiate land with similar companies such as Nova Ibiajara Propriedades Agrícolas, TerraInvest Propriedades Agrícolas, Terra do Sol Propriedades Agrícolas, AgroBio Participações e Investimentos: [goo.gl/jqaeT7](http://goo.gl/jqaeT7)
- 11 For more information see: <https://www.social.org.br/index.php/pub/revistas-portugues/207-imobilia-rias-agricolas-transnacionais-e-a-especulacao-com-terras-na-regiao-do-matopiba.html>
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# Free Trade, Investments, and Assaults on the Commons

By Shalmali Guttal

In its broadest definition, the commons are different kinds of wealth, spaces, resources, activities, networks, and systems that belong to groups of people, and which are claimed, created, restored, and protected for collective good and purpose for present and future generations. “Belonging” implies ownership, but ownership in the context of the commons means that those who share the benefits of particular commons also carry the responsibility of protecting, maintaining, and revitalizing them. Some ‘commoners’ call this stewardship, some call it care-taking, and some even use the term management.<sup>1</sup>

The best-known examples of commons are in nature: air, water, land, forests, seeds, biodiversity, climate, etc. But commons are also social (health, education, food cooperatives, social centers), intellectual and cultural, (knowledge, technology, the internet, literature, music) and institutional (self-help groups, mutual support, associations). Internet technology has enabled virtual commons of non-proprietary information and knowledge, as well as various kinds of commons to link with one another through free, or low-cost digital portals and platforms.

Equally important in the commons are the relationships among those involved in them, which can be expressed through informal rules, social conventions and charters, norms, customs, customary or vernacular laws, and even legal trusts. Governance of the commons is distinct from state and market structures and processes, even if commons are located in state-, or market-controlled arenas. For example, ancestral domains of indigenous peoples, lands for grazing, and

community forests and fishing waters are commons that are located within territories defined and controlled by states. Peasant movements in India, Thailand, and Indonesia have set up seed-saving and -exchange systems amidst expanding markets of agricultural inputs and seeds dominated by agribusiness corporations.

However, the commons are threatened by numerous kinds of enclosures that seek to bring them into private property and market-based regimes, or under state control. Free trade and investment present complex threats to the commons that range from the capture of land, water, biodiversity, medicinal plants and local knowledge to the privatization of water, public spaces, education, and health care. The dominance of global value chains (GVCs)<sup>2</sup> in trade and investment is increasing extractivism, environmental degradation, and alienation among producers/workers even in the same location. GVCs undermine local knowledge generation, innovation, and mutual support networks, as well as the abilities of producers/workers to organize and negotiate collectively. Many of these threats are not apparent until negative impacts manifest.

## Setting the stage

The establishment of the World Trade Organization in 1995 was applauded by governments, businesses, and analysts committed to free markets and free trade as a major benchmark in establishing a global, rules-based trade regime. They claimed that WTO-led trade would bring prosperity to rich and



Forest, farmland and common lands taken for a rubber plantation by MDS company in Veal Veng, Pursat, Cambodia. February 2016.  
*Photo by Shalmali Guttal*

poor countries alike, provide employment, enable technology transfer, promote economic and social development, and help poor countries jumpstart their economies and benefit from corporate-led globalization. However, many farmers, fishers and workers' organizations, academics, civil society analysts, and even government officials warned that WTO-style trade liberalization would result in long-term negative impacts on local and national economies, workers, small-scale producers, food security, and the environment. The rules of the new rules-based trade regime were stacked in favor of wealthy countries and transnational corporations, and disadvantaged majority of the people in developing countries, especially the working classes, small-scale food producers and local businesses. A decade after the WTO's establishment,

the deregulation, liberalization, and export-led production that WTO trade locked countries into were widely accepted by many policy analysts, social movements and civil society advocates as the major triggers of economic and food crises, and deepening climate change.<sup>3</sup>

The WTO was, of course, not the only institution promoting free trade and investment. Bilateral and regional trade and investment agreements accelerated greatly in the 1980s-1990s, and by the end of 1999, 1,857 bilateral investment treaties had been signed by 173 countries from all regions.<sup>4</sup>

Over the past two decades, the number of both, free trade agreements and participating countries have expanded tremendously, as also has the scope of the



coverage of agreements. Importantly, these FTAs include investment from the start, reflecting lessons from negotiations in the WTO. Today, almost every country is engaged in bilateral, regional, and/or plurilateral trade and investment agreements.<sup>5</sup> In 2000, the European Union launched Economic Partnership Agreements with African, Caribbean and Pacific countries, which include measures for trade-investment liberalization in these ACP countries.<sup>6</sup> Some FTAs are called mega FTAs because of their wide geographic coverage and immense scope, for example, the Trans-Pacific Partnership among Pacific rim countries; Regional Comprehensive Economic Partnership between India, the Association of Southeast Asian Nations countries, China, Japan, South Korea, New Zealand, and Australia; Trans-Atlantic Trade and Investment Partnership between the US and Europe; and the ASEAN-European Union FTA.<sup>7</sup>

The new generation FTAs are extremely comprehensive. They include the elimination of tariff and non-tariff barriers, deeper liberalization in all kind of services, provisions for foreign investors to compete with domestic businesses, expansion of rules on intellectual property rights, and numerous protections for foreign investors.<sup>8</sup> The main problems in these agreements are (as in the WTO) the rules, which are intended to facilitate imports and exports of goods and services, but exacerbate and entrench inequalities among participating countries with regard to capital, incomes, technology, and social development indicators. Wealthier and more technologically advanced countries exercise pressure in different ways to establish trade-investment rules that favor their own businesses and economies.

### **Undermining public interest**

An extremely worrying aspect of FTA trends is the rearticulation of public interest in market terms: what is good for the market and private sector is good for people. The realm of the 'public' (of the

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people), and public goods, services and spaces are important in enabling commons and commoning. Discussing how the notion of ‘public’ is being subsumed into the logic of private property, free markets and free trade, James B. Quilligan notes that, “In theory, public still means people; in practice, public means government (as captured by elite interests who regularly impede the peoples’ political rights and capacity to control their common goods).”<sup>9</sup>

The proliferation of FTAs is underpinned by the unshakable beliefs among most governments that rapid economic growth is essential to generate capital for national development, and that economic liberalization, privatization and deregulation of markets are the most ‘efficient’ ways to achieve economic growth. These beliefs are supported by International Financial Institutions such as the World Bank, International Monetary Fund, Asian Development Bank and Asian Infrastructure Investment Bank, as well as through multilateral institutions and processes such as the United Nations Conference on Trade and Development Financing for Development and the Sustainable Development Goals.

Investment is particularly important since goods and services must be produced somewhere, and their production requires physical location/space, infrastructure, energy, raw materials, technology, labor and most important, capital. Countries across Asia are competing to attract capital through large-scale domestic and foreign direct investment. Investments can be led by state-owned enterprises, corporations/transnational corporations, or a mix of corporate and state investors from the host country and other countries. Investment capital can come from national and private banks, IFIs,<sup>10</sup> finance corporations, hedge and mutual investment funds, and other trade-investment promotion institutions such as Export-Import Banks and Export Credit Agencies. Investment is now a central component of FTAs and EPAs, as well as tied to development aid.

While trade and investment are certainly important for increasing incomes, building social potential, and improving living standards, an overall shift in policy making towards markets and private sector undermine equity and equality. In many countries, private investment in services and infrastructure has greatly increased over the past two decades through Public-Private-Partnerships. PPPs are promoted by IFIs and governments as crucial to the delivery of public goods and services. However, past experiences show that PPPs serve as covers for the privatization of critical sectors such as water, healthcare, education, energy, roadways, ports, transportation and even security. Governments use public funds to assure investors returns on their investment, underwrite investors’ risks and allow investors to recover costs by setting prices for goods/ services. PPPs tend to increase costs of capital and construction and can also increase public debt because of risk transfers. However, investors are not compelled to adhere to environmental, labor and social standards, or provide universal access, calling into question the “public” part of PPPs.<sup>11</sup>

In the countries of the Mekong region<sup>12</sup>—Myanmar, Thailand, Laos, Cambodia, and Vietnam—large-scale domestic and foreign investments are justified by host governments, bilateral donors, IFIs, and other financiers as critical to achieving economic growth, increasing economic competitiveness, modernizing agriculture, utilizing “unproductive” or “idle” land and resources in more profitable ways, and creating/increasing employment. These investments are found in activities that involve the exploitation of land, water, forests, minerals, and labor, and are aimed at integrating the economies of the Mekong region countries into GVCs. To attract FDI, host governments are amending existing, and enacting new laws, regulations and policies, that provide incentives and protections for large-scale investors. (*See article on VFV Land Management Law*) These include (among others): simplified procedures for processing investment applications and licenses; favorable terms for taxation, foreign



exchange and repatriation of revenues/profits; limited financial liabilities in the host country; measures for investor protection; land acquisition; restrictions on workers' unions and other forms of association; access to services, energy, property, and infrastructure as needed, and; compensation for expropriation of investors' assets.

One of the biggest threats to public interest from FTAs is investor rights protection, that empower investors to take legal action against host governments if they think their rights have been infringed upon. Known as Investment State Dispute Settlement (ISDS), investors can take their grievances to arbitration

mechanisms in the International Centre for the Settlement of Investment Disputes (ICSID), or the UN Commission on International Trade Law. Under ISDS, investors can sue governments over public policies, laws, and regulations that inhibit their revenues and operations including for example, regarding taxation, user fees for toll roads, environmental protection, workers' wages and entitlements, governance of land and water, procurement and distribution of food from local producers, etc. Such arbitrations carry huge costs in legal fees, court appearances, and payments for damages, and create a chilling effect on the appetites of governments to regulate in favor of people and environment.<sup>13</sup>



Signboard for a Special Economic Zone plan by MDS Company in Thmorda, Pursat, Cambodia. February 2016.  
Photo by Shalmali Guttal

**Free trade in agriculture has pushed small-scale producers to compete with agricultural imports and orient their production to the demands of agricultural exporters. In India, Thailand, Cambodia, and Laos, this has entailed increases in monocropping, plantation farming, use of chemical inputs, and commercial seeds, poultry, fish and livestock breeds, and credit for commercial agriculture.**

ASEAN<sup>14</sup> provides a good example of the benefits offered to investors. In 2015, ASEAN member countries established the ASEAN Economic Community (AEC),<sup>15</sup> which seeks to make the region attractive to investors from within ASEAN as well as outside, by offering them numerous incentives to maximize profits:

“ASEAN-based companies can access raw materials, production inputs, services, labor, and capital wherever in ASEAN they choose to set-up their operations. Companies can save on production costs, focus on their specialization, and/or maximize economies of scale without necessarily leaving high potential market areas within the region.”<sup>16</sup>

The ASEAN Comprehensive Investment Agreement, lays down rules for liberalization, protection, promotion and facilitation of investments for the AEC.<sup>17</sup> Notable in the ACIA are provisions to give foreign investors fair and equitable treatment, non-discrimination by way of investment facilities, full protection and security for investments, and ISDS.

However, such benefits and protections for workers, farmers and the broader public against environmental, economic and social harm, are noticeably absent. Local communities (rural and urban) are evicted to make way for investment projects; workers in factories, plantations and agro-processing plants are poorly paid, and denied benefits and job security through short term contracts; and land, water and eco-systems are degraded because of chemical contamination. The investments of local populations in their livelihoods and economies are not protected by ISDS. In the case of conflicts over land, water and wages between local people and outside investors, which can turn violent, injured workers, community members and their families get no compensation from either the government, or the investor. Again, public interest is conflated with the interests of large-scale investors, and huge costs to people and the environment are ignored. While wealth has increased for some classes in capital cities and large towns,

large proportions of urban and rural populations remain impoverished, with poor or absent basic services.<sup>18</sup>

## Capturing the commons

Large-scale investment projects frequently result in the capture of land, water, forests, coasts, sea-beds and other territories for industrial agriculture, mining, oil-gas exploration, hydro-power, agro-fuels, physical infrastructure projects, urbanization, property development, Special Economic Zones (SEZs) and other industries, for long periods of time—30-99 years. Rivers and water sources are diverted for large scale irrigation schemes, tourism, energy and manufacturing industries. Bio-diverse eco-systems and forests are transformed into rubber, palm oil or cassava plantations, gated townships, dam reservoirs, industrial corridors or mining wastelands amidst which, stretches of forest or wetlands may be earmarked as “protected areas.” Local populations benefit little from such development. For the most part, they lose their livelihoods, homes, cultures, identities and access to natural food cupboards (for example forests, woods, wetlands and water bodies); they are forcibly evicted, relocated, and/or pushed into precarious, low paid waged labor.

Free trade in agriculture has pushed small-scale producers to compete with agricultural imports and orient their production to the demands of agricultural exporters. In India, Thailand, Cambodia, and Laos, this has entailed increases in mono-cropping, plantation farming, use of chemical inputs, and commercial seeds, poultry, fish and livestock breeds, and credit for commercial agriculture. These in turn have resulted in the loss of biodiversity (such as indigenous rice varieties in India and Laos, and fish in the Mekong region), traditional knowledge, environmental contamination, soil and eco-system degradation, deforestation and reduced availability of local foods. To purchase the inputs, equipment and technology required to produce for export markets,

small-scale agricultural producers in many Asian countries have fallen into debt-traps to banks, micro-finance institutions and agri-business companies, and in many instances, have lost their lands and other assets altogether.<sup>19</sup>

An extremely important threat to the commons comes from legal protection for Intellectual Property Rights, which largely benefit corporations since they have the financial and institutional resources to pursue patents. FTAs contain much stronger IPR protections than those contained in the WTO’s agreement on Trade Related Intellectual Property Rights. For example, IPR protection in the TPP and RCEP (called TRIPS-plus) will be shaped by rules in the International Union for the Protection of New Plant Varieties 1991 (UPOV 1991), that favor patenting of plants, animals and seeds.<sup>20</sup> Once a crop variety is patented, UPOV rules make it illegal for farmers to save, exchange and modify its seeds. Such measures will make farmers dependent on corporate owned seeds, stifle local innovation and expand bio-piracy. The sources and means of producing food—which are the commons for millions of local farming and indigenous communities across Asia—face the danger of privatization and legal theft through these IPR regimes. TRIPs-plus provisions in the new FTAs are also being demanded to extend patent periods for medicines, and can completely stop, or delay significantly the production and entry of generic, cheaper drugs into the market. This is especially significant for essential and life-saving drugs, for example for diabetes, HIV-AIDS treatment, cancer, etc.

## Commons and resistance

The assaults on the commons and public interest are not going unchallenged. In the current conjuncture, the commons are spaces where the fiercest and most enduring resistances to capitalist development, state control, neoliberalism, and economic growth are being waged. In rural and urban areas, from local to global



levels, people and communities have joined forces to organize resistances to enclosures, privatization, and free trade and investment.

Since 2000, residents from almost 100 villages in the provinces of Pursat and Kampong Chhnang in Cambodia, have been mobilizing opposition to a massive (315,028 hectare) land concession for an agro-industrial plantation by Pheapimex Co., Ltd, a corporation owned by one of the most politically powerful families in the country.<sup>21</sup> The concession area included forests, common lands, wooded hills, streams and lakes that local residents considered communal wealth, and crucial for their food and livelihood security. Affected communities have petitioned various government departments and

officials, filed complaints against Pheapimex in courts, marched in protest, blocked roads and highways, educated themselves and other communities about relevant laws and policies, raised awareness through press and media about the negative impacts of the concession on forests, farmlands, water bodies and livelihoods, and linked their struggles with movements for local peoples' rights to resources in other part of Cambodia. Importantly, they have continued to use their communal lands and forests despite Pheapimex's 'legal' claims. Pheapimex has ceased its operations in Kampong Chhnang and scaled them down in Pursat.

In Thailand, the Southern Peasant Federation of Thailand has brought together landless peasants and



Forest and common lands enclosed for industrial tree plantation in Pursat Province, Cambodia. February 2016.  
*Photo by Shalmali Guttal*



workers in Surat Thani province to occupy lands in five locations. The occupied lands are owned by the Agricultural Land Reform Office and Royal Forestry Department, and include land that were formerly leased to palm oil companies. Since 2008, SPFT members have been developing agrarian settlements in each occupation area, following principles of collective land rights and ownership, collective farming, agroecology, agricultural cooperatives, solidarity, participatory democracy, community education, and community care and wellbeing. Since the start of the settlements, community members have faced many kinds of violence, forced evictions, judicial harassment and assassinations. However, they have remained committed to their motto: *Land Reform, Liberty, Human Rights, Democracy and Justice*, and continue to build commons communities that integrate natural, social, cultural, political and economic commons, and serve as bulwarks against both capitalism and a predatory state. (See *Community Land Titles*)

In the state of Tamil Nadu in India, the state government has partnered with municipal authorities in nine districts to run food canteens that provide affordable and nutritious meals to poor migrant workers, daily wage earners and other marginalized communities. The 'Amma canteens' are staffed and managed by women and are an important example of how public services can and should enable the public rather than the private sector. The re-municipalization of services such as primary education, water, energy and mass transit in India and several European countries is indicative of the failures of PPPs and growing resistance of people against FTAs. A recent study on public services shows that there are at least 835 examples of re-municipalization in more than 1600 cities worldwide in the water, energy, waste, energy, transport, education, local government, and health care and social work sectors. Re-municipalization refers to the return of public services from private to public delivery, ownership and management, and democratic control. The research shows that in all cases studies, re-municipalization

brought down costs, improved workers' conditions and service quality, and increased transparency and accountability.<sup>22</sup>

The global movements for food sovereignty, agroecology, defense of land, water and territories, climate justice and reclaiming public services play vital roles in mobilizing resistance to corporate power, ISDS, free trade and investment, and persecution of rights defenders. Advocacy from unions, social movements, environmental and rights groups, academics and legislators resulted in the launch of negotiations in the Human Rights Council on a legally binding treaty on TNCs and other business enterprises with respect to human rights, which could ensure that corporations are fully accountable for human rights violations and environmental crimes. The recently adopted United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas is an important instrument for recognizing the importance of local food systems, the commons and peasant production in ensuring food security for majority of the world's peoples.

Commons are non-commodified systems of production, and create and operate within social spaces not occupied by capital or the state. It is up to us to ensure conditions that enable the commons. The voices and actions of workers, small scale food producers, indigenous peoples, women, migrants, students, and other citizens are crucial in pressuring governments to reverse privatization and formulate trade and investment policies that prioritize the social and economic needs of ordinary people, and the environment over corporate and elite interests.

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## Notes

- 1 See for example: <http://commonstransition.org/category/authors/shalmali-guttal/>; <https://wrm.org.uy/articles-from-the-wrm-bulletin/the-right-to-common/>;
- 2 Global Value Chains (GVCs) are a model of trade and investment where different stages and processes of bringing a product or service from its conception to its end use, are located across different countries. These includes activities such as design, production, marketing, distribution, and support to the final consumer. A GVC is divided among multiple firms and geographic spaces, with the overall goal of minimizing costs and maximizing profits for the firms involved. See for example, <https://globalvaluechains.org/concept-tools>. Accessed 18 December 2018.
- 3 The relevant documentation is too numerous to cite, but some especially notable analyses include:
  - Monthly Review July-August 2009 (Volume 61, Number 3) [https://monthlyreview.org/2009/07/01/mr-061-03-2009-07\\_0/](https://monthlyreview.org/2009/07/01/mr-061-03-2009-07_0/)
  - Olivier De Shutter. The World Trade Organization and the Post-Global Food Crisis Agenda: Putting Food Security First in the International Trade System. Briefing Note 04-November 2011. [http://www.srfood.org/images/stories/pdf/otherdocuments/20111116\\_briefing\\_note\\_05\\_en.pdf](http://www.srfood.org/images/stories/pdf/otherdocuments/20111116_briefing_note_05_en.pdf)
  - Walden Bello. The Food Wars. Verso, London 2009.
  - Focus on the Global South. Trade Liberalization Through Free Trade Agreements (FTAs): Impacts on Agriculture and People in India. <https://focusweb.org/content/trade-liberalization-through-free-trade-agreements-ftas-impacts-agriculture-and-people-india>
- 4 United Nations Conference on Trade and Development. Bilateral Investment Treaties 1959-1999. Page 4. <https://unctad.org/en/docs/poiteiid2.en.pdf>.
- 5 A bilateral trade agreement is between two countries; a regional trade agreement is among countries within the same region; plurilateral trade agreements involve several countries that can come from different regions. In the context of the WTO, plurilateral agreements can arise from failure among all WTO members to arrive at consensus, and a smaller group of countries decide to conclude the agreement among themselves.
- 6 <http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/> accessed on 20 October 2018
- 7 In subsequent sections of this paper, FTAs refer to both trade and investment, unless specified otherwise
- 8 Joseph Purugganan. Asia and the Mega Free Trade Agreements. Focus on the Global South, Occasional Paper-July 2017. <https://focusweb.org/content/asia-and-mega-free-trade-agreements>
- 9 James B. Quilligan. Why Distinguish Common Goods from Public Goods? <http://wealthofthecommons.org/essay/why-distinguish-common-goods-public-goods>. Accessed 1 December 2018
- 10 These include the World Bank, Inter-American Development Bank, African Development Bank, Asian development Bank, etc,
- 11 See for example:
  - David Hall. Why Public Private Partnerships don't Work, The Many Advantages of the Public Alternative. Public Services International. February 2015. [http://www.world-psi.org/sites/default/files/documents/research/rapport\\_eng\\_56pages\\_a4\\_lr\\_0.pdf](http://www.world-psi.org/sites/default/files/documents/research/rapport_eng_56pages_a4_lr_0.pdf)
  - History RePPPeated, How Public Private Partnerships are Failing. Report coordinated by Eurodad. October 2018. [http://www.world-psi.org/sites/default/files/documents/research/history\\_repppeated\\_english\\_language\\_final.pdf](http://www.world-psi.org/sites/default/files/documents/research/history_repppeated_english_language_final.pdf)
- 12 The Mekong region includes parts of Southwest China, but this paper does not cover investments in those areas.
- 13 See for example: Cecilia Olivet, Kat Moore, Sam Cossar-Gilbert, Natacha Cingotti. The Hidden Costs of RCEP and Corporate Deals in Asia. <https://focusweb.org/content/hidden-costs-rcep-and-corporate-trade-deals-asia>
- 14 The Association of Southeast Asian Nations (ASEAN) is a grouping of 10 Southeast Asian countries, established on 8 August 1967. These include countries in the Mekong region except China. For more information, see the ASEAN website: <https://asean.org>
- 15 <https://asean.org/asean-economic-community/>
- 16 Ibid
- 17 <http://investasean.asean.org/files/upload/Doc%2005%20-%20ACIA.pdf>. Accessed 7th November, 2018
- 18 An Overview of Large-Scale Investments in the Mekong Region. <https://focusweb.org/content/overview-large-scale-investments-mekong-region>
- 19 An Overview of Large-Scale Investments in the Mekong Region. <https://focusweb.org/content/overview-large-scale-investments-mekong-region>
- 20 GRAIN:
  - Trade deals criminalise farmers' seeds. Against the Grain, November 2014. <https://www.grain.org/article/entries/5070-trade-deals-criminalise-farmers-seeds>
  - New mega-treaty in the pipeline: what does RCEP mean for farmers' seeds in Asia? <https://www.grain.org/article/entries/5405-new-mega-treaty-in-the-pipeline-what-does-rcep-mean-for-farmers-seeds-in-asia> Accessed 28 October 2018.
- 21 Kate Bandler and Focus on the Global South. Pheapimex Land Conflict, Case Study Report. 2018. <https://focusweb.org/content/cambodia-pheapimex-land-conflict-case-study-report>
- 22 Satoko Kishimoto, Olivier Petitjean and Lavinia Steinfert. Reclaiming Public Services, How cities and citizens are turning back privatization. <https://www.tni.org/en/publication/reclaiming-public-services>

# Looking at Water Grabbing from a Human Rights Lens

By Yifang Tang

Resource grabbing on a global scale as a new form of “colonialism” has intensified during the past years, initially as a response to the 2007-2008 food price hike induced by growing food demand, increase in biofuel production, financial speculation, and market-based climate change mitigation schemes. More recently, resource grabbing has been increasingly linked to the financialization of nature. To date, millions of hectares of land have been taken over by private corporations, governments, military and para-military groups, local elites, and speculators, often supported by international organizations and financial institutions

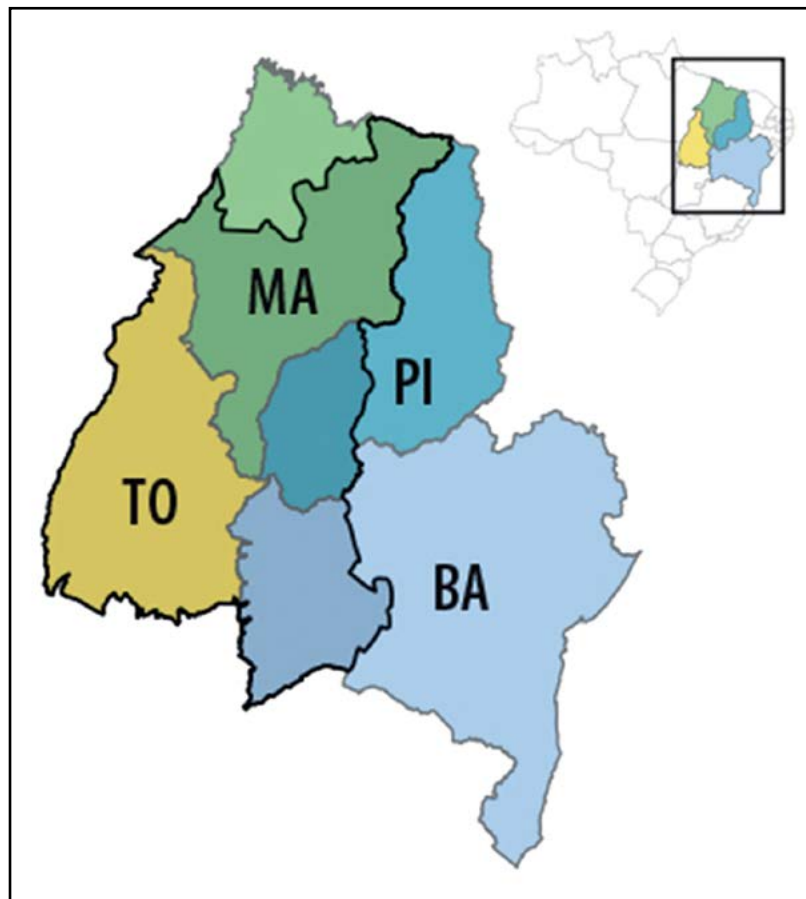
(e.g. the World Bank, European Union, the IMF). As a result, local communities are dispossessed of their lands, their communities destroyed, and their rights and dignity violated.<sup>1</sup> Land grabbing has often gone hand-in-hand with control of freshwater resources which are essential for food production. Beyond agriculture, water is also harnessed for energy; Because water resources are also mineral domains, water becomes either the *context* of grabbing (when agriculture-driven) or the *object* of grabbing (for energy harnessing and mineral extraction such as hydropower and mining respectively or simultaneously as both).<sup>2</sup>



Women demanding their lands back at Mulaitivu district in the northern province of Sri Lanka. *Photo by Gayan Ambegoda*



While there is not one commonly accepted understanding of what constitutes “water grabbing” as its conceptualization still largely depends on the different aspects and characteristics of how water grabbing takes place in a varied way,<sup>3</sup> most definitions found in the academic literature underline injustice and emphasize imbalance of power between the “grabbers” and the “grabbed”.<sup>4</sup> Franco, Mehta, and Veldwisch define water grabbing as “a process in which powerful actors are able to take control of, or re-allocate to their own benefits, water resources used by local communities or feeding aquatic ecosystems on which their livelihoods are based” and “the capturing of control not just of the water itself, but also of *the power to decide* how this is to be used—by whom, when, for how long, and for what purposes—in order to control the benefits of use.”<sup>5</sup>



Source: Empresa Brasileira de Pesquisa Agropecuária (EMBRAPA)—the Brazilian Agricultural Research Corporation, 2016

Using a human rights lens to analyze water grabbing departs from looking merely at the immediate cause and impact of water grabbing by applying a bird’s-eye view to understand the overall context of how and why human rights are violated, and to ultimately find redress for affected persons/communities. This article attempts to illustrate through the following three case studies the advantages and boundaries of a human rights approach to water grabbing, and concludes by suggesting some ways forward.

## Case studies

### **Case Study 1 - MATOPIBA Region, Brazil<sup>6</sup> Financialization of land causes water grabbing**

The MATOPIBA region of Brazil is an area of around 73 million hectares spread across four Brazilian States namely Maranhão, Tocantins, Piauí, and Bahia.

The region is part of the Cerrado biome, composed of savannahs, scrubland, and forests, and is extremely rich in flora and fauna. Three of the region’s most important aquifers are also located here. (See *Pitta and Mendoca’s article*)

In the past, the Brazilian governments have continuously promoted the expansion of agribusiness through significant subsidies. Large soy monocultures were introduced to the MATOPIBA region in the 2000s. While international capital has financed agro-industrial production in Brazil for a long time, a change took place after the financial crisis of 2007-2008 when land became a target of financial actors and businesses, fully decoupled from the financing of agro-industrial production and trading of commodities. Pushed by the growing power and influence of global finance through so-called “financialization,”<sup>7</sup> the



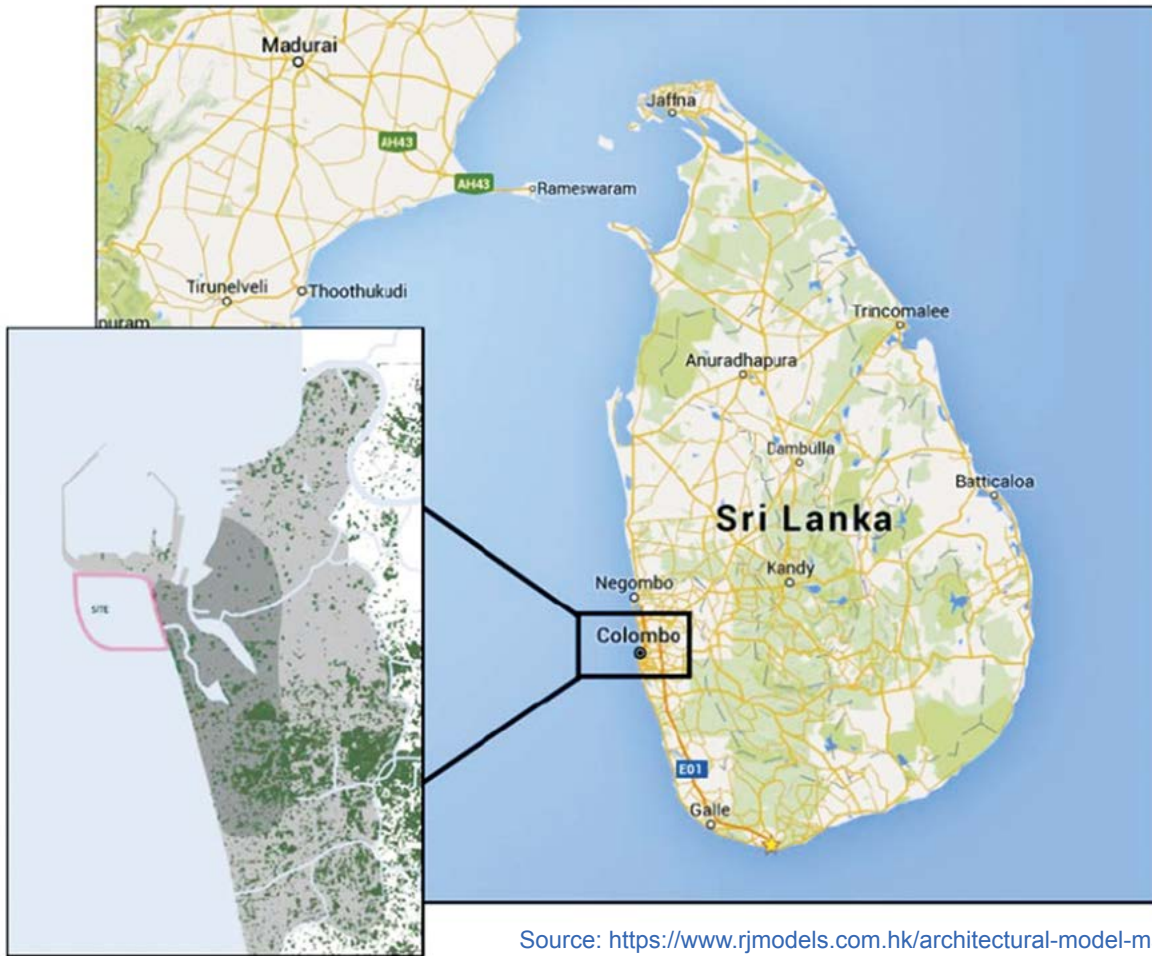
territories of traditional communities and indigenous peoples in the MATOPIBA have been transformed with in incredible speed into a dematerialized financial asset through the expansion of agribusiness and related land speculation in the area. The role of several pension funds from the US and Europe as crucial investors needs to be highlighted here. Teachers Insurance and Annuity Association of America-College Retirement Equities Fund, known as TIAA, is one of the largest private pension funds in the US which owns around 300,000 hectares of land in Brazil, almost one-third of it located in MATOPIBA. Managed by two agricultural land funds, which together are worth US\$5 billion, majority of the investors in these land funds are institutional investors, especially pension funds from Germany, Sweden, and the Netherlands. While these pension funds claim to not be directly involved in land grabbing, they are an essential part of the business model in MATOPIBA. The funds provided by the pension funds operate through a complex investment web in order to circumvent provisions under Brazilian law, which limit land ownership by foreign companies. The falsification or forgery of land titles is an intrinsic part of this business, as a way of formalizing (or at least simulating) land ownership appropriated illegally. The actors that are operating on the ground (mostly private land grabbers) are backed by international financial actors that channel huge amounts of capital into the land business, fuelling the ongoing speculation.

Much of the Cerrado, used and occupied by peasant and indigenous communities over generations has been appropriated by land grabbers often through violent eviction of the local people and deforestation of the Cerrado biome. Land dispossession and land grabbing have tremendous impact on the water resources available in the region and the communities' ability to access water and fishing resources. Excessive use of pesticides by plantations has led to the contamination of groundwater and other freshwater bodies such as rivers, marshlands, and streams, with extreme

impacts on the communities' access to clean water, their ways of life, and farming/fishing practices. One of the affected communities, Baixão Fechado, has lamented the dwindling of water supply due to deforestation and extraction by the soy farms. This community has resorted to solely relying on water from private water trucks. The alarming shortage of water in the Baixão region has prompted the mayor of Santa Filomena to declare a state of emergency. These are efforts against water and land grabbing by the Santa Fé community in the municipality of Santa Filomena, which still enjoys access to water resources due to the voluminous river that runs across the community. They organize protests against agribusiness expansion and water/land grabbing and initiate procedures to formalize their land rights with the national land institute responsible for regularizing land.

### ***Case Study 2 - Colombo, Sri Lanka Infrastructure Project***

Launched on September 17, 2014 by former Sri Lankan President Mahinda Rajapaksa and Chinese President Xi Jinping, the Colombo International Financial Project, formerly known as the Colombo Port City, is a landmark infrastructure development program of both countries, and is part of China's multi-billion dollar Belt and Road Initiative. The CIFC is envisioned as a city-on-sea, a financial center with shopping and office complexes, hotels, and other establishments.<sup>8</sup> Seventy-two percent of the entire area earmarked for land reclamation (269 hectares) has been completed,<sup>9</sup> with the first building scheduled to be constructed at the beginning of 2019.<sup>10</sup> Although the project was initially suspended due to adverse environmental impacts,<sup>11</sup> the new Sri Lankan government under the leadership of President Maithripala Sirisena has signed a new closed-door trilateral agreement between the Ministry of Megapolis and Western Development, Urban Development Authority, and the China Harbour Engineering Company, a subsidiary of Chinese government-owned China Communication Construction Company.<sup>12</sup>



Source: <https://www.rjmodels.com.hk/architectural-model-makers-in-sri-lanka/>

The CHEC is said to have invested approximately USD\$500 million in equity and has obtained \$1 billion in loans to fund the landfill (land reclamation). The government of Sri Lanka has committed at least \$4 billion worth of sand and granite blocks. It is also planning to enact Colombo International Financial Centre (CIFC) Law which will govern the project with a separate jurisdiction, different from the rest of the country.<sup>13</sup>

Local communities, environmentalists, and marine biologists, among others,<sup>14</sup> have resisted the project from the very beginning, claiming that the environmental impact assessments carried out were inadequate and incomplete. Sand mining and ground leveling that had already been conducted prior to the EIAs were illegal because there was no proper impact assessment of the project activities as required by the

National Environmental Act of 1988. The project has also been criticized for its lack of transparency and for irregularities. For example, the EIA conducted was not made available for public comments in accordance with the Coast Conservation Act and the National Environmental Act. It was also alleged that the EIA did not provide complete information on the project and left many issues unaddressed.<sup>15</sup>

The impact of sand mining and ground leveling for the construction of the CIFC is already affecting the local communities, particularly small-scale fishers. Sea erosion caused by sand mining has washed away parts of peoples' homes, while the income of fishers who live along other coastal areas have been reduced drastically due to the depletion of fish resources. Fishing boats, which were once parked on the shore, now need to be launched

from the adjoining lagoon, adding considerable time to the fishing trip. Also, the construction of the South Breakwater of the Colombo Port, as the key transshipment point of the BRI, has changed the wave pattern of the sea adjacent to Colombo, the implication of which for climate, fish catch, etc. is yet to be seen. Denial of access to aquatic and fishing resources is affecting the livelihood of 600,000 persons who depend on fishing and related industries. The project has also reported detrimental impacts on marine ecology and biodiversity.<sup>16</sup>

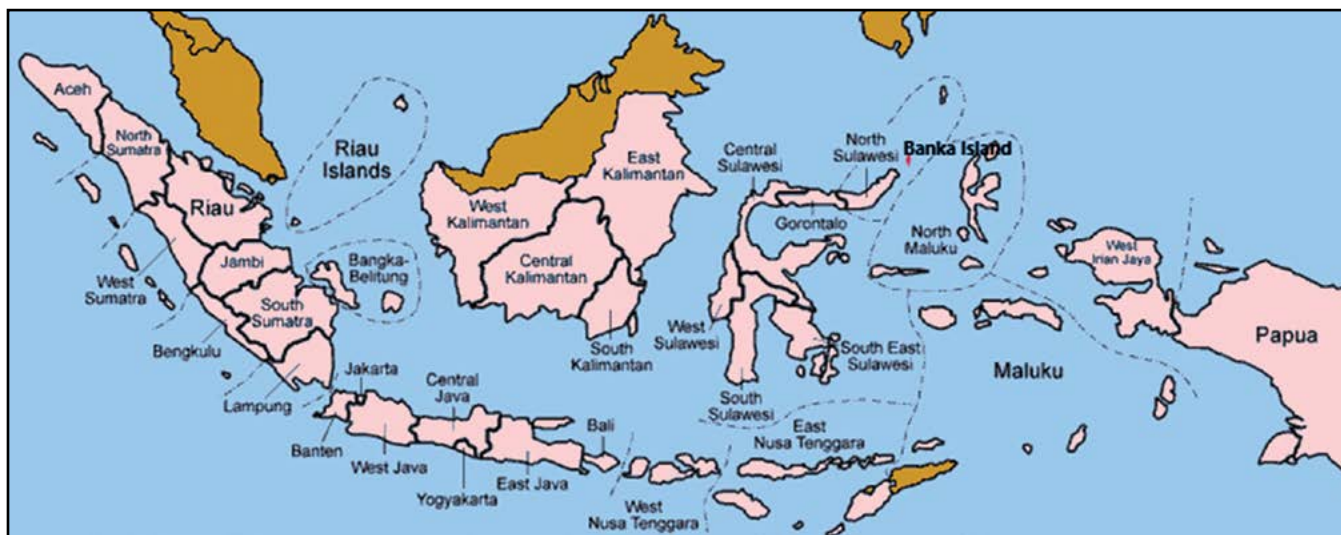
However, the small-scale fishers are resisting; they are organizing demonstrations, monitoring the activities of the dredgers, publishing the results of their studies, and conducting dialogues with the local authorities.

### **Case Study 3 - Bangka Island, Indonesia Sand mining**

Bangka Island lies in the heart of the Coral Triangle conservation site and is rich in marine biodiversity. The island's 2,828 residents (equivalent to 792 families) rely on traditional fishing and small-scale farming for livelihoods. In 2008, the Head of the North Minhasa District granted PT Mikgro Metal Perdana mining permit to explore for iron ore and

other minerals in Bangka. PT MMP is listed as one of the Foreign Capital Investment Companies of China and is a subsidiary of Aempire Resource Limited, a HongKong-based private corporation that specializes in coal, ore, and other minerals investments.<sup>17</sup> The permit, which was extended twice and expanded from an area of 1,300 hectares to 2,000 hectares, covers nearly half of the island. It needs to be highlighted that the granting of the mining permit was anticipated by the identification of the area of concern as a mining area through the so-called process of Marine Spatial Planning (MSP) by the local government. Defined as a "process of analyzing and allocating parts of three-dimensional marine spaces to specific uses, to achieve ecological, economic, and social objectives,"<sup>18</sup> MSP was used as a strategic tool by the local government, but without informing concerned CSOs and ignoring the interests of the affected communities.<sup>19</sup>

Due to the concerted efforts and actions of the local residents against mining, the Jakarta State Administrative Court canceled the permit to operate in December 2015.<sup>20</sup> Notwithstanding such legal victory of the locals, PT MMP has cleared, as of March 2018, 30 hectares of customary forest area without the consent of the local indigenous community, destroying 2,400 square meters of mangrove forest for a port and



Source: Author's rendering

flattening hills. Residential areas, forests, and farms were cleared to give way to mining support facilities. The activities conducted by PT MMP (associated with exploration such as drilling and taking samples from land) already show signs of environmental damage, such as water pollution caused by mud and silt. It is to be assumed that large-scale mining associated with dynamite explosion and sedimentation has the potential to permanently damage the ecosystem and biodiversity of Bangka Island. Local inhabitants have complained that there is mud in their drinking water while water shortage has also become a problem during dry seasons. The fish catch in the areas has been halved and many fishers have been compelled to travel further out into the sea, causing them to spend more on fuel than on food items. With limited income, few families are also facing financial challenges in sending their children to school.

To control local resistance, the police and local security group that PT MMP hired have criminalized protest actions. Two men have been accused of damaging the equipment of PT MMP and are currently facing trial. PT MMP is said to have disseminated fabricated information about one community leader protesting mining in order to delegitimize her cause.<sup>21</sup>

## Using the human rights lens

The case studies above demonstrate how local communities' access to and control over water resources have been violated through water grabbing. Water is undoubtedly a source of life and is indispensable in sustaining ecosystems on which all life depends. For the rural (which includes the coastal) population, water is equally essential to farming, fishing, livestock keeping, and ensuring other water-related means of livelihood. Access to or use of water is also formally recognized as a human right, derived from Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Water as human right means that states are obliged to refrain from interfering with people's enjoyment

of the right to water, to protect their right to water against third parties whose interference jeopardize their enjoyment, and to take positive measures to ensure that individuals and communities, especially those who are most vulnerable, can enjoy this human right. States are also obliged to prioritize water use for human needs, small-scale food production, ecosystems, and cultural use before other uses. Water is also crucial for the enjoyment of other human rights such as the right to food, the right to land, the right to health, the right to work, and the right to a healthy environment, among others.

Despite the normative recognition of the right to water as a human right and of the states' obligations resulting from this, water grabbing has become a global phenomenon as the selected cases illustrate. Applying a human rights framework to water grabbing means focusing not only on the *immediate outcome* of the grabbing itself but also the *process* and the *broader, long-term implications* of the grabbing that can deny local populations' access to and control over water resources and lead to human rights abuses/violations. In other words, by going beyond what actually happens in water grabbing, and by looking into structural and institutional conditions behind water grabbing which shape the politics of land/water deals (answering the question who decides when, for how long, and for what purpose water is to be used), human rights abuses and violations (or threat of) can be identified, prevented, stopped, and given redress.<sup>22</sup> In taking a holistic approach to addressing water grabbing, it will become clear who the "grabbers" are and how states respond either through action or inaction, which provides the basis for interpreting possible breaches of state obligation. This approach can also help us understand the power relations between different actors and how they are determined by the context that is closely linked to the existence or non-existence of human rights-based regulatory policies and frameworks. Furthermore, water grabbing can be examined from the perspective of compliance/non-compliance to human rights obligations,<sup>23</sup> placing human dignity and empowerment at the center when demanding



for states accountability and transparency, and in confronting injustice. Finally, using human rights lens in water grabbing departs from a somewhat narrow interpretation of water grabbing that focuses on the size (in conjunction with the size of land appropriated), volume, and the legality and processes of the grabbing by prioritizing people's sovereignty over natural resources and their social relations, while making states and non-state actors accountable toward their human rights obligations and responsibilities.

In all three cases, water has been both the object (Indonesia/Bangka Island) and the context (Brazil/MATOPIBA and Sri Lanka/CIFC) of grabbing. With respect to immediate outcome, water grabbing associated with agribusiness, commercial, and mining activities has not only contaminated groundwater, drinking water, and coastal water which are fundamental to people's survival; the affected communities' livelihoods have also been compromised in all three case studies. The selected case studies, moreover, illustrate the interplay of a web of actors—both state and non-state from the local, national, foreign, and global levels—and how national governments have proactively aided the interests of the private sector by using political and legal means as well as technical definitions to divert water, its use, and benefits away from local communities. By doing so, the states have failed to uphold their human rights obligations vis-à-vis local communities and to abide by human rights principles.

## Ways forward

The human rights framework is a helpful tool for understanding water grabbing, but it has its own challenges, too. In order to fill the current gap in ensuring the right to water, the Food First and Information Action Network (FIAN) proposes the following as a way forward:

- Linking of struggles: Due to the inextricable links between land, water, and other natural resources, local struggles against water grabbing

should unite with those who fight all forms of natural resources grabbing by building a broader movement that aims to hold governments accountable for its obligations to human rights. One example of this is the Global Convergence of Land and Water Struggles.<sup>24</sup>

- Strengthen water as part of the food/people's sovereignty movement and link this to remunicipalization (taking back public control over water from privatisation) of water management
- Deepen the analysis through case studies and refine the strategies to counter capitalism in its current and increasingly predatory form such as financialization.
- The understanding of the right to water must extend beyond drinking water to incorporate water that is crucial for food production and water-related livelihoods. The recent adoption of the United Nations declaration on the rights of peasants and other people working in rural areas is a big step forward in this regard.
- Counter increasing influence of transnational corporations in water grabbing and corporate capture in international water governance space (for ex. World Water Forum) by calling for a strong binding instrument to regulate TNCs and hold them liable for human rights abuses. CSOs can support the present advocacy efforts toward the adoption of a "legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises".<sup>25</sup>

**Yifang Tang** is from FIAN International. Since its establishment in 1986, FIAN International as an international human rights organization has been documenting cases of violations of the right to food and nutrition and related human rights caused by denial of access to and control over natural resources. Most of these cases relate primarily to land conflicts (for e.g. land grabs and leases) and FIAN has been systematically analyzing—using the human rights lens—the impact of the appropriation of natural resources by powerful actors on local communities, thereby underlying secure and equitable access to land and related natural resources as the key for the fulfillment of the right to food and nutrition of landless, peasants, fisherfolk, pastoralists, nomads, among others.

## Notes

- 1 Dakar in Tunis: Declaration of the Global Convergence of struggles for land and water, <https://africaconvergence.net/spip.php?article61>
- 2 Franco, J., Mehta, L. and Veldwisch, G.J. (2013) "The Global Politics of Water Grabbing", *Third World Quarterly*, Vol. 34, No. 9, pp. 1651 – 1675. p. 2
- 3 The definitions found so far in literature vary depending on the emphasis put on the impact of water grabbing: consequential appropriation of water resources, loss of secure access to water due to diversion of water for non-agricultural purposes (irrigation and other agricultural water use), drying up of water resources, diversion of water affecting downstream users, to reshaping and changing of water and tenure rights, intensification of water conflicts, water privatization, and increased marginalization of local communities. See Mehta, L.; Veldwisch, G.J. and Franco, J. (2012) „Introduction to the Special Issue: Water grabbing? Focus on the (Re)appropriation of Finite Water Resources, *Water Alternatives* 5(2): 193-207. P. 202.
- 4 Dell'Angelo, J., Rulli, M.C., and D'Odorico, P. (2018) "The Global Water Grabbing Syndrome", *Ecological Economics* 143, pp. 276 – 285. P. 277
- 5 Franco, J., Mehta. and Veldwisch, G.J. (2013) `The Global Politics of Water Grabbing`, *Third World Quarterly*, Vol. 34, No. 9, pp. 1651 – 1675. P. 3
- 6 For comprehensive information on the case study, see FIAN International (2018) "The Human and Environmental Cost of Land Business" downloadable at: [http://fian.org/fileadmin/media/publications\\_2018/Reports\\_and\\_guidelines/The\\_Human\\_and\\_Environmental\\_Cost\\_of\\_Land\\_Business-The\\_case\\_of\\_MATOPIBA\\_030718.pdf](http://fian.org/fileadmin/media/publications_2018/Reports_and_guidelines/The_Human_and_Environmental_Cost_of_Land_Business-The_case_of_MATOPIBA_030718.pdf)
- 7 Financialization of land is the growing power and influence of global finance actors - such as pension funds, investment companies, fund managers, finance institutions and the mega rich, over land. See Mendonça, M. L. et al. "When Land Becomes a Global Financial Asset: The MATOPIBA Case in Brazil". In *Right to Food and Nutrition Watch*. Heidelberg, 2018. p. 20-25.
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- 9 CHEC PORT CITY COLOMBO (PVT) LTD. Website: "Building a World Class City for South Asia." Available at: [www.portcitycolombo.lk/#master-plan](http://www.portcitycolombo.lk/#master-plan)
- 10 Information according the Commonwealth Enterprise and Investment Council. Available at: [www.cweic.org/new-financial-vision-establishing-international-financial-centre-sri-lanka/](http://www.cweic.org/new-financial-vision-establishing-international-financial-centre-sri-lanka/)
- 11 Centre for Environmental Justice/Friends of the Earth Sri Lanka. Environmental Damage of the Colombo Port City Project. Distributed at the symposium organized by the Alliance against the Colombo Port city held on 27th January 2018 in Negombo
- 12 Ministry of Megapolis & Western Development Sri Lanka. Government Signs Tripartite Agreement for Colombo International Financial City (Formerly Colombo Port City). Available at: [megapolismn.gov.lk/web/index.php?option=com\\_content&view=article&id=88:government-signs-tripartite-agreement-for-colombo-international-financial-city-formerly-colombo-port-city&catid=9&Itemid=229&lang=en](http://megapolismn.gov.lk/web/index.php?option=com_content&view=article&id=88:government-signs-tripartite-agreement-for-colombo-international-financial-city-formerly-colombo-port-city&catid=9&Itemid=229&lang=en)
- 13 Government begins drafting separate legal framework for Financial City. *Daily Mirror*, Available at: [www.dailymirror.lk/article/Govt-begins-drafting-separate-legal-framework-for-Financial-City-137762.html](http://www.dailymirror.lk/article/Govt-begins-drafting-separate-legal-framework-for-Financial-City-137762.html)
- 14 Mr. JinadasaKatupotha, Emeritus Professor at the Department of Geography of the Faculty of Humanities and Social Sciences of the University of Sri Jayewardenepure, Ms Carmel Corea, Marine Biologist, Mr. DulipJayawardane, retired Economic Affairs Officer of the UN ESCAP and Sellakapu S. Upasiri de Silva, Former Construction Expert CFTC/UN, to name a few.
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- 17 <http://msp.ioc-unesco.org/about/msp-facts/>
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- 24 <https://africaconvergence.net/?lang=en>
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# How the Myanmar Government's Repressive Land Laws are Catalyzing Conflict and Insecurity: An Analysis of the Vacant, Fallow, and Virgin Land Management Law

By Saw Alex Htoo and Frank Scott

Burma's (Myanmar since the junta changed the country's name in 1989) generals continue to hold sway over key areas of government, and though direct military rule has transitioned into 'democracy', political power remains concentrated in the hands of the army or *Tatmadaw*. The army, and effectively the government, which was established through the controversial 2008 constitution, have long been in pursuit of absolute control over land and natural resources. Such situation has long been a key catalyst for the country's protracted civil war, which has driven millions of civilians from their land and homes in the past decades. Widespread armed conflict has been accompanied by oppressive laws aiding in the dispossession of smallholder-farmers of their land and livelihoods, particularly in ethnic nationality areas.

On 11 September 2018, in the latest push of government to consolidate control over the country, the *Pyidaungsu Hluttaw* (Parliament) passed amendments to the 2012 *Vacant, Fallow, and Virgin Land Management Law* (VFV Law), imposing criminal penalties on rural people for continuing to use land that the government has deemed vacant and fallow or virgin. According to the amendments, after 11th March 2019, farmers will face up to two

years in prison and a 500,000 kyats (\$300) fine if they continue to use the land, even if it has not yet been leased to anyone else.

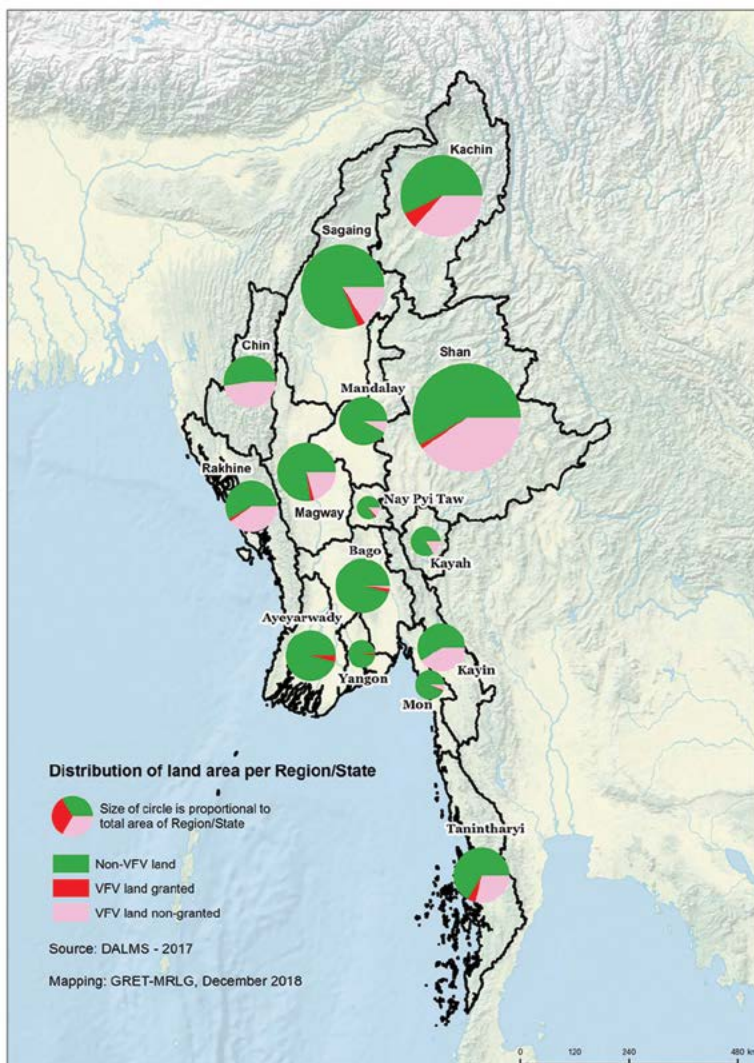
The 2012 VFV Law, and 2018 amendments, provide a legal mechanism for the Myanmar Government to confiscate land in rural areas across the country, constituting a massive statutory land grab. The most pervasive impacts of this legislation will be in ethnic areas where, according to government statistics, there are about 35 million acres, or 75 percent, of the country's vacant, fallow and virgin lands.<sup>1</sup>

Civil society organizations across the country are calling for the VFV Law to be abolished, and for a democratic federal land law to be drafted and passed as part of an inclusive and participatory legislative process. Endorsed by ethnic armed organizations (EAOs), ethnic political parties, and local communities, these calls spearheaded by Burma's ethnic civil society networks form part of a longstanding campaign for the legal recognition and protection of diverse customary land tenure systems administered by ethnic communities across the country. It is argued that the full recognition of customary land tenure rights will be a crucial foundation upon which genuine, federal peace can be built.

## Traces of colonial injustice in Burma's land regime

The VFV amendments can be traced back to British colonial ambitions to incorporate Burma into its sphere of imperial commerce, particularly for forest and mineral resources. Just as the British were not able to consolidate centralized control over Burma's people or natural resources, centralized control over the territory of modern Burma has only ever been possible on paper. However, the 2012 VFV Law and its 2018 amendments are an effort to make this more of a reality. The main beneficiaries of the 2012 VFV Law and its predecessor, the 1991 Wasteland Instructions,<sup>2</sup> are political and business elites who have been able to lease so-called government land.

Aung San Suu Kyi's National League for Democracy (NLD) came into office in 2016 with a promise to "address the root causes of armed conflict and improve the quality of life and reduce levels of poverty in rural areas".<sup>3</sup> Yet, while the NLD holds a majority in both houses of parliament, giving it legislative powers to pass, repeal, and amend legislations, it has failed to replace oppressive laws with legislations necessary to protect Burma's smallholder-farmers and customary land tenure systems. Instead, the role of the 2012 VFV Law in enabling land grabs has been maintained under the 2018 amendments, and the criminalization of people who continue to use their own land has expanded while the allocation of land to investors has been prioritized.




## The VFV Law and “reform process” in Burma

Burma has been embroiled in a civil war dating back to independence from Britain in 1948, in which control over land and territory has featured centrally. The Bamar-dominated\* government reneged on a 1947 treaty between different ethnic groups—the Panglong agreement—foreseeing an independent multi-national federal democracy, in which different ethnic groups would have equal political status. Military regimes have ruled the country beginning in 1962, until these were replaced finally by a hybrid military-democratic government in 2011. While the NLD, brought to power in 2016, is a civilian party, the military has continued to wield power over key ministries and sectors of the economy. NLD has since maintained a complicated relationship with the military.

During the colonial period, the British introduced the concept of “wasteland” through the 1861 Rules for the Grant of Wasteland. The British saw wasteland as




**ALERT - Only 90 days to go before you become a landless trespassing criminal !!!**



**Because of the unjust "Vacant, Fallow and Virgin (VFV) Land Management Law,"**  
**Countless numbers of innocent citizens and ethnic nationals who are making a living on more than 45 million acres of land could be prosecuted and humiliated with lawsuits. They could go to prison for as long as 2 years, or be fined as much as 500,000 MM kyats, or both.**  
**Only 120 days to go.**

11/ 9/ 2018	- VFV Law Enacted
11/ 10/ 2018	- five months to register
11/ 11/ 2018	- four months
11/ 12/ 2018	- three months
11/ 1/ 2019	- two months
11/ 2/ 2019	- one month
11/ 3/ 2019	- Deadline



Land In Our Hands and Myanmar Alliance for Transparency and Accountability "Countdown Campaign Poster", November 2018

the potential site for the development of plantations.<sup>4</sup> The categorization has persisted since. In 1991, the military government, which made a strong push to attract private (domestic and foreign) investment in agriculture, reinforced the concept of wasteland by issuing instructions called "Prescribing Duties of the Central Committee for the Management of Cultivable Land, Fallow Land and Waste Land" and the "Procedures conferring the right to cultivate land/right to utilize land." These have allowed leases of "fallow" and "waste" land to businesses for

agricultural purposes. A report by the Mekong Regional Land Governance (MRLG) project has documented almost 3.5 million acres granted through this mechanism by 2011.<sup>5</sup>

The current government elected in 2011 continued this interest in attracting foreign investors, including for investment in land and agriculture. In 2012, a new VFV Land Management Law was passed, without any public input. It is described as "essentially a repackaging of the old Rules for the Grant of Wasteland (1861), and virtually identical to the more recent Prescribing Duties and Rights of the Central Committee for the Management of Cultivable Land, Fallow Land, and Wasteland (1991)".<sup>6</sup> Its objective is to "foster promotion of large-scale agricultural investment."<sup>7</sup> Also in 2012, a new Farmland Law was passed, providing for a degree of private ownership of farmland, while also facilitating its corporate control.

The NLD promised to bring about reforms in land governance. This involved making amendments to laws that had been passed by the previous government or replacing earlier laws. It set up a committee to investigate land grabs under previous administrations. But, as noted above, while it could have repealed the 2012 VFV Law or significantly improved it, the new NLD-dominated parliament failed to do so.

Its proposed amendments to the 2012 Farmland Law and its proposed new Land Acquisition Act (which would allow for confiscation by the state of land for vaguely defined "public purposes") are also in many ways a step backwards.

### Analysis of the VFV Law and its amendments

There are several factors behind the NLDs support for the amended VFV Law, which risks "increasing

## The Farmland Law

Under the Farmland Law, people recognized by the government as farmers or engaged in agricultural activities are granted the right to apply for a Land Use Certificate (LUC), known as Form 7, at their local Farmland Administrative Body (FAB). The LUC confers the right to cultivate on, mortgage, lease, sell, exchange, and gift a specified area of land in line with a pre-agreed set of conditions specified by the Township FAB. Should the holder of an LUC breach any of these conditions, which can include constructing on the land without permits, using the land for something other than cultivation, changing the type of crop cultivated on the land without permit, or leaving land fallow “without sufficient reason,” among others, the Township FAB can revoke the LUC and eject the cultivator from the land. Although LUCs confer a degree of control over a plot of land, they should not be understood as freehold titles, but rather as a limited-term lease subject to terms and conditions dictated by the Central Government. LUCs can be revoked as consequence for breaching these oftenrigid terms and conditions, or in cases where the Central Government seeks to confiscate land for purposes of national development.

## The Vacant, Fallow, and Virgin Lands Management Law

The VFV Law is primarily aimed at identifying large tracts of “wasteland” and making them available for domestic and foreign large-scale investment projects. Under this law, any land not registered under the Farmland Law can be deemed “vacant.” Tracts of up to 50,000 acres of vacant land may be leased for up to 30 years. While there are some limitations on how leased land can be used, requirements such as initiating projects within four years of the concession, as well as other regulations and their respective punishments, are rarely followed.

*- Burma Environmental Working Group (2017) Resource Federalism, pp. 27-28*

land conflicts and exacerbating current challenges in formal peace negotiations.”<sup>8</sup> A key factor influencing the NLD’s approach to land policy is its eagerness to attract large-scale foreign investment. At a recent business forum in Singapore, Aung San Suu Kyi declared Myanmar as “Southeast Asia’s final frontier market,” announcing that “we have land, we have [a] good young working population, we have unexplored resources.”<sup>9</sup> Yet, while Aung San Suu Kyi is calling for major investments, the laws that govern land-related investments were designed by the military to support their existing patronage and power networks.

The influential Legal Affairs and Special Cases Assessment Commission, responsible for drafting the 2018 amendments, is chaired by Shwe Mann, former Chief of General Staff of the Armed Services (2003-2010) and speaker of the lower house of Parliament (2011-2016). Shwe Mann’s close relationship with Aung San Suu Kyi and his chairmanship of the Commission has allowed him to influence the law-making process of the country. Given the influential role of the Shwe Mann-led commission and the NLD’s highly centralized decision-making structure, there is a serious lack of checks and balances in the parliamentary legal reform process.

Overall, the NLD-led government's approach to land policy reneges on its election pledge to "improve the quality of life and reduce levels of poverty in rural areas."<sup>10</sup> It is further entrenching the power of the Myanmar government, including the Tatmadaw's, and the private sector's as they connive to strip farmers of their land and livelihoods.

The Transnational Institution (TNI), an international research and advocacy think tank, writes of the 2012 VFV Law: "It is meant to convert what the government labels as 'vacant, fallow and virgin land', which is often either actively cultivated or fallowed by local agricultural households, into industrial agricultural estates."<sup>11</sup> Together with the 2012 Farmland Law, the 2012 VFV Law created further legal precedent for widespread land grabbing and the dispossession of farmers, especially smallholder-farmers in ethnic areas, of their right to farm and more broadly their right to maintain their land, livelihoods, and customary tenure systems.

Civil society groups reacted strongly to the amendments, which mandate stiffer criminal penalties for trespassing on VFV land and even covering land that has not yet been leased. (See *information in the box*). Numerous civil society groups made submissions to Parliament on the draft amendments.<sup>12</sup> Earth Rights International wrote:

*Most worryingly, the proposed amendments will criminalise the actions of thousands of farmers across Myanmar. The provisions would penalize farmers working on land that falls within the wide definition of VFV land even though the actual land is not the subject of any permit/authorization.*

*This applies to huge areas of land across Myanmar. Much of this land is actively used by farmers and is often managed using customary land practices. The amendments therefore threaten to put many farmers in prison.<sup>13</sup>*

Some called for the VFV Law to be abolished. In a statement, the Land in Our Hands network said:

**Overall, the NLD-led government's approach to land policy reneges on its election pledge to "improve the quality of life and reduce levels of poverty in rural areas" It is further entrenching the power of the Myanmar government, including the Tatmadaw's, and the private sector's as they connive to strip farmers of their land and livelihoods**

*The proposed amendment to the 2012 Vacant, Fallow, and Virgin Lands Management Law includes stricter controls and punishment terms, thus being more oppressive for ethnic nationalities and vulnerable groups, instead of referring to the basic principles of the 2016 National Land Use Policy. For these reasons, the law must be repealed completely.<sup>14</sup>*

## Virgin lands under VFV Law

**According to article 2 (f) of the amended VFV Law, “Virgin Lands” are defined as:**

*... valid land and wild forest land whether on which there are trees, bamboo plants or bushes growing or not, or whether geographically (surface) topography of the land is even or not and being the new land which has never been used, not even once. The said expression shall include the land of forest reserve, grazing ground and fishery lakes and ponds lands which have been legally revoked to carry out in line with this law and not currently in use.*

## 2018 Amendments to VFV Law Force Farmers to Trespass on their own Land

### Article 22

- (b) The person and organization occupying and utilizing the vacant, fallow, and virgin lands without the permit of the Central Committee for the Management of Vacant, Fallow, and Virgin Lands shall—
- (1) apply for the permit to utilize the vacant, fallow, and virgin lands at the Central Committee or relevant management committees by submitting complete detailed information including the area of the vacant, fallow, and virgin lands that have been utilized, within six months from the day when the Law Amending the Vacant, Fallow, and Virgin Lands Management Law (2018) was enacted.
  - (2) acknowledge that the vacant, fallow, and virgin lands that have been utilized shall be resumed or they shall be evicted from the land in line with regulatory procedures in the case of failure to apply for the permit to utilize in line with the sub-section (b)(1) or such application is rejected.
  - (3) acknowledge that they shall be subject to penalties under this law in the case of continuing to occupy and utilize the vacant, fallow and virgin lands without applying for the right to utilize in line with the sub-section (b)(1) or by defying the order to leave the vacate the vacant, fallow and virgin lands issued by the Central Committee or relevant management committee with the reason the permission should not be granted.

### Article 27

- (a) Any person who is convicted of violating sub-section (b) clause (3) of section 22 by utilizing the vacant, fallow and virgin lands without permission of the central committee shall be punished with a jail term not exceeding two years or a fine not exceeding five hundred thousand kyats or both.



## Customary tenure in the amendments

In accordance with customary practices, it is common for farmers to rotate their agricultural land to allow the soil to recover during the fallow period. The government's own 2018 Agricultural Development Strategy states that the VFV law has resulted in "the alienation of land from customary rights holders who do not qualify to secure their land under the Farmland law."<sup>15</sup> Despite this recognition, the amended VFV Law provides only a cursory exemption for customary tenure in the vacant, virgin and fallow land category, without providing it with any legal definition or protections.

Myanmar civil society groups have opposed the VFV Law from the beginning. Most recently, following the VFV Central Committee's call for farmers to apply for leases of their land or face criminal penalties (two years in jail and a fine of 500,000 kyats (\$300)), opposition has become more widespread. Following the government's adoption of the amended VFV Law, two leading civil society networks, Land in Our Hands (LIOH) and the Myanmar Alliance for Transparency and Accountability (MATA), launched a coordinated campaign calling for the abolition of the VFV law and enactment of a federal land law that recognizes customary tenure, through a fully inclusive and participatory process.<sup>16</sup> A broad range of civil society have called for an immediate halt to the implementation of the 2018 VFV law amendments, a moratorium on the "allocation of VFV land to private sector entities," and the establishment of a "just and effective land governance framework in line with the National Land Use Policy."<sup>17</sup>

In a joint statement released in November, the Land in Our Hands (LIOH) and Myanmar Alliance for Transparency and Accountability (MATA) networks clearly stated that:

*There is no vacant, fallow & virgin land in ethnic areas.... The present law is an unjust law that prioritizes the creation of a land market for*

*investors to come in the name of development. This law makes millions of people into landless criminals; and it eliminates their livelihoods, cultures, identity and social status. Therefore, the government must abolish this law and enact a federal land law that safeguards peoples' integrity, their lives and livelihoods and their identities.*<sup>18</sup>

Civil society groups (346 of them) from across the country endorsed the LIOH and MATA statement on the VFV Law.

## Land and peace

The adoption of the 2018 VFV Law amendments comes within the context of a national peace process, in which the main actors are the army, the NLD-led government, and ethnic armed organizations (EAOs). A central call of the EAOs within the peace negotiation process has been for the formal recognition of ethnic rights to self-determination, enshrined within a democratic federal union, and exercising customary land tenure rights.<sup>19</sup> By further undermining these rights, the VFV Law risks increasing land conflicts, exacerbating existing land insecurities of rural populations, and fanning the flames of civil war.

In their recent report, *Burma's Dead-End Peace Negotiation Process*, the Karen Peace Support Network (KPSN) highlights how the centralization of control, management, and ownership of land is "unacceptable to ethnic organizations as it represents the primary cause of conflict."<sup>20</sup> Conversely, they argue that "[l]and tenure and resource access are also tied to opportunities for peace, as they are at the centre of all ethnic groups' longstanding struggles to secure equal rights and self-determination."<sup>21</sup>

Roughly one third of Burma is considered VFV land, according to data from the Department of Agricultural



Villagers demonstrate for peace, Ler Mu Plaw, Mutraw District, Kawthoolei. Photo by Brennan O'Connor

Land Management and Statistics.<sup>22</sup> However, ethnic organizations have very different visions of land, in which there is no place for the concept of “wasteland” or “vacant, fallow, and virgin land.”

The Salween Peace Park initiative in Mutraw (Papun) District, Karen State, is a powerful vision of an alternative to the “business-as-usual” approach of the government and modern development which narrowly defines land and natural resources in relation to their commercial value under a centralized resource economy.

The vision of the Salween Peace Park is to establish an indigenous-run sanctuary for endangered species, rooted in the customary territories and traditional socio-ecological management practices of the Karen people of Mutraw. The current *de facto* management and governance systems in Mutraw have been co-produced by the Karen National Union (KNU)

and Indigenous communities. For example, the KNU (Kawthoolei) Land Policy recognizes and provides registration procedures for a range of broadly-defined land types, including *Kaw* or customary lands, community forests, reserved forests, and wildlife sanctuaries. These are not simply technical categories for land control and management, rather, they are vital institutions binding the Karen people of Mutraw to their indigenous territories and represent the foundations of their political struggle for equal rights and self-determination.

The *Kaw*, for example, can be viewed simultaneously as a management and governance system, a social framework, and a physical territory. A community’s *Kaw* territories are its ancestral and spiritual domain, comprising the lands, waters, and natural resources. Hence, the maintenance of the *Kaw* is crucial to the Karen people of Mutraw’s struggle for cultural survival, environmental integrity, and ultimately, peace.



As the Ethnic Community Development Forum (ECDF) clearly states in its 2016 report, *Our Customary Lands*:

*Protection and recognition of ethnic customary land management systems is an important component in achieving sustainable peace and must be enshrined in a future federal constitution and decentralized legal framework.... In order to protect these lands and systems until peace accords, constitutional amendments, and new land legislation formalizing these systems have been finalized, there should be a moratorium on land acquisition in areas where customary land management systems are being implemented or were implemented before displacement due to armed conflicts.*<sup>23</sup>

## Conclusion

The adoption of the VFV Law amendments have fortified a centralized system of ownership, management, and control over land, effectively undermining opportunities to build trust and address the root causes of nationwide grievances, in which land is central. Ethnic communities have sought to address this crucial issue through the peace negotiation process. However, land-related legal reforms through the parliament are jeopardizing opportunities towards equitable and just solutions to the land issue.

The 2012 VFV law and its 2018 amendments are symptom of a way of thinking on land that originated during the colonial period. Land that did not have a purpose that fit neatly into a government-imposed category was then defined as wasteland and now VFV land. Addressing the problems posed by the VFV law and its amendments will take more than revoking and replacing them with something else.

Land is the key to addressing political grievances and unresolved historic injustices in Burma.

The success of a participatory and inclusive peace and reconciliation process will hinge on a political will to embrace the diverse territorial claims and governance systems at work across the country.

Burma is one of the most ethnically diverse countries in the world, and while ethnic Burmans (also known as the Bamar) represent a majority in the central Irrawaddy river-plain, non-Burman ethnic groups inhabit about half of the country making up over one-third of the population, forming a relative majority in the great horseshoe of mountains which surround the central lowlands.

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# When Asserting Your Rights Means Risking Your Life: Violence, Criminalization, and Impunity in the Struggles for Food, Land, and Healthy Environment

By Julia Spanier and Sofia Monsalve

More than 50 percent of the 312 human rights defenders killed around the world in 2017 were defending land, environment, and indigenous peoples in their struggle against resource extraction, large-scale projects, and other forms of corporate exploitation.<sup>1</sup> This is an alarming number, highlighting the precarious situation people find themselves in as they fight for their human rights—often through defending their land, environment, and rights as indigenous peoples. Control over natural resources

and a healthy environment are critical for the enjoyment of several human rights, in particular, the right to food and nutrition, the right to water, the right to housing, and the right to work. Internationally, the Indigenous Peoples<sup>2</sup> right to land has been explicitly recognized, and more recently of peasants and other people living in rural areas.<sup>3</sup> In FIAN's experience, struggles for land and the protection of the environment are closely linked to food and nutrition issues.

## The Human Right to Food and Nutrition

The human right to food and nutrition (RTFN) is enshrined in the Universal Declaration of Human Rights (article 25), the International Covenant on Economic, Social and Cultural Rights (ICESCR, article 11), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, article 12) and the Convention on the Rights of the Child (CRC, article 24).

According to the authoritative interpretation of the United Nations this right “is realized when every man, woman, and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement”.<sup>4</sup> The legal core contents of the RTFN are availability, accessibility, adequacy, and sustainability. This means that not only does food need to be available from natural resources (through the production of food, fishing, hunting, or gathering) or sale in markets or shops, but it furthermore needs to be accessible to all, both economically and physically.

As all human rights, the RTFN imposes three levels of obligations on states: the obligations to respect, protect, and fulfil (facilitate, promote and provide). The obligation to respect means that states must not take measures undermining or preventing individuals or groups from their enjoyment of this right. The obligation

to protect implies that states must take measures to prevent third parties (individuals, groups, companies, etc.) from interfering with the enjoyment of the RTFN. Finally, the obligation to fulfil means that states must take proactive measures to ensure that everyone can enjoy the RTFN and live a decent life.

FIAN uses a holistic understanding of this right, which departs from the understanding that the RTFN is more than the right to foodstuff. It is also more than the mere access to food that may be nutritionally and culturally adequate and safe. Rather, the RTFN can only be realized when there is a social process in which people, women and men equally, have choices at hand and can decide on how to engage with Mother Nature, transforming resources into food and exercising their food sovereignty. This food is mostly locally produced, in line with agro-ecological principles and consists of a diversified diet that is adequate, safe and nutritious. This is necessary for everyone to attain nutritional well-being, sustain one's own cultural identity, and be capable of leading a healthy, active, and social life within the community to which one belongs.

The killing of these human rights defenders only represents one aspect of the multiple abuses and violations they face. One of the most common ways in which human rights defenders are attacked is through criminalization,<sup>5</sup> which takes many forms, from refusal of government to recognize civil society organizations, to prosecution of defenders on arbitrary charges such as theft, to laws that curtail speech or freedom of association, such as anti-terrorism legislation and defamation laws.<sup>6</sup> Many of those defending their rights are silenced through arbitrary arrests, undue extension of pre-trial detention, and other criminal proceedings.<sup>7</sup> Beyond this, states unwilling or unable to realize human rights' defenders right to be protected,<sup>8</sup> as provided for in the Declaration on Human Rights Defenders,<sup>9</sup> refrain from investigating cases of harmed, abducted or killed defenders, leaving the violators, which include corporate actors, unpunished for their crimes.

Both state and private actors such as corporations and paramilitary forces have also been using physical violence against such rights defenders through military, police forces or private security firms.<sup>10</sup> Acts of criminalization and violence, often together with (on- and offline) stigmatization and smear campaigns are aimed at distracting, intimidating, silencing rights defenders, and deterring others from

getting involved. They are harming the physical and psychological integrity of the affected persons,<sup>11</sup> with women human rights defenders disproportionately targeted by defamation, intimidation, and gender-specific smear campaigns.<sup>12</sup>

This article looks at three key sites where impunity, violence, and criminalization are impeding people's defense of their right to food: struggles against industrial agriculture and resource extraction; armed conflicts; and conflicts between non-indigenous and indigenous peoples. Analyzing resistance against oil palm plantations in Sierra Leone and the Democratic Republic of the Congo, opposition against a mining project in Ecuador, the fight for the right to land in a zone of armed conflict in Colombia, and the struggle of the Guarani and Kaiowá peoples in Mato Grosso do Sul in Brazil, this article exposes the violators, their tactics and motivations, and calls attention to affected communities' strategies of resistance.

### **Criminalization of the defense of land against illegitimate plantations**

There are several similarities between the struggle of the communities affected by the oil palm plantation of a Societe Financiere (SOCFIN) subsidiary company in the Malen Chiefdom in Sierra Leone and that of

the local residents opposing the oil palm plantations managed by FERONIA Inc. in the Democratic Republic of the Congo.<sup>13</sup>

In both cases, the land occupied by the oil palm plantations was not acquired in a transparent, legal process but through land grabs, depriving the customary owners of the land of the resources they need to make a living and feed themselves. The leasing agreement with SOCFIN in 2011, covering 6,500 hectares of agricultural land in Malen Chiefdom had from the very beginning been declared illegitimate by the affected communities. The local organization *Malen Affected Land Owners and Land Users Association* (MALOA) said that “the Paramount Chief [had] repeatedly told [the chiefs and land owners] that they will lose their land even if they didn’t sign or accept the compensation. This and the presence of armed police in a public meeting intimidated chiefs and land owners to thumbprint a document and accept the ‘shake hand’ and compensation.”<sup>14</sup> The company claims to have consulted the communities through the Paramount Chief, i.e. the customary leader. However, MALOA and opponents of the project have claimed that the Paramount Chief has not consulted local people and is acting on behalf of SOCFIN.

In the FERONIA case, the company similarly has claimed to have acquired valid leases for the 100,000 hectares of land used for three oil palm plantations with its purchase of “Plantations et Huileries du Congo” (PHC) from Unilever in 2008. Yet these PHC lands were stolen from their customary owners during colonization and had since not been returned to their inhabitants.<sup>15</sup> Without access to their land, some of the local inhabitants are forced to work in the plantations. In this and the Malen Chiefdom cases, working conditions have been reported to be poor and have not provided secure income.<sup>16</sup>

However, complaints, actions asserting human rights, and demonstrations have been met with violence and criminalization, and violators have not been punished. Since 2011, several community leaders and members of MALOA have faced intimidation and harassment for

their human rights work, including arbitrary detention and charges. Criminal cases have been brought up against them and their organizations and supporting NGOs de-legitimized. In 2012, for example, four community members were arrested and brought to court, convicted to 12 months in prison or penalized with a fine during a trial in which they had received no legal representation.<sup>17</sup> In October 2013, six members of MALOA were arrested and accused of “conspiracy, incitement, and the destruction of plants” belonging to SOCFIN. Despite the lack of clear evidence, all were found guilty by the High Court of Justice in 2016.<sup>18</sup> A series of defamatory articles were published against MALOA and the NGOs Green Scenery and FIAN Belgium, with the Paramount Chief of Malen Chiefdom prohibiting MALOA to hold meetings in the chiefdom and the police preventing the two NGOs from conducting a joint research mission.<sup>19</sup> In both cases, the alleged possession of oil palm fruits by those opposing the plantation has been used as a frequent pretext by the local police to silence critical voices.

## Criminalization of the opposition to mining

Rights defenders at the gold mining sites in Kimsakocha (Loma Larga) and Rio Blanco in Ecuador are similarly criminalized as they fight land deals made without free, prior, and informed consent of the affected communities. In 2000, the Ecuadorian government awarded the Canadian company IAMGOLD<sup>20</sup> concession to explore the Kimsakocha area, and in 2004, it granted an environmental permit for the advanced exploration phase of the Río Blanco project to the US-American International Minerals Corporation.<sup>21</sup> In 2008, the National Constituent Assembly issued the Mining Mandate, which formally terminated all mining concessions in areas of freshwater sources and where free prior and informed consultation had not taken place. Although directly affected, neither the Kimsakocha nor the Rio Blanco concessions were terminated, as the ruling was never carried out and a new Mining Law in 2009 backed large mining explorations.<sup>22</sup>

In that said case, the communities opposing the mining, which has caused the deterioration of soil, water, and vegetation, and affected local agriculture,<sup>23</sup> were criminalized and attacked. From 2007 to 2015, almost 700 cases of judicial proceedings were filed against people who participated in social protests, with the clear intention of de-legitimizing their work and respective organizations. On 8 January 2009, during a protest against the Mining Law in the province of Azuay, one protester was arbitrarily arrested by the special police, who had also beaten women, elderly, and children.<sup>24</sup> For the Rio Blanco project, the most brutal periods of state repression occurred from 2007 to 2018. In 2012, three leaders were prosecuted and sentenced to eight days in prison, the state first accusing them of sabotage and terrorism, then of shutdown of public services and road obstruction.<sup>25</sup> Here, again, the right to due process was violated. In 2018, when communities closed off roads to demand the termination of mining, the government responded with the detention of 28 people and the militarization of the area.

The Kimsakocha and Rio Blanco cases also give insight into another tactic aimed at disempowering the struggle: social stigmatization. Those opposing mining have been stigmatized and harassed in social media through fake profiles, as well as in public spaces such as at community and school meetings.

## Criminalization in armed conflict zones

A third case illuminates how criminalization and stigmatization also happen when the state does not fulfill its obligations to the defenders. In Corcovado, a farm in the subregion of La Mojana in Colombia, 28 families have been occupying and working lands for self-subsistence for almost 50 years, although forcibly displaced for several times because the area has been identified as armed conflict zone. Organized as the Asociación de Parceleros Desplazados del Corcovado, they are fighting for the recognition of their right to said land, as this is linked to their right to adequate food and nutrition.

Their struggle is being threatened in two major ways: first, the community has been the victim of stigmatization and criminalization, with criminal cases filed against them,<sup>26</sup> and second, they have not been receiving protection from the state which they need being in a place located between two drug-trafficking corridors and where armed groups exist. The Colombian state has not taken measures to protect the community from the armed actors in their territory.<sup>27</sup> This is particularly dangerous in a time when violent—and deadly—attacks on human rights defenders have been increasing despite the peace agreement between the *Revolutionary Armed Forces of Colombia* (Fuerzas Armadas Revolucionarias de Colombia, FARC), a guerilla movement that had been operating in the country since the 1960s, and the government in 2016.<sup>28</sup> Since then new paramilitary and other armed groups have been gaining power and targeting those fighting for human rights and defending their land, resources, and environment. These armed groups intend to obtain control over valuable land in order to ensure their economic survival. They are frequently backed by local and regional influential politicians as well as business people, leaving them unhampered by the state's security forces.<sup>29</sup> The government's inaction, resulting in the impunity of the violators, are threatening the rights and lives of the Corcovado families as well as of many other Colombian human rights defenders.

## Indigenous peoples' struggles

In her recent thematic report, the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz, has denounced the “drastic increase in attacks and acts of violence against, criminalization of and threats aimed at indigenous peoples, particularly those arising in the context of large-scale projects involving extractive industries, agribusiness, infrastructure, hydroelectric dams and logging.”<sup>30</sup> The Special Rapporteur further has made a clear connection between increased militarization and increased threats against indigenous peoples.<sup>31</sup> It is thus clear that the different sites explored above





SOCFIN trucks travel the roads that criss-cross the 18,473 ha concession to harvest the fruits deposited along the roadside by workers, mainly seasonal workers. *Photo by FIAN Belgium*

are most frequently spaces of multiple, intersectional struggles, and violations. The criminalization of people defending their land against large-scale projects like mines or plantations for agribusinesses is often further marked and deepened by structures of discrimination, such as gender-based discrimination and discrimination against indigenous peoples. One such case is the racism underwriting the systematic violation of the human rights of the Guarani and Kaiowá Indigenous Peoples in the state of Mato Grosso do Sul in Brazil. Deprived of the right to access and control of their ancestral lands, they have lived in poverty and removed from their culture since soy and sugarcane monocultures started spreading in the 1970s.<sup>32</sup> Though in 2007 the Federal Public Ministry and FUNAI (the National Foundation for the Support of the Indigenous Peoples) signed an agreement in which the government committed to demarcate 36 lands of the Guarani-Kaiowá by 2009, there have been many attempts to stop the process.<sup>33</sup> Though the owners of the cattle ranches (*fazendeiros*) are putting pressure on decision-makers and deploy violence with impunity, the communities' struggle continues.

The number of murders of indigenous people and suicides in Mato Grosso do Sul is alarming. According to a report by Aty Guasu (the political assembly of the Guarani and Kaiowá), more than a thousand of their people committed suicide between 1988 and 2012 because of their desperate situation, and more than

400 were murdered in the last 12 years.<sup>34</sup> In 2016, violent attacks by a group of armed men, reportedly organized by farm/plantation owners (*fazendeiros*), resulted in the death of one person and the injury of several others in Caarapó City.<sup>35</sup> These attacks occurred in the context of the FUNAI-initiated demarcation of indigenous land. Again, the case has not been investigated. Private militias of landowners have been threatening and physically attacking the Guarani and Kaiowás, through arbitrary imprisonments, violent evictions, and disproportionate use of force. In August 2018, for example, military police were sent "in response to alleged theft of swine and appliance" by indigenous people following complaints from the big ranch owners.<sup>36</sup> This incident shows how the indigenous peoples' claim for their land has become a "common crime," giving excuse for the deployment of the military police to defend the interests of the farm owners who illegitimately, and often illegally, took over indigenous territories.<sup>37</sup>

### **Resistance against impunity, violence, and criminalization**

Communities have been resisting these violations of their human rights in various context-specific ways and there is no one strategy followed or deemed uniquely successful. However, strengthening local, regional, and international solidarity networks has been an important aspect in all of the community

responses. On the local and national level, women human rights defenders in the FERONIA case have been connecting across the three locations of oil palm plantations, facilitated by the information and support network for community organizations in the Democratic Republic of Congo (Réseau d'information et d'Appui aux ONG nationales, RIAO-RDC).<sup>38</sup> In the SOCFIN case in Sierra Leone, the arbitrary conviction of six MALOA members on charges of destruction of plants, conspiracy, and incitement was met with national and international fundraising to pay the fines for their release.<sup>39</sup> There was also a national, regional, and international campaign to defend the defenders against criminalization. Actions included a letter signed by 103 regional African leaders of the Global Convergence for Land and Water Struggles (an alliance of food producers' organizations, grassroots groups, activists and NGOs), a petition of more than 120,000 signatures, and a letter by an international coalition of 42 African and international organizations, all addressed to the President of Sierra Leone, demanding the protection of the human rights defenders.<sup>40</sup>

In some cases, human rights defenders are not only able to do their work but succeed in their struggle too. In June 2018, a provincial judge revoked the mining license for the Rio Blanco mine, due to the lack of prior consultation with indigenous communities as required by the 2008 Ecuadorian Constitution<sup>41</sup> and Convention No. 169 on Indigenous and Tribal Peoples of the International Labour Organization.<sup>42</sup> Even after the Ecuadorian mining and environmental ministries had appealed, the decision to revoke the license was ratified by the Provincial Court of Azuay in August 2018.<sup>43</sup> This *legal* success is the outcome of decades-long social struggle and mobilization of the affected local communities, supported by a large network of solidarity consisting of indigenous communities across Ecuador, the Movement of the indigenous people of Ecuador organization, regional and international universities, activists, journalists, civil society and non-governmental organizations, and a large majority of the inhabitants of the closest city, Cuenca.<sup>44</sup>

## Outlook: resisting criminalization in a heating climate of authoritarianism

The year 2018 marked the 70th anniversary of the Universal Declaration of Human Rights and the 20th anniversary of the Declaration on Human Rights Defenders. And yet, that year did not conclude in a celebratory tone. Rather, these two anniversaries are dire reminders of the multiple dangers that people struggling for adequate food and nutrition, for their land, resources, and environment are currently facing. Limiting global warming to a manageable extent seems ever more difficult, with heavy implications for the preservation of biological diversity and productive resources. In this context, the continued criminalization of and violence against human rights defenders, and in particular those struggling for food, land and other natural resources, and a healthy environment pose additional risks. Global warming leaves land, fisheries, forests, biodiversity, ecosystems, knowledge, and traditions that are urgently needed for the production of adequate and healthy food and nutrition unprotected.

Amid the rise of populist authoritarianism and right wing governments, human rights and their defenders are increasingly under attack. After the US, the Philippines, Hungary, Turkey, China, India, and Egypt, Brazil is only the latest case that highlights the encroachment of authoritarian and right wing forces that do not conceal their dislike of democratic institutions and people's movements. For the Guarani and Kaiowá communities mentioned in this article, for example, the election of President Bolsonaro seriously threatens the situation through further deterioration. In his election campaign, he announced that he will treat indigenous peoples defending their territory as terrorists, stop the demarcation of their lands, and arm landowners.<sup>45</sup>

The lack of access to justice and the protection through the judicial systems is serious issue for human rights defenders all over the world. At the same time, the law is often used as a tool to criminalize dissenting voices. However, there are also cases where courts have defended human rights defenders and/or, supported

their claims, such as in the Rio Blanco case. However, legal and judicial strategies alone will not ensure the protection of human rights defenders. The limitations of such strategies are likely to become more pronounced as authoritarian leaders ascend to power in many parts of the world. Indeed, one common feature of Trump, Bolsonaro, Órban, Duterte and the likes is their disdain for independent judicial systems, especially when these could challenge the powerful. Continued attacks against democratic institutions go hand in hand with a discourse, policies, and practices that incite violence against social movements and marginalized groups. In such a context, other strategies, such as grassroots alert systems, mobilizations, campaigns and international solidarity and support will become more important to counter violence against human rights defenders. More than ever, such strategies need to be at the heart of the struggle for the right to food and nutrition, and human rights in general.

\*This article is based on the longstanding work of FIAN International in supporting communities to assert their human right to food and nutrition. Several colleagues of FIAN's International Secretariat have contributed to the present article.

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# Rural Women and Grassroots Feminism

By Maria Luisa Mendonça and Mary Ann Manahan

For grassroots women's movements, women's basic rights to land and food have to be constantly defended. Around the world, the expansion of agricultural production for export, extractive industries, and large plantations, controlled by large landowners, agribusiness corporations, and financial capital, continually undermines local food production and family farming and displaces rural communities. Patriarchal practices, expressed in customs, traditions, and laws, aggravate these situations in many societies that prohibit or bar women from accessing or owning lands.

Recognizing the intersection of capitalism and patriarchy is central to La Via Campesina's political analysis and campaign for the advancement of grassroots feminism that call for social transformation based on new gender relations. According to the declaration of the 2017 La Via Campesina Women's Assembly, "the patriarchal system continues to grow throughout the entire world, violating our territories, our bodies, and our minds."<sup>1</sup> The declaration stresses that under the current political context of hunger, poverty, climate change, violence, repression, and militarization "... women are increasingly bearing the weight of producing goods and food. However, our work continues to be made invisible and our care work is neither valued, supported, nor collectively or socially assumed, thereby, increasing our burden of work and restricting our full participation."<sup>2</sup> Peasant women and women farm workers are responsible for the production of more than 50 percent of the world's food; though they own less than two percent of farmlands, they represent 70 percent of people facing hunger, malnutrition, and food insecurity globally.<sup>3</sup> These

global figures tell us that having control over economic resources and access to land is a major challenge for women. There are other risks and challenges that peasant women face daily, such as the following:

- displacement due to pressure and violence from state agents and private militia groups that perpetrate land, water, and resource grabbing for the use of extractive industries, agribusiness expansion, and financial speculation. The expansion of agribusiness and the mining industry, for instance, have caused the violation of the fundamental right of access to water for human consumption. The activities of such industries are causing ground and surface water contamination and pollution (e.g. discharging of mine effluent) that negatively affect women and children who are often responsible for providing water in their households;
- migration of peasant families to urban areas to seek other sources of livelihoods. Displaced rural households also suffer from poverty and unemployment; and
- food price increases due to speculation in agriculture, which has a disproportionate impact on low-income women who spend a larger percentage of their income on food and other basic needs. In many societies, among women's key roles is providing food and managing food budgets in their households.

## Voices of women farmworkers in Brazil

The case of Brazil illustrates how an agricultural system based on extensive mono-cropping of commodities generates poverty and labor exploitation



Women farmworkers in sugarcane plantations in Brazil. Photo by Carmelo Fioraso

of women. Brazil has one of the highest levels of land-access or -ownership inequality in the world. Currently, there is an increasing land re-concentration due to international financial speculation in rural land markets<sup>4</sup> (see also *financialization* article). This process increases monopoly over land and expands mono-cropping of commodities for export, causing environmental destruction and displacement of rural communities that produce the majority of food for internal markets.<sup>5</sup>

According to the Brazilian Institute of Geography and Statistics, 30 percent of households in the country are food insecure. At the same time, the 2015 census also by IBGE shows that small farmers are responsible for 70 percent of food production and for 83 percent of job creation in the countryside, though they occupy only 20 percent of agricultural land. In recent years, there has been greater degree of control of resources, particularly in agriculture, energy, and resources

sectors (i.e. land, water, mining, and oil) by large corporations that receive majority of state credit at subsidized interest rates.<sup>6</sup>

These national figures point to severe inequality in the countryside. Behind these data are stories of Brazilian women farmworkers, which expose not only the exploitative nature of corporate control over land and resources but also women's oppression that spans generations. Maria Souza, from Pernambuco state, explains: "I started working at 11 years old to help my mother in the fields, when she was pregnant. My mother got very sick and died when she was 59. I'm 42 now and I think the same will happen to me."

In the state of São Paulo, Lusiane dos Santos describes a similar situation: "I'm 38 years old and started cutting sugarcane when I was 20. I had to stop going to school because my father left us and my mother sent me to work."



The country's agricultural system based on monocropping of commodities and large plantations reduces the alternatives for peasants to sustain themselves. Many men migrate to different regions in the country, looking for seasonal jobs at plantations or construction, and some never return to their families. For rural women who are displaced from their land, it is more difficult to find other means of subsistence. In addition, they have the responsibility of caring for their children and elderly parents. Some women migrate in search of jobs as in the case of Ana Célia: "I'm 24 years old and I came from Pernambuco to work in São Paulo. The company only pays for 50 kilos of sugarcane a day, even when we cut 60 kilos. My whole body hurts. I need to leave this job because I'm getting sick. The cost of rent, water, and electricity is very high, and after paying for everything, there is nothing left from my salary".

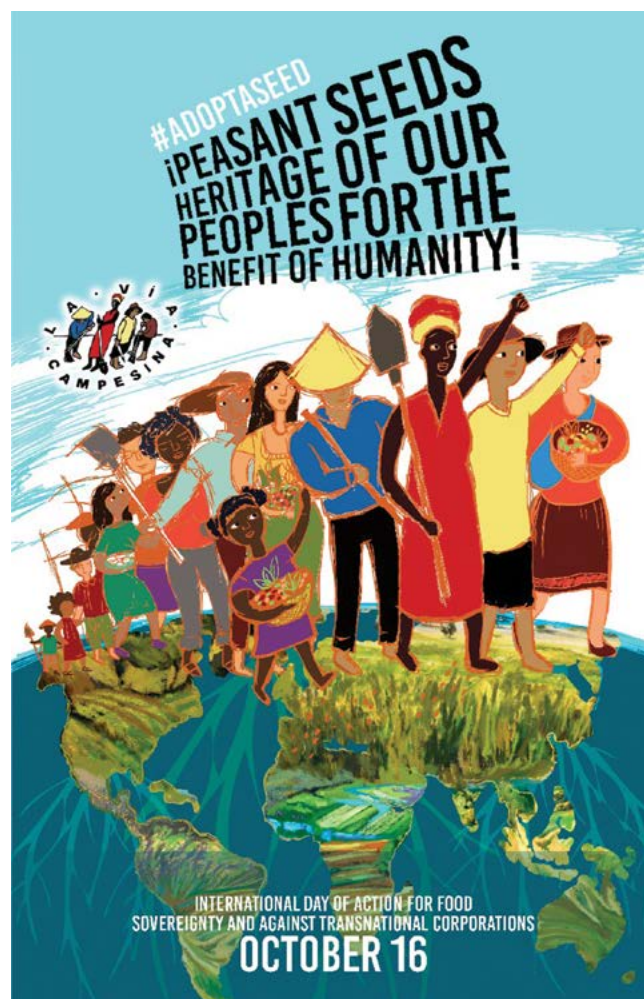
Edite Rodrigues is 31 years old and came from Minas Gerais state. "I have three kids and need to support them, but I can't wait to leave this job. At the end of the day, my body is broken, and I feel like vomiting. But the next day we need to start all over again. The pollution from burning sugarcane is horrible for my lungs, in addition to the effects of pesticides. I make about US\$60 dollars per week, but there is no fixed wage. It depends on how much sugarcane we cut. For women it is much worse than for men because they give us the worst jobs, for less pay. We depend on food stamps or we go hungry," says Edite.

Work in the sugarcane is indeed life threatening. "It's common to hear coughs and screams in the cane fields. We have to inhale pesticides and the ash from burned cane. Once I fell and felt the taste of blood in my mouth. I broke my arm and could not work anymore. I have lung problems and feel sick from that horrible work. I saw that cane cutting was killing me," says Carlita da Costa who lives in the state of São Paulo.

Similarly, Odete Mendes, who works at a plantation in São Paulo, says that she cuts about 10 tons of

sugarcane per day, but only earns US\$100 dollars per week. Half of her wage goes to the rent for a very small room and has to cover all other expenses at her house. "I cannot stay in this job. It's very hard. Once I broke my arm, I constantly feel a lot of pain in my hands, my lungs suffocate, and sometimes I think I will die in the fields," says Odete.

Edite, Carlita, and Odete's stories share a common thread—they are examples of labor exploitation in sugarcane plantations. But apart from this, women farmworkers experience layered oppression, since they are responsible for unrecognized and



Poster for the Relaunch of the Global Campaign for Agrarian Reform's "Peasant Seeds' Patrimony of the Peoples in the Service of Humanity" and of the Action #AdoptASeed, October 16, 2018, International Day of Action for Food Sovereignty against Transnationals. *Poster by Marcia Miranda - La Via Campesina*

unpaid household<sup>7</sup> work, including providing food for their families. Ivanusa Ribeiro, who works at a sugarcane plantation in the state of Pernambuco, explains: “I wake up at 2 in the morning to start working at 4, and I only stop at 3pm. After getting home, I still have a lot of work to do, cleaning the house, cooking for my kids and my husband.”

While the inequality in Brazil is rooted in land concentration especially in sugarcane plantations, Ivanusa’s narrative points to women’s double burden inside their homes, often overlooked in Brazilian society. It also alludes to how the intersection of patriarchy and capitalism, as represented by agribusiness expansion manifests in women’s everyday lives. Thus, women face multiple oppression not only from the back-breaking and life-threatening work in the plantations, but also from expected social roles and the traditional division of labor inside the households.

## Towards popular feminism

Grassroots women are resisting oppression. Carlita da Costa, president of the Cosmópolis Rural Workers Union based in São Paulo, is able to lead one of the strongest rural unions in Brazil, a field men dominate. She started cutting sugarcane at a young age in order to provide for her three children. Carlita was able to form a union and continues to focus on organizing women. Women’s rural movements advocate for their rights and demand a new agricultural system centered on their needs and an ecological food production. For example, peasant women belonging to La Via Campesina highlight their being agents of change and not merely victims; their struggle is for structural changes in the land and food systems and for comprehensive reforms in government and its agencies in international and regional development organizations; and in social movements. These reforms are:

- recognition of women as farmers in their own right and their important role in food and agricultural

- production, which should extend to women being able to access and control land and resources;
- upholding of social justice, agrarian reform and land redistribution policies, and common use and management of natural resources, especially for indigenous people who want recognition of their collective land rights and right to self-determination;
- support for small-scale agriculture and women’s cooperatives, as well as the right to choose what type of agriculture system they want to prioritize, including choosing inputs and technical assistance based on ecologically-sound practices, which determine not only access to food but also the safety and quality of the food they produce. Governments need to provide special lines of credit and subsidies that prioritize small farmers including peasant women who produce healthy food for local markets;
- implementation of legislations that guarantee environmental protection of biodiversity and water sources;
- support, protection, and promotion of labor rights including regular working hours, equal pay, maternity leave, access to health care, child care, and social benefits;
- realization of food sovereignty, which stresses the need for small-scale, local, and ecological agriculture as well as meaningful and responsible solidarity between women’s organizations in the global North and the global South, in urban and rural areas aimed at supporting healthy, safe, affordable food production, especially for low-income women. Strong alliances that transform the food system are needed, and;
- the implementation of campaigns to stop the violence against women and pursuit of advocacies that will engender social transformation of gender relations within the household: democratizing the division of labor inside the house including food provision, health care, and household work as commitments of La Via Campesina to integrate into their political work.



Peasant women's movements should advance their agenda in international spaces and mechanisms such as the United Nations. International human rights instruments are also tools that can protect and promote women's rights to land and resources, especially when local and national states fail. A feminist movement built on peasant women's lived experience and struggles is key in the social emancipation of men and women, and in achieving food sovereignty.

According to La Via Campesina's Women Assembly Declaration: "The feminism that we propose recognizes our cultural diversity and the very different

conditions that we face in each region, country, and place. We are building it from the daily struggles of women across the planet. Struggles for our autonomy, social transformation, the defense and protection of peasant agriculture, and food sovereignty. From this, new men and women will emerge with new gender relationships based on equality, respect, cooperation, and mutual recognition. This feminism is transformative, rebellious, and autonomous. We are building it collectively through reflection and concrete actions against the capital and the patriarchy. It stands in solidarity with the struggles of all women and all those peoples who fight."<sup>8</sup>

## Women's rights to resources in International Human Rights Mechanisms

The UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), the UN Committee on Economic, Social, and Cultural Rights (CESCR), the UN Food and Agriculture Organization (FAO), and UN Special Rapporteurs have established human rights standards for the protection of rural women. Multiple mandate-holders from the UN Special Procedures contain provisions on addressing land-related human rights issues relevant to women.<sup>9</sup> CEDAW 2016 General Recommendation on Rural Women establishes women's rights to productive resources including land use, ownership, and inheritance. The International Covenant on Economic, Social, and Cultural Rights establishes that states have an obligation to "respect, protect, and guarantee the right to food." States must guarantee the universal right to food through concrete actions and measures that protect vulnerable social groups and provide the means necessary for them to have permanent access to healthy food.

FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security recognizes the vulnerability of rural women and girls who face displacement as a result of land grabbing. The United Nations Declaration on the Rights of Indigenous Peoples protects indigenous peoples from being dispossessed of their land, territories, and natural resources. UNDRIP recognizes the right to free, prior, and informed consent which establishes procedural protections for the decision-making process on land transfers.

The proposed UN Declaration on the Rights of Peasants and Other People Working in Rural Areas is a priority for women's rural movements that advocate for gender equality and for international recognition of their right to land, economic and natural resources, ecological agriculture, seeds, water, healthcare, and food sovereignty.

Source: Multiple sources<sup>10</sup>

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broadly, reproductive labor forms the foundation of industrial work for its important role in the maintenance and care of gendered male workers.; however, a type of labor not recognized as productive enough to be wage labor is care work such as household, caring for the sick and elderly, etc. There are various global campaigns inspired by this body of work such as the International Wages for Housework that started in the 70s.

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- 10 See the following: Basic Principles and Guidelines on Development-Based Evictions and Displacement, UN Doc. A/HRC/4/18: [http://www.ohchr.org/Documents/Issues/Housing/Guidelines\\_en.pdf](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf).; CEDAW, General Recommendation No. 34 on the rights of rural women, UN Doc. CEDAW/C/GC/34, 7 March 2016.; CSO input to the Tenure Guidelines "CSO's Proposals for the FAO guidelines on responsible governance of land and natural resources tenure" (March 2011): <http://www.fian.org/en/library/publication/detail/civil-society-organizations-proposals-for-the-fao-guidelines-on-responsible-governance-of-land-and-/>.; [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169?](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169?); [http://www.fian.org/library/publication/publication\\_of\\_a\\_series\\_of\\_briefings\\_on\\_peasants\\_rights](http://www.fian.org/library/publication/publication_of_a_series_of_briefings_on_peasants_rights).  
OHCHR & UN Women *Realizing Women's Rights to Land and Other Productive Resources* (2013), UN Doc HR/PUB/13/04; OHCHR, *Land and Human Rights: Standards and Applications* (2015), UN Doc. HR/PUB/15/5/Add.1: [www.ohchr.org/Documents/Publications/Land\\_HR-StandardsApplications.pdf](http://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf); Special Rapporteur on the right to adequate housing report on financialisation of housing: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/51](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/51); and UN Declaration on the Rights of Indigenous Peoples: [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf).

# Youth Transforming Territories and Breaking Borders

By Nils McCune

What do ideas like popular land reform, food sovereignty, and agroecology mean to young people? How can the younger generation be successfully involved in the struggle for land and territory? Why is it so important to gain experience in organizing, direct action, and political education?

These are some of the questions that young people have grappled with in international encounters during movements-led processes, such as the Marabá Global Land Reform Encounter in Brazil in April 2016, where dozens of young people from rural communities across the globe gathered. That meeting was held at a particularly key moment in Brazilian history: on one hand, it was the 20th anniversary of the massacre of 25 landless workers at Eldorado Dos Carajás, in the state of Pará; on the other, during the Encounter itself the elected Brazilian President Dilma Rouseff was being undemocratically impeached and replaced with Michel Temer, an extremely rightwing, sexist, and neoliberal politician.

How to react to such a somber moment? In the weeklong youth encampment of the Landless Workers Movement (MST) at the site of the massacre, there was a different reaction than one might have expected: hundreds of young people were engaged in a freestyle rap contest and giant dance party, followed the next day by a profound *mística* ceremony to send a message: *If we don't speak up, the rocks themselves will cry out!*

Agroecology is a science, method, and movement for producing food in harmony with nature's cycles,

with social justice as context and goal. Popular movements see agroecology as a liberatory praxis for breaking out of the encirclement that capitalism, racism, sexism, and imperialism have placed around us and our planet. Small farming, small fishing, small grazing, and the links of solidarity among food producers based on positive relationships among people and between people and nature, are increasingly being recognized as modes of struggle for a better world. Comprised of movements of small-scale producers, our agroecology is about working, learning, sharing, building, and creating relationships of interdependence with the land's natural processes, and with each other. Our work is to recover agroecosystems and defend them as the territory of our communities.

The youth around the world are implementing agroecological systems to turn the tables on capitalist disaster and disaster capitalism, by building for themselves and their communities a material and spiritual independence called food sovereignty. Food sovereignty is a social right—of peoples and nations to control their own food and situate that food in natural and cultural processes and identities. Unlike the neoliberal model of freedom for transnational corporations to devour the food systems of whole nations, food sovereignty refers to a different kind of freedom: people's freedom from the one-size-fits-all market values imposed by global capitalism. This kind of emancipation requires a strong commitment to combat all forms of oppression, and it especially requires us to dedicate ourselves to grassroots organizing efforts in rural and urban territories.





The links between generations is key to conserving people's knowledge of agroecological production. Juan Carlos (left) is the grandson of peasant-to-peasant living legend Don Chubito (center), and along with his sisters, promises to keep the tradition of peasant agriculture alive. *Photo by Miguel Barreda Delgado*

## Forming ourselves as critical thinkers

Young people, even more than older generations, are terribly impacted by the hotter, dryer planet caused by globalized capitalism. The factories and sweatshops of capitalists are filled with young women and men who are compelled to give their irreplaceable time and life-energy to enrich the faraway owners and Wall Street shareholders. Outside the factories, the rivers are running dry and the wells are contaminated by the chemicals used in the industrial model of wealth accumulation. Farther away from the cities, our territories are targeted by the same capital, this time dressed as mining, energy or agribusiness companies or land speculators. The same machine that tears value out of the hands of factory workers also pulls the water out of the forest, upturns sacred lands to pillage minerals, tears the life out of the sea, robs our seeds, uses monoculture to steal our identity, and finally, when we have been effaced and have no land to

belong to, we are stuffed into the briefcase of capital and taken away—to the cities, to unemployment, to jails, to borders, to wars, anywhere, since by then we are people from nowhere.

The destruction of the necessary ecological conditions for human life on Earth is an undeniable reality that advances every day, month, and year that global capitalism continues to exist. Our societies do not show any encouraging signs of changing this route. Only organized movements of people determined that Mother Earth must survive can change this trajectory. No movement to transform society has ever been successful without a youthful leadership: our young people must be at the forefront of our struggle and our strategy.

This strategy begins with recognizing some of the key characteristics of our adversary. The real enemy is not a person, a government, or even a corporation:



it is a system that currently controls the globe. This system is based upon accumulating wealth, power, technology, and legitimacy. It is a global empire increasingly controlling the food we eat, the ways we communicate, and even the ways we think. Young people are particularly targeted by mass media and so-called “social media,” which in reality is monopolized by some of the richest corporations on the planet. These corporations use information technology, along with algorithms and artificial intelligence, to control the thinking and monitor the activities of young people. They decide which kinds of progressive thinking are harmless to the system, and which kinds of thinking represent real risks to capitalism. They even sow divisions and start conflicts among young people, using a combination of false news stories or images and repeated messages that impact our emotional state. This false information has contributed to the growing politics of hate and intolerance. The system of global capitalism needs resources and it needs consumers. In order to have both, it has developed a massive arsenal of manipulation tools to keep our societies confused, divided, and scared.

### **Agroecology as struggle for territory**

“It isn’t just about taking things from the land. We also need to give something back to the land. At the very least, this can mean organic fertilizers, to give strength to the land. In the past, we only worried about pulling from the land, and no one was concerned about mudslides or erosion. But the land became completely degraded, impoverished. That doesn’t happen anymore, not with what we have learned from my grandfather: that is, to esteem the land.”

The youthful voice of Juan Carlos rang clearly under the canopy of shade trees as he repeated the word land, or *tierra*. We were standing between terraced rows of dark green coffee plants, intercropped with plantains, cassava, cabbage, sweet potato,

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**Young people demand a closer relationship between discourse and action. It is not enough to only resist corporate land-grabs for mining and monoculture. We must also have a strong alternative model that we know can function to eliminate dependencies of all kinds. Nothing is more urgent than saving the planet for future generations of people and other living beings.**

lemongrass, tomato, and, under the sun, corn and beans. “We have a little of everything. It all grows here.”

Juan Carlos is the 20-year-old grandson of Don Chubita, a founding member of the peasant-to-peasant movement in Santa Lucia, Nicaragua. Since 1987, Don Chubita has been transforming his farm into something simply beautiful by implementing agroecological practices to resist erosion and save water, growing the diverse foods his family consumes, and training his neighbors as well as visiting farmers in the techniques of sustainable, year-round chemical-free production. The gravity-operated water pumps he has invented are legendary among peasant farmers looking for ways to move water without using electricity. Now in his 70s, Don Chubita has dedicated himself for the last five years to training his grandson. Meanwhile, Juan Carlos has thrown himself into the work, combining intercropping with seed saving, agroforestry with cattle raising, worm bins with horticulture.

Agroecology is a tool for young people to transform the meaning of land. It changes the way people look at the countryside. Agroecology gives the youth a way to forge identity and harvest a sense of territory as the fruit of thoughtful and shared work. “My grandfather also likes to receive people here, to share with them all the goodness we have lived in this little piece of terrain. We share our experience, and in that way other people can go on to do something on the land as well. It isn’t just about us knowing how to do it, but also about sharing with others, so that they can learn to take care of the land.” Seed diversity, soil fertility, water efficiency, tree integration in crops and with animals, all give young people more ways to defend the land and honor life.

Agroecological education is a strategy that social movements are incorporating into their territorial organizing efforts. Peasant-to-peasant horizontal learning, as well as movement-led agroecology schools, now form part of rich mosaics of grassroots organizing efforts across the globe, especially

where member organizations of La Via Campesina are present. By linking agroecological farming to learning processes, movements are able to focus on feeding their own members and communities, as well as the long-term goals of defending the territory of peasants, small farmers, indigenous peoples, fisher-people, nomadic herders, and food workers. Consciousness around our food systems goes hand in hand with the recovery of ancestral knowledge about how to produce food in harmony with Mother Nature, without depending upon chemical inputs or transnational corporations.

### **The land is more than just land**

Young people are conscious of the challenges to putting agroecology into practice. Land is primordial, but land is not enough. People also need water and seeds, as well as access to credit or productive capital, dignified markets, and knowledge exchanges with other producers. Any one of these necessities could mean years of collective struggle. This is why the struggle for land is really a struggle for territory: all of the ingredients needed for people to connect themselves materially and culturally to a place are just as important as the land itself.

“Our job as experimenters is to have clean, well-selected seed of several distinct varieties, participate in all of the exchanges that we can, share our knowledge with the multipliers, be conscious of problems in our community, conserve soil, use agroecological practices, maintain the level of participation that characterizes our seed bank, and make sure that our bank always has a sufficient quantity of each of the varieties that we grow,” says Maria Louisa.

Maria Louisa has been on the council of her community’s native seed bank for eight years, since she was 15. She had always liked planting and harvesting the white corn and red beans that her family ate, but as she learned more about all the

local varieties, her interest grew. She volunteered to be an experimenter, a person in the seed bank who characterized and selected varieties based on their attributes in the soil and climate conditions of the local community. Since 2015, Maria Louisa has been learning the art of plant breeding in order to produce new varieties of corn that combine traits of other local varieties. Her work is part of the reason that in her community in San Ramon, Nicaragua, none of the local families have migrated in recent years.

“We young people are the ones who go from door to door, inviting people to our exchanges and trainings. One time, I remember, a young man asked me how much we were going to pay him to participate in the exchange. It was a sad moment. I told him, ‘What a crazy idea! Do you think you should get paid to take care of your family, too?’”

After successfully maintaining several varieties of corn and beans, the community seed bank is ready to begin saving the seeds of horticulture crops that people plant near their homes, such as tomato, melon, cucumber, passion fruit, and spinach. Each step forward for the local organization strengthens the community’s ties to its territory. Many of the youngest seed bank members have become local leaders, others are dedicated to using organic fertilizers, still others are developing intercropping systems as a way to save water and space. As each person’s skills are broadened, the collective effort becomes a little easier.

### **The youth have demands of their own**

Young people demand a role in the popular movements for land and territory. Agroecology is a way to decolonize our thoughts and actions. We do not need to copy the technological model of capitalist monoculture to produce food for our peoples and movements. We can do it ourselves through designing and implementing agroecological systems of polyculture, nutrient cycling, and composting. We do

not need to copy the gender roles of the past to raise healthy children or nurture our critical thinking. We do not need to separate political education and the recovery of our historical memory from the concrete work of making our territories productive—we can combine these tasks. Young people are capable of breaking the molds and struggling against all forms of oppression through creative struggles for land, water, seeds, justice, equality, and a better relationship with nature.

Young people demand a closer relationship between discourse and action. It is not enough to only resist corporate land-grabs for mining and monoculture. We must also have a strong alternative model that we know can function to eliminate dependencies of all kinds. Nothing is more urgent than saving the planet for future generations of people and other living beings. To do so requires helping our societies make a

rapid shift from fossil-fuel economies to regenerative, agroecological food systems that value social justice as well as ecological principles such as diversity and complementarity. The agroecological model, which integrates ecological and traditional knowledge into farm practices, supplying diverse, healthy food to local markets, contrasts sharply with the conventional model in which labor and ecosystems are simply crushed in the pursuit of profits. The differences between the ethical components of each model are made ever more urgent by the accelerating changes to the global climate. This is why the youth are committed to diligent grassroots organizing efforts, to feed our peoples and build movements that can change the world. Our knowledge, our territory, our agroecology!

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# Community Land Title as Alternative Land Management in Thailand

By Supatsak Pobsuk

Land contestations in Thailand are a consequence of government's centralization of ownership and management of public lands. In turn, state centralization of lands is motivated by its economic development program guided by a neo-liberal framework. The result is inequitable land distribution which has endured in Thailand since the era of the Thai absolute monarchy. This article examines the experience of two communities in Thailand that show how the use of a community land title can serve to counter the centralized land management in the country. Community land titling is a process pursued by local people to become empowered by managing their resources and eventually initiating participatory development and exercising democracy.

## Land governance in Thailand

Historically, the state has had control over ownership and management of public lands in Thailand. It can be said that the state owns all lands and is the source of land titles. In 1954, the Thai state issued the Land Code which has since mandated the government to issue land titles and utilize certificates based on individual ownership.<sup>1</sup> By law, the size of landholding in Thailand has not been limited. This way, land has been transformed from a means of production to a commodity. Consequently, large-scale acquisition of lands by a small number of affluent people has resulted in inequitable land distribution in Thailand. *(Please see the table 1 for types of land titles and uses in Thailand)*

The Thai state has continued to allocate lands to business sectors to supposedly contribute to the prosperity of the national economy. For example, the National Reserved Forests Act of 1964 also opened economic opportunities to private sectors by allowing them to have forestland concessions, for a maximum of 30 years. During crop boom season, the Thai government allowed the private sector to use degraded forestlands for shrimp farming and for growing particular crops such as cassava, rubber, oil palm, and fast-growing trees such as eucalyptus for the purpose of exporting these products. Lands devoted to these export-oriented crops have been transformed to monocropped plantations which drove up the price of lands and generated large-scale land acquisitions by a small number of affluent people who possess capital as well as well connections to authorities.<sup>2</sup>

During the democratic period in the 1970s, the government issued the Agricultural Land Reform Act of 1975 which established the Agricultural Land Reform Office (ALRO) to redistribute unused land by expropriating and purchasing from private landowners and then allocating state land to landless and poor households that did not have sufficient lands for agricultural purposes. However, the said act and the roles created for ALRO have been ineffective as many studies discovered that such individual land titles, also known as *Sor Por Kor*, have been sold by entitled recipients to land speculators and investors despite this being illegal.<sup>3</sup>

**TABLE 1**  
**Types of Land Titles and Uses in Thailand<sup>4</sup>**

LAND TITLE	DESCRIPTION	LEGISLATION/AGENCY	NOTE
Sor Kor 1 (SK1)/ Sor Kor 2 (SK2)	Land claim certificate	1954 Land Code/ Department of Land (DOL)	Right to farm in the forest, need proof of pre-1954 land use
Nor Sor 2 (NS2)	Pre-emptive rights certificate	1954 Land Code/ Department of Land (DOL)	Granted on condition of use, reservation license and only transferable by inheritance
Nor Sor 3 (NS3)	Certificate of Utilization	1954 Land Code/ Department of Land (DOL)	Granted on condition of use, can be used as collateral and saleable after 30 days of a public notice
Nor Sor 4 (NS4) (Chanote)	Fully land ownership certificate	1954 Land Code/ Department of Land (DOL)	Full title, private ownership and transferable
Sor Por Kor (SPK)	Agricultural usage certificate	1975 Agricultural Land Reform Act/ Agricultural Land Reform Office (ALRO)	Distribute to landless/poor agrarians for agricultural use and non-transferable
Sor Tor Kor (STK)	5-year agricultural usage certificate	1985 National Reserved Forest Act/Royal Forest Department (RFD)	Issue for agricultural use in degraded forest land, limited to 15 Rai and non-transferable but by inheritance
Community Forestry	Land use document in forest land	2007 Community Forestry Bill passed by the National Legislative Assembly (not proclaimed as law)/Royal Forest Department (RFD)	Allow communities to manage communal forest land and use natural resources, particularly degraded forest land non-saleable
Community Land Title	Land use documents for communal land	2010 Regulation of the Prime Minister's Office on/ Community Land Title Office (CLTO) under the Prime Minister's Office	Issue to a community entity for using and managing state lands, non-saleable but return to community entity for further management

Source: Author's rendering

Between 1984 and 2004, the prominent land titling program in Thailand was supported by the World Bank to improve land administration by using cadastral surveying and mapping technology in the issuance of land titles. Moreover, the program intended to create tenure security as a means to reduce poverty, increase the capacity of individuals to access financial resources by using land as collateral, and thereby increase land productivity.<sup>5</sup> The titling program can be seen as market-led land governance,<sup>6</sup> which means that a landowner is entitled to fully sell the land to

whoever can pay for it and use it as a collateral, too, for other business or investment undertaking.<sup>7</sup> In addition, the land titling program emphasized the land tenure system in Thailand, which only recognized statist land ownership and individual/private property ownership, while disregarding the existence of customary practice of communal land tenure at the community level.<sup>8</sup> Corruption in the issuance of land titles and leasing of state-owned lands has also been noted in a

number of studies.<sup>9</sup> As a result, only a small number of affluent people were able to gain information and capitals. Those with connection to authorities have more access to easily accumulate and concentrate land for speculation. As such, landless and small landholder peasants have been hindered from accessing land for food and agricultural production. According to a study on farmer registration data in 2018,<sup>10</sup> more than 50 percent of the 5.76 million households possess agricultural lands that are less than 10 rai (1.6 hectares) per household. The national statistical office of Thailand illustrates that the scale of agricultural landholdings has constantly decreased to approximately 20 percent, from 91 million rai (14,560,000 hectares) in 2007 to 71 million rai (11,360,000) in 2016.<sup>11</sup> Such data denotes the increasing number of peasants who lose their agricultural lands.

## Community land title

This article argues that the idea of community land title, employed by local land strugglers, especially landless and small-scale peasants, shows an alternative in which local communities are the main actors creating their own path of development. It is an attempt to empower local people towards participating in the processes of development and sharing power with the central state. Ultimately, it is a counter-discourse which pays particular attention to political, social, cultural, environmental, and ethical issues in relation to the well-being of people, rather than focusing merely on economic development.<sup>12</sup>

The notion of community rights and collective management of land and its resources is what underpins local land reform movements in Thailand. This counters the dominant discourse privileging individual ownership and resource management.

In terms of land management, the ideas of complexity of rights<sup>13</sup> and communal tenure have been applied by community members to negotiate the rights to

land. The concept of complexity of rights proposes that there are overlapping rights, consisting of usufruct rights, management rights, and monitoring rights between an individual and a community co-existing in the same geographical area.<sup>14</sup> In other words, community members own land collectively, such as by a community entity, while they have the right to utilize their individual plot of land based on their purposes. In addition, community members are able to access and utilize communal land by sharing labor to make land productive.

Through the community land title, all community members participate in establishing regulations on land utilization within their community through community meetings.<sup>15</sup> Regulations include prohibiting land-selling to outsiders; however, community members can decide how to transform available land to a productive one. The CLT represents a complexity of land rights between individual and community, as individuals are able to utilize their land while people, as part of a community, manage land collectively in accordance with a mutual community regulation. Through this model, communities have shown their alternative land governance and management by utilizing land as residential, agricultural, communal, public, and reserved forest, etc. Ultimately, the CLT is a bottom-up approach to resist centralized land management and neoliberal capitalism. It counters the view of land as a commodity. Moreover, the CLT suspends de-agrarianization which is transforming rural economic and social activities from farming to non-farming.<sup>16</sup>

In addition to the CLT, there is an advocacy for the Thai government to pass two policies, namely on progressive land tax and the creation of a national land bank. A progressive land tax requires those who own unproductive land to pay revenue in accordance with the amount and size of land they owned so as to mitigate the concentration of land and land speculation. A national land bank<sup>17</sup> has been proposed to generate revenue gained from a progressive land tax measure to purchase or lease

land, which will then be distributed to a community that manages its land in compliance with the CLT. A particular community will remit to a land bank through its cooperative. In order for the land reform in Thailand to function effectively, the CLT, a progressive land tax, and a national land bank should be enforced consistently.<sup>18</sup> Local communities have played a significant role in pushing for land reform, particularly by networking with like-minded land rights defenders, organizing public demonstration, displaying civil disobedience, and petitioning to negotiate with government for involvement in decision-making processes of national development.

In terms of national policy, the government issued the Regulation of the Prime Minister's Office on the Community Land Title in 2010. In this non-legally binding regulation, the Community Land Title Office is authorized to issue Community Land Titles to communities.<sup>19</sup> The next section depicts the case studies of Klong Sai Pattana and Baw Kaew communities and illustrates how local communities in Thailand employ the CLT as a tool in proposing an alternative land management method in Thailand. Both communities are among 486 communities nationwide in the pilot community land title project<sup>20</sup> agreed to by the government.

### Case study of Klong Sai Pattana, Surat Thani province

Situated in South Thailand, Surat Thani Province is 529 kilometers (328 miles) from Bangkok. Of 19 districts, Chai Buri is the district where Klong Sai Pattana community is located. As of October 2018, the community has 65 households, with a total of 120 family members. Most of them are landless peasants and agricultural workers in Surat Thani province working in rubber and oil palm plantations. Some of them formerly owned and farmed land but sold them because of indebtedness. Many members worked in urban areas and migrated to seek economic opportunities in Surat Thani province.<sup>21</sup> Community

**FIGURE 1**  
**Location of Chai Buri District, Surat Thani Province**



Source: Wikipedia

members have joined the effort of the Southern Peasants' Federation of Thailand, a network of landless peasants, that has been struggling for land in Southern Thailand in mobilizing for land rights founded in 2008. At first, the SPFT assisted the Thai authorities in investigating an illegal land concession by a palm oil company and found that it illegally held 1,443 rai (230.88 hectares) of land, which should have been allocated to landless peasants by the



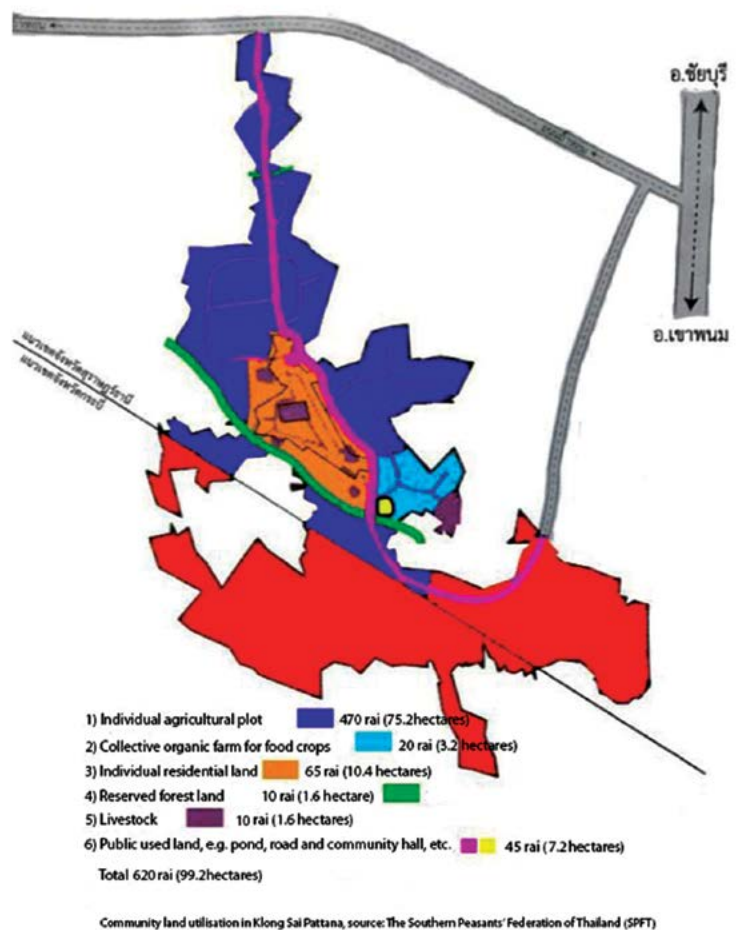
Agricultural Land Reform Office. The said palm oil company continued occupying and cultivating even if it was sued by the ALRO and found guilty of trespassing and encroachment by the provincial court in 2007.<sup>22</sup> In November 2008, a group of landless peasants occupied approximately 620 rai (99.2 hectares) of the land<sup>23</sup> because community members expressed that the government agencies were ineffective in expropriating said land from a palm oil company and in equitably redistributing them. During the land occupation and settlement, community members have encountered different types of violence, including assassination, forced eviction, arbitrary arrest and detention, destruction of properties and crops, intimidation, and harassment. There were four community members assassinated between 2010 and 2015. However, none of the perpetrators have been brought to justice because all legal cases were acquitted, as the court claimed, because of insufficient evidence.<sup>24</sup>

Klong Sai Pattana Community sees the right to land as a safety net and social capital which ensure that the community can maintain the land and natural resources for their descendants. The community members consider CTL suitable for community land management since centralized land management lacks community participation. Through the CTL, they have learned that collective land ownership offers better security in land ownership for agricultural purpose than the private land tenure. In this case, community members agreed upon land use regulations where each household member has one rai (0.16 hectare) for housing and 10 rai (1.6 hectares) for a household agricultural plot, including economic crops such as rubber, palm oil, bamboo, and banana, etc. as well as food crops. Thus, community members are able to both secure their subsistence livelihoods and generate incomes. There is a 20 rai (3.2 hectares) devoted to communal farming for both economic and agroecologically grown food crops such as vegetables and rice to ensure food sovereignty. In a collective farm, community members work

together on the planting of food crops and economic crops and share profit from selling their products. The community spares 10 rai of land (1.6 hectares) for livestock through which community members have learned how to produce organic manure. (Please see Figure 2 for Land Utilisation designed by the Klong Sai Pattana Community).

The community members also allocate 35 rai (5.6 hectares) for public space such as for community pond, community hall, community kitchen, and an herb garden, etc. As a newly settled community, which is not recognized by the Thai government,

**FIGURE 2**  
**Community Land Utilization**  
**in Klong Sai Pattana**



Source: Southern Peasants' Federation of Thailand

the community regulations have been established to harmonize people, as they focus on solidarity, justice, morals, collective land management, and security measures. They also have promoted the exercise of democracy which has encouraged all community members to participate in decision-making and community development processes.

### Case study of Baw Kaew community, Chaiyaphum province

Chaiyaphum province is situated in Northeast Thailand and is 338 kilometers (210 miles) from Bangkok. Of 16 districts, Khon San is the northernmost where Baw Kaew community is located. Community members in Baw Kaew are those who lived and farmed on areas situated in Thung Phra

**With the concept of community land title deed, we are all involved in designing how to use our land together and learn how to fight for our land as a means of production. Moreover, we learn to grow what we eat and we eat what we grow**

**FIGURE 3**  
**Location of Khon San District, Chaiyaphum Province**



Source: Wikipedia

Sub-District of Khon San District before the Royal Forest Department demarcated 290,000 rai (46,400 hectares) of the areas as Samphaknam Mountain reserved forest in 1973. Before that, community members were allowed to reside and farm on their land through the government rural development scheme since 1962. In 1978 and 1988, 103 families were forcibly evicted by the Forest Industry Organisation because the RFD gave a concession

of 4,401 rai of land (704.16 hectares) under the Khon San Forest Project to the FIO for planting of eucalyptus that would be supplied to pulp and paper industries. Despite a promise of compensation, community members have not received any since they were evicted. On 17 July 2009, 169 of affected evictees (64 families) re-occupied approximately 86 rai (13.76 hectares) of the land and re-established Baw Kaew community, demanding the government to revoke the Khon San Forest Project and to redistribute land to affected people.<sup>25</sup> Since 2009, the community members have encountered harassment from the FIO with a charge of encroachment as well as eviction orders from RFD and the military. After the recent military coup in 2014, the community has been affected by the forest reclamation policy<sup>26</sup> which aims to relocate people from the state-owned forest lands.

Baw Kaew community has joined efforts with the Essan Land Reform Network, a network of affected people who struggle for land rights in the Northeast

region of Thailand, to express their grievances and demand policy changes by asking the government for the community's right to land and natural resources. The community has joined ELRN in public demonstrations on the streets and at government offices in the province and Bangkok to demand for policy changes and concrete actions towards their problems. They have also filed their petitions and requested formal meetings with responsible government agencies to stop forcible evictions.

The community has initiated land utilization and management in compliance with the concept of CLTD. It aims to demonstrate that their community, by using an organic and non-chemical method for sustainable agricultural food production can co-exist with nature. This model aims to counter mono-crop plantation introduced by the FIO under its eucalyptus plantation project which degrades the soil and depletes groundwater. Moreover, the concept of community forestry based on community-based natural resource

**FIGURE 4**  
**Community Land Utilization in Baw Kaew Community**

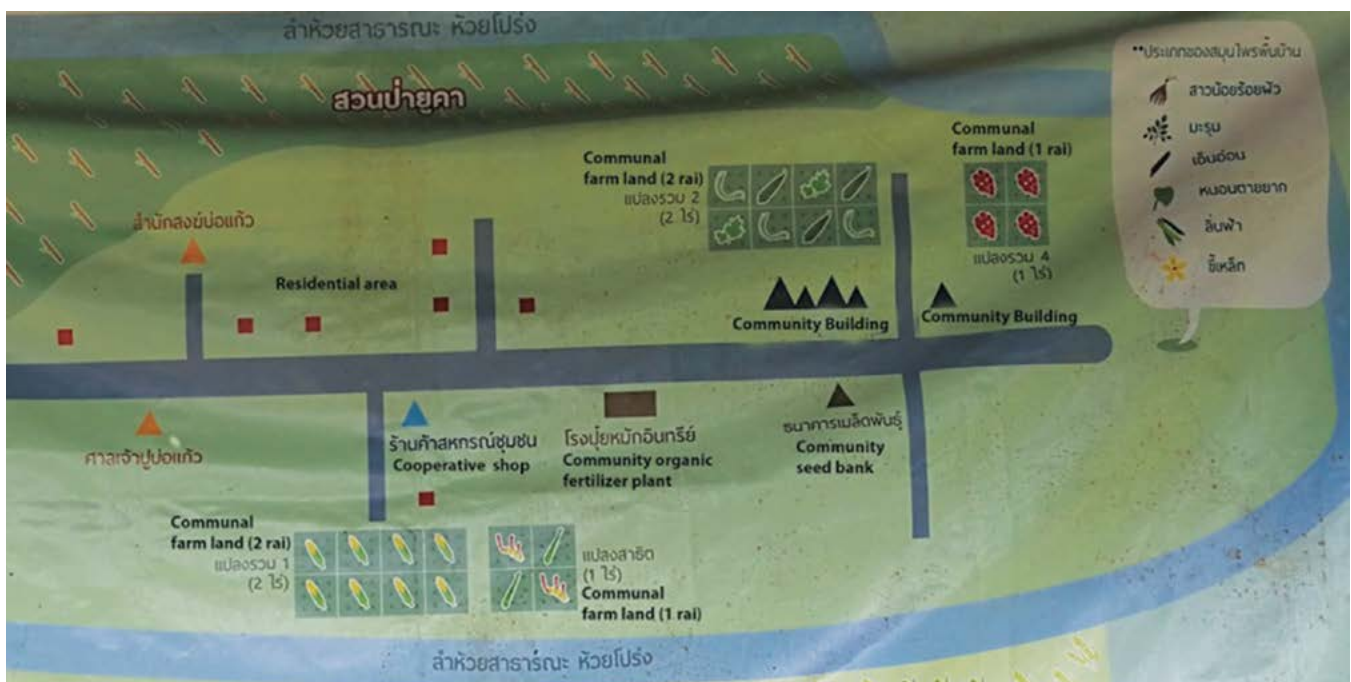


Photo by Supatsak Pobsuk

management has been used to grant the rights to natural resources in relation to sustainability, equal participation of people, and fairness between local people and ecosystem.<sup>27</sup>

In terms of land management, the Baw Kaew community has planned to utilize land according to four categories: residential; communal land for food and economic crops such as maize, banana, galangal, and mulberry, etc.; community forest land; and for public purposes such as cooperative shop, community organic fertilizer plant, community building and community seed bank (please see figure 4 for the community land utilization in Baw Kaew community). Community members have not had adequate farming land for each household; however, they have been working collectively on the six rai (0.96 hectares) of the communal land for food crops through the sharing of labor. Community members have rotated the assignment of work, which include preparing the soil, seeding, planting, harvesting, selling agricultural products by the agricultural cooperative, and sharing profit among the community members. Currently, they earn their living by daily wage jobs. In order to have sustainable land management, they have demanded the government to redistribute 1,500 rai of land possessed by the FIO to Baw Kaew community members which will further apply the CLT model. To prepare for this, the community has initiated a community land fund to save money as a seed fund for leasing land from the RFD in the future. The community also plans to initiate a farmer school and educate young generation to maintain local knowledge on agriculture. As community members need to be equipped with basic legal literacy to protect the community from judicial harassment, they also plan to initiate a community legal center.

## Conclusion

The concept of community rights has been employed to legitimize people's struggle for land. Such a concept has promoted the participation of people from the community in decision-making processes of economic and social development. It is also a development model from below and encourages the idea of self-determination. Community land title deed (CLTD) which embodies community rights has been introduced to counter the predominant land tenure arrangements, including that which promotes state-owned land and private ownership in Thailand, proposing that land can be owned and managed by community members. In this sense, community members own land together, while allowing individuals to use and access lands based on agreed upon rules for both individual needs and community benefits.

Lastly, land reform movements have called for equitability in land access, ownership, and management in Thailand through land re-distribution. It has proved that land management should be localized, as there are alternative practices on land management. Local people have been empowered to manage their resources based on their interests and according to local knowledge.

\* Formerly, Thailand was named as Siam during the era of the absolute monarchy. In 1932, the People's Party revolutionized the country from absolute monarchy to constitutional monarchy. The name of the country was changed from Siam to Thailand in 1939. In this article, Thai state refers generally to the central government that rules Thailand, over time.

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## Notes

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- 11 The statistic was retrieved from <http://statbbi.nso.go.th/staticreport/page/sector/th/11.aspx>
- 12 Olga Lucía Castillo Ospina and Juan Masullo Jiménez, "Alternative Development is no longer an alternative— Post-development could be," *Filosofía de la Economía* 6, no. 2 (2017): 99-119.
- 13 The complexity of rights that is one of core principle of community rights. The concept was coined by Thai scholars. The complexity of rights refers to the multiplicity of rights, including usufruct rights, management rights and monitoring rights which coexist in the same geographical area. In this case, community members have right in utilize a communal land while under a mutual regulations, community members manage the land collectively in a productive way.
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- 22 In 2014, the Supreme Court made the final adjudication to expel a palm oil company from the concession area. However, retainers of a palm oil company continue occupying and cultivating palm oil trees.
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- 25 ESCR Mobilization Project, Voice from the Margin: Economic, Social and Cultural Rights in Northeast Thailand of Baw Kaew Village, 2010, retrieved from <https://cieekhonnaenprojects.files.wordpress.com/2011/02/baw-kaew-human-rights-report.pdf>
- 26 The forest reclamation policy was introduced by the military junta after the coup in 2014 to increase forest coverage 40% nationwide, approximately 128 million rai (20,480,000 hectares) from 102 million rai (16,320,000 hectares) by 2027. In doing so, the military government issued orders to subdue all people who encroach on forest lands, including local communities that in the Community Land Title project.
- 27 Tim Forsyth and Thomas Sikor, "Forests, development and the globalisation of justice," *The Geographical Journal* 179, no. 2 (2013).

# Human Rights-Based Governance of Land and Natural Resources

By Shalmali Guttal and Mary Ann Manahan

Landlessness and land insecurity are serious global problems. A quarter of the world's 1.1 billion poor people is estimated to be landless, among them are 200 million living in rural areas.<sup>1</sup> Rural landlessness is a crucial predictor of the extent of poverty and hunger,<sup>2</sup> and in recent years, there has been a global consensus among international development institutions, civil society, and peoples' movements that access to and control of land and natural resources are key to not only helping rural households improve their incomes, but also, to living with dignity. Land is life for peasants, small-scale farmers, rural women, indigenous peoples, fisher folk and pastoralists. Yet millions of rural families do not enjoy ownership of, or are not able to secure, tenurial rights in lands, fisheries, and forests.

## The Asian context

Across Asia, the rural poor, indigenous peoples, workers, peasants, women and youth, fisher folk, and herders face immense challenges in securing their rights to own, access, use, and/or steward land. This goes as well with other natural resources on which they rely for their livelihoods and identities. These challenges include the multiple crises arising from destructive infrastructure, resource extraction, and resource development projects; climate change; land, water, and ocean grabbing; corporate control of agriculture and food systems, and; the undermining of small-scale food production through corporate friendly policies and laws. Compounding these are

the criminalization of dissent, human rights violations, and shrinking space for political participation of the poor and vulnerable populations. Small-scale food producers, workers, and indigenous people as well as other local communities who defend their lands, waters, resources, livelihoods, and cultural identities are facing judicial and extra-judicial persecution, are branded "dissidents" or "anti-national," and have little input in policies that deeply affect their lives.

Asia is diverse, comprising several sub-regions with differing geographies, eco-systems, colonial histories, cultures, languages, ethnic identities, religions, and political conditions. The level of development of civil society and peoples' movement formations also varies across the region, depending on the extent of political freedom, access to information, and ability to organize in different countries. At the same time, there are long-standing traditions, practices, and cultures of regional solidarity and cooperation among Asian peoples; as in the case of common fishing grounds among artisanal fisher folk, seed exchanges among peasants, and in protecting various types of forests among indigenous peoples and other local communities.

The region has been a laboratory for failed structural adjustment programs pushed by the World Bank and International Monetary Fund, and privatization programs pushed by the Asian Development Bank. The penchant for economic growth remains the primary target of many governments and large-scale investments are equated with development. Asia has been the center of economic growth in the





SPFT member harvesting rice on communal land in the land occupation community of Klong Sai Pattana, Suratthani, Thailand. The rice field is land reclaimed from a former palm oil plantation. October 2018. Photo by Supatsak Pobsuk

past decade, with China and India as rising stars. Regional economic integration, which intends to open up economies in an attempt to create common regional markets, has led to the flooding of domestic and foreign direct investments in agriculture, services, and natural resources. This integration has triggered a race-to-the-bottom situation: states are depressing wages, instituting labor contractualization laws, liberalizing the mining and natural resources sectors, facilitating more public-private partnerships that favor the corporate private sector, among others.

Poverty and inequality remain high despite record growth levels and increase in wealth of the middle and upper classes. Persisting poverty and inequality, negative impacts of climate change and disasters, continued erosion of human rights, and shrinking resource bases are exacerbating existing vulnerabilities and marginalization. Poverty remains largely rural and its main manifestation is tenure insecurity, which is mainly lack of access to and control of land and natural resources. Representatives from peoples movements in Southeast, East, and South Asia have identified the

following threats and challenges with regard to their rights to land, forest, fisheries:

- **Enclosures, privatization, and land grabbing:** New frontiers of land and resource control are being created through agro-export, monoculture and industrial agriculture, land conversions, mining, coal, hydropower, forest exploitation and logging, conservation and national parks, real estate/property development, and expansion of townships, etc. Large-scale infrastructure projects, free trade and investment agreements, and regional economic integration are the driving forces behind many land grabbing and privatization cases.
- **Territorialization:** Using the power of eminent domain (i.e. appropriation of resources in the name of public interest), governments are creating new territories for investments through zoning, ceasefires, peace agreements, and relocation of villages and peoples from uplands to lowlands (for i.e., in India, Sri Lanka, Laos, Vietnam, Burma, Philippines and Indonesia). New territories of investment include Special Economic Zones and Special Investment Areas that have become



increasingly visible across the region. In South Asia's contested upland and border areas, private land concessions for industrial crops are used by the military to control borders. Both physical violence and laws are used to control land, territories, and people.

- **Financialization of resources:** This is a relatively recent trend that can lead to a systematic erosion of land and resource rights through the transformation of a productive economy into financial products for trade. For example, the fabrication of virtual commodities such as biodiversity and forest carbon offsets and trading them in financial markets and stock exchanges. The trading of virtual commodities is speculative and negatively affects the real economy, ways of production, extraction of resources, law making, and managing of territories. The impacts of financialization are already evident in REDD (Reducing Emissions from Forest Degradation and Deforestation) and Blue Carbon schemes, which curtail the access of peasants, indigenous peoples, and fisher folk to lands, forests, and fisheries.
- **Lack of acceptance of and respect for human rights:** In many countries, governments do not recognize indigenous peoples as holders of particular rights. They are viewed as ethnic minorities, their customary rights are not recognized, and there are no legal provisions to address historical inequalities. Local non-indigenous peoples also suffer from tenurial insecurity in farmlands, forests, river, and marine areas. Overall, governments are reluctant to uphold the rights of local populations but are prompt in enacting legislation that assures the rights of large-scale private investors.
- **Shrinking political spaces; criminalization; and erosion of peoples' rights:** More and more, local community leaders, workers, peoples' movements, civil society activists, journalists, lawyers, and other rights defenders are experiencing criminalization, physical and economic violence, and persecution. In countries like Pakistan, India, Sri Lanka, Thailand,

## Persisting poverty and inequality, negative impacts of climate change and disasters, continued erosion of human rights, and shrinking resource bases are exacerbating existing vulnerabilities and marginalization Poverty remains largely rural and its main manifestation is tenure insecurity, which is mainly lack of access to and control of land and natural resources

Cambodia, Laos, and the Philippines, those who stand up for peace, justice, and human rights are considered 'enemies of the state.' States are not alone in perpetrating violence; domestic, regional, and transnational investors and corporations are equally guilty of crimes, collusion with official perpetrators, and impunity. Since 2013, the Philippines has been considered as the deadliest place for environmental and human rights defenders in Asia. Most of the

victims of violence and murders perpetrated by mining companies, paramilitary, and military forces have been indigenous peoples. The erosion of people's rights are done through legal-regulatory measures; military dictatorships and imposition of martial law-type conditions such as curfews and arbitrary check points; manipulation of the justice system; physical violence, murder, state and non-state impunity; and sowing of fear through threats, intimidation, and harassment.

The above trends consolidate and concentrate land and resources in the hands of old and new elites, private corporations, and the state. At their core

is a destructive, extractivist, and investor-oriented development model that treats land, territories, and nature as capital and assets for profit-making. This has been made possible because of the changing/changed roles and relationships (at times, collusion) among different actors—governments, corporations, regulators, rent seekers, middle-men, military, political elites—for whom control of land and natural resources are crucial for profit-making. For example, the establishment of new Special Economic Zones has generated new elites and strengthened the roles of financial actors (e.g. capital venture funds, finance corporations, financial intermediaries, and banks) as well as other market actors (consolidators/brokers/middle men). The role of the military is notably present in these SEZs in Myanmar, Laos and Cambodia; also, the military has been implicated in land grabbing, logging, and resource extraction in Asian countries.

**Tenure rights are framed as 'property rights,' and land, water, and other resources are valued based on their market exchange value. This emphasizes the creation of land markets for selling and trading on one hand and on the other, the state's role to provide a policy environment that will enable these markets to flourish**

### **Land and resource rights as human rights**

Peoples' movements, organizations of workers, small-scale food producers, indigenous peoples, and civil society activists in Asia have consistently challenged extractivist, market driven development, the kind of land and resource governance such development demands, and the state's use of eminent domain in the expropriation and control of land, water, forests, and natural resources. Through their daily struggles they confront structures of power and domination, as well as seek to reverse processes that oppress people and communities. They have waged campaigns for policies that support women, peasants, indigenous peoples, small-scale producers and workers, particularly in relation to secure access to and over resources. They have collectively called for greater transparency and democratic resolution of resource-based conflicts and land disputes, as well as for greater international, regional, national, and local attention to the importance of policies that promote and enhance the commons, and strong community institutions for a functioning, sustainable society in harmony with nature.

However, governments and international policy makers have placed land and resource governance within instruments of global markets, making land and natural resources into commodities. Tenure rights are framed as 'property rights,' and land, water, and other resources are valued based on their market exchange value. This emphasizes the creation of land markets for selling and trading on one hand and on the other, the state's role to provide a policy environment that will enable these markets to flourish. The World Bank's market-assisted land reform and new policy re-inventions are based on such tradeable rights and a willing buyer-willing seller framework that depoliticizes decades-old problems of land and natural resource injustices and conflicts, unfinished agrarian reform, and inequitable wealth redistribution. These policies have also encouraged exploitative relationships with resources (e.g. extractive activities), enclosures (e.g., privatization), land grabbing, displacement of local peoples and communities from their lands and territories, as well as other different forms of dispossessions of rights.

Peoples' movements and community rights advocates are increasingly turning to the human rights framework to build a human rights-based approach to the governance of land and natural resources. Such an approach would be based on the foundational



Flag of the Southern Peasants Federation of Thailand (SPFT). May 2018. Photo by Shalmali Guttal

principles of human rights: they are universal (apply to everyone without discrimination), inalienable (cannot be taken or given away), and indivisible and interdependent (the loss of one right impacts on all rights). And it would include the three broad bundles of human rights:

- **Civil and political rights:** right to life and physical integrity; right to privacy and a fair trial; right to participate in civil and political life including freedoms of expression, association, assembly; right to vote.
- **Economic, social, and cultural rights:** right to decent work, right to an adequate standard of living including housing, food, and water; right to health, education, social security, and culture; the right to land and natural resources fall within this category.
- **Collective rights:** right to self-determination; indigenous peoples' rights; right to development; environmental rights.

Although peoples' organizations and small-scale food producers have articulated their struggles for land and natural resources in the language of human rights, they have also pointed to important contradictions in human-rights based tenure governance approaches:

- **Individual vs. collective rights; private property vs. community rights.** The human rights-based approach centers on individual rights rather than collective rights, though it does recognize the rights of indigenous peoples. In certain cases, however, there are overlapping of and conflicting rights claims between different groups of peoples, especially in one territory. Conflicts are inevitable and the challenge is to find or create conflict resolution mechanisms to address them. There are also diverse interpretations of the composition of tenure rights, whether these pertain to full ownership or stewardship, the right to exclude other people from use or management of land and territories, etc. These are often linked to the different forms of tenurial arrangements and traditions existing in Asian countries and communities.

- **Securing legitimate tenure rights through land titles.** Land titling has been a way to recognize tenure rights, but while it is an important tool, it does not guarantee access, use, and control of land, territories, and resources. Titling can be a double-edged sword in the sense that small-scale farmers may use their titles to sell and trade rights or be misappropriated in the sense that corporations and unscrupulous individuals can manufacture or illegally acquire land titles that lead to land grabbing and resource-based conflicts.
- **Right to say no and Free Prior and Informed consent.** Communities that experience constant abuse and oppression assert that the ‘right to say no’ is a fundamental principle of human rights-based tenure governance. This also covers the rights of indigenous peoples to demand for meaningful FPIC, to refuse a ‘development’ project that they deem not beneficial to them, and to access timely and relevant information that will allow them to make informed decisions. However, in practice, FPIC has been reduced to token or selective consultation with community leaders, and the options to refuse a project or even significantly change it are rarely on the table.

At the same time, the principles of universality, inalienability, indivisibility, and interdependence offer strategic ways to place land and resource rights as core human rights. Taking for example the right to food, hunger and malnutrition should be seen as serious problems affecting the poor, especially women and children. The right to food is connected to the right to life and states as duty-bearers should ensure that the right to food (economically accessible, adequate, and safe) of marginalized sectors of society is achieved through the institution of appropriate agricultural policies, provision of financial resources, and changing of structures, policies, and processes that create hunger and malnutrition. For small-scale food producers, workers, and rural and urban poor, appropriate agricultural policies should secure access to land, control prices, provide for wealth and redistribution

policies, etc. Furthermore, as human rights are interdependent, access, use, and control over land and natural resources directly affect the enjoyment of a wide range of human rights including the right to food. As disputes over natural resources often induce human rights violations, conflicts and violence, states and private entities such as corporations are duty bound to respect, protect, and fulfill human rights obligations through preventive measures (i.e. do no harm), and by enabling access to mechanisms that give redress and justice to affected communities and victims.

The strength of the human rights framework in securing land and natural resource rights will depend significantly on the extent to which it can be used to resist, rollback, and eventually prevent land and resource grabbing, and to progressively realize the rights to land and resources of small-scale food producers, rural peoples, and indigenous peoples—especially women. For this to happen, politics have to be brought back into the human rights framework. Land, forest, and resource tenure and rights are about redefining social relationships within the households, neighborhoods, states, and countries; and entail exercises of power by states, societies, and peoples. Land and natural resource rights are political rights of people and communities to decide how to use, manage, protect, and share land and the natural wealth in the territories they inhabit.

This article is an excerpt from a publication by Focus on the Global South, “Towards Human Rights-Based Tenure Governance in Asia: Perspectives, Challenges and Strategies”, which was released on April 2018. This excerpt first appeared online on April 16, 2018 in celebration of the International Day of Peasant Struggles. .

## Notes

- 1 Global Land Tool Network. *Securing Land Rights for All*. Kenya: UN-Habitat, 2008), pages, <https://gltn.net/home/download/secure-land-rights-for-all/?wpdmdl=8234>
- 2 D. Palmer et. al, “Towards Improved Land Governance”, *Land Tenure Working Paper 11*, (FAO and UN-Habitat, 2009), <http://www.fao.org/3/a-ak999e.pdf>



# Popular Agrarian Reform: The New Call for Agrarian Reform in the 21st Century<sup>1</sup>

By Peter Rosset

The world is changing, and so are the agrarian struggles of rural social movements and their visions of agrarian reform, land, and territory. When the global peasant movement, La Via Campesina, met in the early 1990s, the “classic” reformist and revolutionary agrarian reforms of previous decades were at that time being reversed through counter reforms led by the World Bank and its land administration and titling programs. Earlier, however, capitalist governments had implemented limited agrarian reforms to replace unproductive large land holdings with more productive and dynamic family farms to boost food production for the urban labor force and consequently national economies. But these were rolled back by the new reforms designed to create functioning land markets aimed at attracting investments to rural areas, inevitably leading to the re-concentration of land holdings. Though the Bank dressed up this privatization of communal and public lands as “market-assisted land reform,” the net effects ran contrary to the interests of peasants.

These trends motivated LVC to create the Global Campaign for Agrarian Reform, with FIAN International and the Land Research Action Network as partners. GCAR was created to support already existing struggles for agrarian reform in promoting new initiatives, and to carry out international lobby and solidarity work and engage in dialogue (e.g. with the FAO) and/or initiate protest (e.g. against the World Bank) directed at international institutions dealing with land issues. Another key element

was (and still is) having an emergency network that responded to situations of actual or imminent violations of the human rights of peasants struggling for land.

In the year 2000, LVC held its third International Conference in Bangalore, where the first detailed analysis of what *food sovereignty* and *agrarian reform* meant was generated. LVC analyzed the limited capitalist or bourgeois agrarian reforms of the past, and those carried out by socialist governments, highlighting the limitations of the capitalist agrarian reforms and the worst-case situations of those countries that had benefitted from neither. A significant rise in landlessness as a result of a decade of neoliberal policies was observed.

At the Bangalore conference, agrarian reform was defined as a “broad process of distribution of land ownership.” Emphasis was placed on individual family plots. In a foreshadowing of what LVC would later call “genuine” or “integral agrarian reform,” the argument made was that mere land distribution would not be enough to ensure the well-being of peasant families, and that therefore agrarian reform would have to include major changes in the overall policy environment for peasant agriculture (trade, credit, crop insurance, education, democratic access to water and seeds, other support services, etc.).

For the first time, agrarian reform was linked to achieving food sovereignty, the major new paradigm being launched by LVC at the same conference.



International Conference of Agrarian Reform, April 13-17, 2016, Maraba, Brazil. Photo by Viviana Rojas Flores, La Via Campesina

Land was to be distributed to produce food for people rather than products to be exported for use of the global economy. In strategic terms, land reform was pitched not as an exclusive struggle of peasants, but rather as a solution to many of the larger problems of society. Later, a key encounter took place in March 2006 in Porto Alegre, Brazil. The “Land, Territory and Dignity” Forum was organized by LVC and other international organizations in the days immediately preceding the International Conference on Agrarian Reform and Rural Development, hosted by the FAO and attended by member states. The collective analysis led to a call to re-envisioned agrarian reform with a territorial perspective, so that the distribution of land to peasants would no longer mean a truncation of the rights of pastoralists to seasonal grazing areas, fisher folks to fishing sites, and forest dwellers to forests. Porto Alegre also reflected a persistent emphasis on the obligation of states and the re-vindication of land occupation as a tool of struggle.

Still later, a global land reform meeting of LVC held in 2012 in Bukit Tinggi, Indonesia, and the 2016 International Agrarian Reform conference in Marabá, Brazil, became opportunities to re-think “agrarian reform for the 21st century.” These gatherings focused on what had changed in the world, and on the strategy and tactics that the agrarian reform movement should develop to meet new challenges.

In Brazil, for example, the land available for land reform and thus suitable for occupation had shifted dramatically in previous years as a result of the recent waves of capitalization of agribusiness. For example, unproductive large landholdings or *latifundios*—once the main target of peasant ire and land occupations—had largely become productive agribusiness export platforms. Thus, the argument used historically in the dispute for public opinion lost its relevance. It no longer made as much sense to argue about the essential unfairness of the majority of the land being in the hands of a few “who do not

even use it,” while millions who desperately needed land have none at all. Today, the Landless Workers Movement increasingly targets occupations of lands used in agribusiness and argues forcefully about the benefits for all of society and for the environment of peasant agriculture producing food without agrotoxics. MST contrasts this with the damage wrought by large-scale industrial monoculture for export and agrofuels. This is mirrored in the overall evolution of LVC discourse against TNCs and financial capital, and toward the benefits of peasant and family farm agriculture for building food sovereignty, growing healthy food, slowing global warming, and taking care of Mother Earth.

The Marabá Declaration warned of a growing national and transnational alliance between extractive industries and agribusiness, international capital, governments, and, increasingly, even with the mainstream news media:

“We are witnessing the emergence of an alliance between financial capital, transnational corporations, imperialism, broad sectors within national states (almost without regard to their purported ideology), particularly but not only judicial and public security institutions, the private sectors in industrial agriculture, fishing and food (including agribusiness and aquaculture), mining, construction, forestry and other extractive sectors, and the mainstream media. The members of this new alliance are promoting an avalanche of privatizations, grabbing and taking over the commons and public goods, such as land, water resources, forests, seeds, cattle raising, fisheries, glaciers, and entire territories...

“The emergence of this new alliance between financial capital, agribusiness, the state and mass media—and its capacity to dispute territories, public opinion and the state, even where the government is

## **The Marabá Declaration warns of a growing national and transnational alliance between extractive industries and agribusiness, international capital, governments, and increasingly even with the mainstream news media**

‘progressive’—has forced us once again to carry out a process of reflection and reformulation of our concepts and proposals, as well as our strategies, and forms and practices of struggle.... we have seen how financial capital has transformed the old enemy of peasants and landless workers—the unproductive large landholdings or latifundios—into capitalized agribusinesses, mines, industrial fishing and aquaculture, and energy projects. In reality, all these so-called ‘productive’ sectors are mostly producing extreme poverty and environmental devastation.

**LVC believes that it is an urgent task for peasant organizations to show the urban poor that it is worth struggling together**

**Both are victims of land grabbing and displacement driven by speculative capital**

**Think of real estate development and gentrification in the city, and the dramatic expansion of agrofuel crops and mining concessions in the countryside**

In this transformation, capitalism no longer requires a “classical agrarian reform” to raise productivity in rural areas. In the past, the landless peasantry formed alliances, in favor of this kind of agrarian reform, with factions inside the parts of the State that represented the interests of productive capital. But this change takes any alliance with a fraction of capital off the table, leaving future agrarian reform squarely in the domain of class struggle. It also reduces the usefulness of the old argument for agrarian reform, that so much land in the hands of people—who do not even use most of it—is an injustice in the face of so many more people with no land at all. But at the same time, this new agrarian reform is creating the basis for a new call to all of society and to all working classes, both rural and urban, to question the very basis of the project of capital for the countryside.”<sup>2</sup>

A couple of points merit a bit more explanation. First, LVC has identified the mainstream media as part of the alliance against peasants both because of their role in demonizing social protest in order to create public opinion in support of the criminalization of activists and social movements, and because they have discovered that some of the same investment funds that back agribusiness and mining companies also hold substantial shares of key media outlets. This alliance has a powerful capacity to dispute the territories of rural peoples, through investment and capitalization of extractive industries, access to the repressive apparatus of the state to enforce evictions to the legislative process to redefine laws in their favor, and to media campaigns that paint peoples defending their lands, water, and forests as “terrorists.”

Given this analysis that the possibility no longer exists for alliances between peasants and domestic capital in favor of classical agrarian reform, LVC now calls for:



“...a *Popular Agrarian Reform*, an agrarian reform not only for landless peasants, but for all of the working classes and for all of society. This agroecological and territorial approach to agrarian reform can only be won through class struggle and direct confrontation of the project of Capital, including its profits, media outlets, and its national and international agents. This is an agrarian reform to maximize the potential of peasant agriculture, economy, and territory.”<sup>3</sup>

Rather than a cross-class alliance, the new call is for a political alliance between working people in the countryside and in the city. Peasants can no longer count on the possibility of political alliance in favor of agrarian reform with urban factory owners and other segments of national capital. But that does not mean that peasants alone can have sufficient political weight to push for land reform. They still need allies. But the alliance that LVC now believes must be built is between the popular sectors of the countryside and the city. In the countryside, these are the peasants, farming families, landless workers, indigenous people, pastoralists, artisan fisherfolk, and other small-scale producers of food. In the city, these are the slum dwellers and those who live in the *favelas*, whose population continues to swell as part of the rapidly growing urban periphery. A “poor-poor” alliance, rather than a “peasant-urban capitalist alliance” is the new strategy. What could be the basis for such an alliance?

LVC believes that it is an urgent task for peasant organizations to show the urban poor that it is worth struggling together. Both are victims of land grabbing and displacement driven by speculative capital. Think of real estate development and gentrification in the city, and the dramatic expansion of agrofuel crops and mining concessions in the countryside. Most of those who live in the urban slums are recent migrants from the countryside, or the children or grandchildren of such migrants. Most still have family in the countryside engaged in peasant agriculture.

Many move back and forth, bringing peasant products like fruit and cheese to sell in the neighborhoods. They plant corn (maize) and fruit trees in their back yards, raise chickens, and maintain many peasant characteristics. They understand each other. Together, these popular classes in the countryside and the city probably make up at least two-thirds of humanity. The potential for a powerful alliance clearly exists.

The peasants’ organizations in LVC want to make this potential alliance into a reality. One way is by offering healthy and affordable food at farmers’ markets in poor neighborhoods. Marching together with the urban poor for the latter’s issues and inviting slum dwellers to peasant farming areas on weekends is another. The hope is that they can convince the urban poor that popular agrarian reform—one that is based on building an alliance among “popular classes”—is in the best interest of all poor people, not just the rural poor. That by replacing agribusiness monocultures that produce unhealthy GMO and pesticide-laden food with ecologically-farmed peasant produce, everyone will be better off. That peasant struggle can put an end to the pesticide contamination of urban drinking water caused by upstream agribusiness. And by using their creativity to extend a hand, or many hands, to their urban brethren.

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## Notes

- 1 Also read Rosset, Peter. 2013. Re-thinking agrarian reform, land and territory in La Via Campesina. *Journal of Peasant Studies* 40(4): 721-775; La Via Campesina. 2017. Struggles of La Via Campesina for Agrarian Reform and the Defense of Life, Land and Territories. <https://viacampesina.org/en/struggles-la-via-campesina-agrarian-reform-defense-life-land-territories/>
- 2 La Via Campesina. 2016. International Conference of Agrarian Reform: Marabá Declaration. <https://viacampesina.org/en/international-conference-of-agrarian-reform-declaration-of-maraba1/>
- 3 Ibid.

# Classic vs. Popular Agrarian Reform

## Classic Agrarian Reform

In the past, conventional, “capitalist” agrarian reforms were achieved in various countries because large-scale, unproductive landholdings were seen as an impediment to development. The landed oligarchy was largely engaged in extensive, low-investment production, and in most cases they did not use half of their lands. This was an obvious injustice: a lot of lands in the hands of a few, who did not even produce on most of it, while millions of rural families lived without a square centimeter of land.

This created the basis for a cross-class alliance in favor of agrarian reform, between the peasantry and national industrial capital, so that the peasants could make the unproductive lands of the *latifundio* productive, and thus contribute to the national economic development. These were partial reforms and favored the interests of peasant farmers over the rights of migrant pastoralists, forest peoples, and other rural inhabitants. They were incomplete and deficient reforms, and current conditions mean that the alliance of classes that made them possible is no longer viable. This is because financial capital is transforming the unproductive *latifundio* into agribusiness and mining, so that there is no longer a capitalist argument for the need to carry out agrarian reform to achieve development. Early examples of such partial, classical reforms include substantial parts of Latin America, Thailand, Kenya, Algeria, Egypt, Turkey, and many others. A later version was market-assisted agrarian reform, pushed by the World Bank around the world in the 1990s, through land titling programs to create the basis for active

land markets, and modest credits so that a minority of poor people might be able to buy some land (with a heavy debt burden), while most land was bought up by capitalists.

## Popular Agrarian Reform

As the classic agrarian reform was deficient, and it is not even possible anymore, a new call is being made in favor of a “Popular Agrarian Reform.” The idea is that peasants, indigenous peoples, migrant pastoralists, fisherfolk, and other popular sectors in the countryside can fight together with the urban poor in favor of popular territories, to produce healthy food in harmony with nature, using agroecology based on popular and ancestral knowledge. How can they fight together? Through land occupations, by mounting pressure to change policies at national and international levels, by practice of linking small-scale producers and poor consumers, by cross-learning with urban poor and doing urban agriculture, by targeting the same capitalists that are doing land grabbing, and by other actions as yet undefined. Further, peasant farmers should show that the agroecological peasant and peoples’ territories are better for society and Mother Earth than the territories of capital. Peoples’ territories would allow for a life with dignity; produce healthy food; care for our productive heritage such as soils, water, forests, and biodiversity; and reduce greenhouse gas emissions. Meanwhile, the territories of capital are full of large-scale farming, GMO monocultures, strip mines, pesticides, transgenic and toxic waste; and generate misery, migration, and global warming.

# International Conference of Agrarian Reform Marabá Declaration

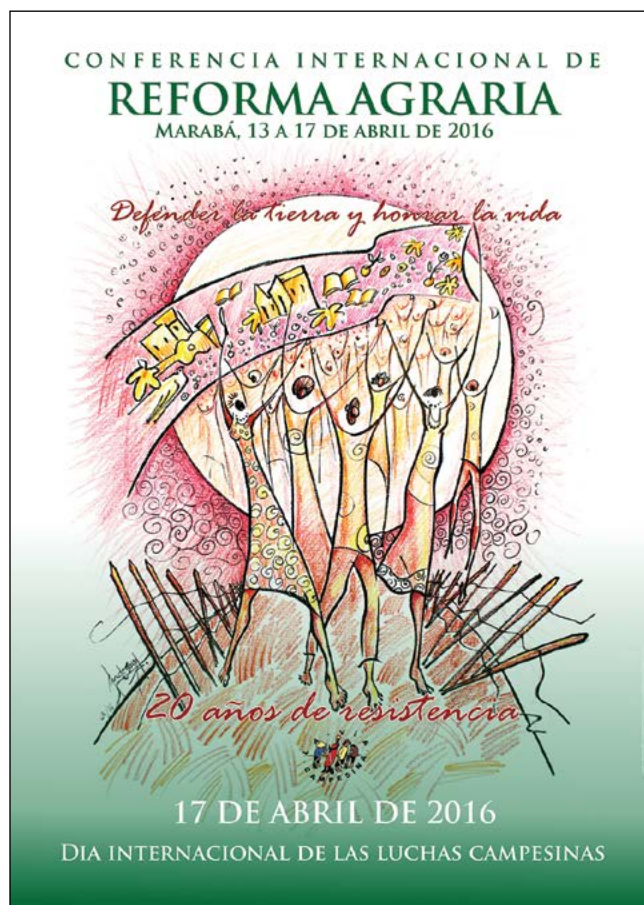
By La Via Campesina

## Who are we?

### People who struggle for territory

(Marabá, April 17 2016) We are more than 130 representatives of La Via Campesina member organizations and allies from four continents, 10 regions and 28 countries of the world. We are

here in Marabá, Pará, Brazil, to analyze, reflect and continue our collective processes to develop our ideas, proposals, and alternative projects for confronting the offensive of global capital against the peoples and natural goods of the countryside, coasts and seas. More than anything, we come together to struggle for our territories, and for a different kind of society.



Poster credit: Anderson Augusto Souza Pereira, La Via Campesina

We are organizations of peasants, family farmers, indigenous peoples, landless, farm workers, herders, fisherfolk, collectors, forest dwellers, rural women and youth, as well as allied organizations from across the world. We are here to remember the massacre of rural workers in El Dorado dos Carajás, Pará, which took place exactly 20 years ago and led to the creation of the International Day of Peasant Struggle, celebrated every year on April 17th. We are also here to demand that the governments of the world follow through on their commitments to agrarian reform, made 10 years ago at the FAO's International Conference on Agrarian Reform and Rural Development (ICARRD) in Porto Alegre, Brazil.

## The current situation: The offensive of Capital against our territories throughout the world and the attacks on democracy

We have listened to our brothers and sisters from our organizations in the Americas, Asia, Africa,

Europe and the Middle East, and we can see that everywhere we are facing the same enemy and the same problems. There are ever more cases of land-, forest- and water-grabbing, attacks against democracy and popular will, political prisoners, etc. in Latin America, Asia Africa, Europe and North America. In the current historical period, we are witnessing the emergence of an alliance between financial capital, transnational corporations, imperialism, broad sectors within national states (almost without regard to their purported ideology), particularly but not only judicial and public security institutions, the private sectors in industrial agriculture, fishing and food (including agribusiness and aquaculture), mining, construction, forestry and other extractive sectors, and the mainstream media. The members of this new alliance are promoting an avalanche of privatizations, grabbing and taking over the commons and public goods, such as land, water resources, forests, seeds, cattle raising, fisheries, glaciers and entire territories. In order to achieve their goals, they are using financialization to convert everything into commodities, free trade and investment agreements, the corruption of our politicians and leaders, control of the mass media and financial system, and mergers and acquisitions of companies.

Lately we have noted, with increasing alarm, how this alliance—and Capital in general—no longer tolerates the implementation by democratically elected governments of public policies that show the slightest independence, no matter how weak. This alliance has become the main force behind a wave of coup d'état attempts, many of which are taking place right now. These coups range from “soft,” “technical,” “parliamentary,” and “judicial” coups, to the most “hard-core,” military and violent coups, all of which disregard the law, constitutions and popular will. This is the case in Brazil, where we find ourselves together now. We add our voices to the voices of the Brazilian people, who struggle to defend democracy against an illegitimate coup attempt, and try to push forward the political reforms needed so that democracy can get out of the dead-end it is in today.

## Why we struggle against agribusiness

The offensive of Capital is threatening rural life and our entire society, including our health, Mother Earth, the climate, biodiversity, and our peoples and cultures. Mass migration, the destruction of the social fabric of our communities, urban sprawl, insecurity, agrochemicals, GMOs, junk food, the homogenization of diets, global warming, the destruction of mangrove forests, the acidification of the sea, the depletion of fish stocks, and the loss of anything that resembles democracy, are all symptoms of what is taking place.

The emergence of this new alliance between financial capital, agribusiness, the State and mass media—and its capacity to dispute territories, public opinion and the State, even where the government is “progressive”—has forced us once again carry out a process of reflection and reformulation of our concepts and proposals, as well as our strategies, forms and practices of struggle.

Here in Brazil, we have seen how financial capital has transformed the old enemy of peasants and landless workers—the unproductive large landholdings or *latifúndios*—into capitalized agribusinesses, mines, industrial fishing and aquaculture, and energy projects. In reality, all these so-called “productive” sectors are mostly “producing” extreme poverty and environmental devastation. In this transformation, capitalism no longer requires a “classical agrarian reform” to raise productivity in rural areas. In the past, the landless peasantry formed alliances in favour of this kind of agrarian reform, with factions inside the parts of the State that represented the interests of productive capital. But this change takes any alliance with a fraction of capital off the table, leaving future agrarian reform squarely in the domain of class struggle. It also reduces the usefulness of the old argument for agrarian reform, that so much land in the hands of people -who do not even use most of it- is an injustice in the face of so many more people with no



land at all. But at the same time it creates the basis for a new call to all of society and to all working classes, both rural and urban, to question the very basis of the project of Capital for the countryside.

Any resistance by rural peoples is demonized by the mainstream media, as organizations, their leaders and supporters face repression, criminalization, persecution, assassinations, enforced disappearances, illegitimate jailing, administrative detentions, sexual harassment and rape. Laws are being changed to criminalize peasant and working class struggles even more, as well as granting total impunity to perpetrators of crimes against peasants, workers, fisherfolk, indigenous peoples and all rights defenders.

Facing this terrible panorama, rural peoples, and our organizations, movements, alliances and convergences, currently represent the best hope for humanity and Mother Earth. We are on the front lines of the territorial and political fight against this dark alliance. Our proposals for food sovereignty, popular agrarian reform, the building of agroecological food production territories, and peasant agriculture to cool the planet, represent real alternatives and solutions to the problems created by the capitalist system and by this barbaric alliance in particular.

## **What we defend and call for: Popular Agrarian Reform**

In La Via Campesina and the Global Campaign for Agrarian Reform we have more than 20 years of history in the struggle for land and the defense of land and territory. In 2012, in Bukit Tinggi, Indonesia, we took stock of this history, how it has evolved in the context of a changing world and our own accumulation of experiences and dialogues, and identified key elements of a common strategy for agrarian reform. But in 2012 we were only beginning to see the scope of the ascendance of financial capital and its growing dominance over other kinds of

capital. This changes the nature of the game, and how we approach society on the question of rural territories.

Now we ask, which is better? Do we want a countryside without peasants, trees or biodiversity? Do we want a countryside full of monocultures and feedlots, agrochemicals and GMOs, producing exports and junk food, causing climate change and undermining the adaptive capacity of communities? Do we want pollution, illness, and massive migration to cities? Or do we want a countryside made up of the food producing territories of peasants, indigenous peoples, family farmers, artisanal fisherfolk, and other rural peoples, based on human dignity and diverse knowledges and cosmovisions, with trees, biodiversity, and the agroecological production of healthy food, which cool the planet, produce food sovereignty and take care of Mother Earth?

In this sense, we consider the proposal of our Brazilian comrades for a Popular Agrarian Reform, an agrarian reform not only for landless peasants, but for all of the working classes and for all of society. This agroecological and territorial approach to agrarian reform can only be won through class struggle and direct confrontation of the project of Capital, including its profits, media outlets and its national and international agents. This is an agrarian reform to maximize the potential of peasant agriculture, economy and territory.

Throughout the Americas, Asia, Africa, Europe, and the Middle East, our organizations, movements and convergences are putting forth similar proposals and territorial approaches in their dispute with the global project of Capital. These include the convergence among our diverse popular and traditional knowledges and ways of knowing the world in agroecology, artisanal fishing, traditional herding, and in our diverse strategies and ways of life. Our proposals, though similar, differ based on the nature of our different realities. In places where land is concentrated in few hands, we struggle for

its redistribution. In some countries, we speak of an “agrarian revolution.” In places where our peoples still hold onto their lands and territories, we struggle to defend those territories, and prevent land and water grabbing. Meanwhile, in places where land was nationalized and is now being conceded to foreign entities by governments, we struggle for the return of ancestral land rights to our communities. The fisherfolk among us speak of the struggle for the recovery and defense of artisanal fishing territories. In Europe we have once again taken up the strategy of land occupations, and organized struggles against land use changes, making clear to all that the problems of land grabbing and concentration are also a growing problem in Northern countries. In Palestine we struggle against a brutal occupation and we call to boycott Israeli products. And everywhere, there are burning struggles by young people to access land and other resources.

We have achieved great victories, such as the massive agrarian reform carried out after peoples’ land occupations and recuperations in Zimbabwe, the “Education for and by the Countryside” policy in Brazil, the cancellations of mining concessions and plantations in many parts of Africa and Asia, and the permanence of Cuba’s agrarian reform and its successful “peasant-to-peasant” agroecology movement. We also have partial but promising victories, such as the possibility of a large scale agrarian reform in Indonesia, for which we must mobilize in order to make our governments follow through on their promises.

We have organized our struggles by providing political and agroecological training for both leaders and grassroots members of our organizations. We have built training centers and peasant agroecology schools in all continents, and provided educational alternatives for our children. We have learned from the indigenous peoples of our movements that “the life of people and nature are one.” We have old and new tactics, such as occupation and recovery of land and territory, solidarity, caravans—such

as in West Africa and in Bangladesh—as well as alternative media outlets, art and culture. We continue to develop our popular peasant feminist, humanist, environmentalist and socialist values, youth mobilization and creativity, new rural-urban alliances, the CFS Tenure guidelines of the FAO, the Peasant Rights Charter, and other efforts. We need to continue to adjust and innovate new tactics, especially since the enemy quickly evolves new ways of taking our territories. We need new approaches and strategies, such as the construction of autonomous spaces and self-provisioning, as well as the scaling-up of peoples’ agroecology.

## Our challenges

- We will transform the struggle for land into the struggle for territory, along with developing a new productive model for food sovereignty, based on a more “autonomous” agroecology by using our own local resources and inputs and recovering our ancestral knowledge.
- We will organize the struggle for public policies supporting peasant and small farmer production as well as health, education, culture and sports in our communities.
- We will carry out our political and ideological training on a mass scale, fortify our work with our membership and our work with the masses, in order to improve the internal structure and operation of our organizations, and progressively integrate the leadership and participation of woman and youth.
- We will confront the ways by which the mass media demonize our movements and promote the culture of consumption and the hollowing out of democracy. We will work hard to build our own media, which foster dialogues with our membership as well as with the working class and the entire society.
- We will oppose more effectively the criminalization and repression of our movements as well as militarization, and organize an

international struggle in support of our political prisoners. We will organize an ongoing solidarity campaign that will be based on the principle of sharing what we have rather than on sharing only what we don't need.

- We will continue to carry out our permanent task of building class alliances, without dependencies, between the country and the city, between food producers and consumers, and with progressive researchers, academics and support organisations that share our vision.
- We will denounce and oppose so-called "anti-terrorist" laws and their use against our legitimate struggles.
- We will increase our solidarity with the struggles of the Palestinian and Kurdish peoples as well as other peoples that are subjected to military aggression. We condemn military occupations and the militarisation of lands and territories.
- We will develop an analysis of the role played by drug trafficking in the destabilization of our territories with the complicity of capital and governments, as well as a strategy to fight this problem more effectively.
- We will take on corporate concentration in different sectors of the economy, especially agro-industrial farming, fishing and food, media and financial systems, as well as the frontal attacks against democracy. We shall create forms of struggle that generate economic losses for capital, transnational corporations, banks and other agents of capital.
- We will build convergences and greater unity based on common objectives and our diversity (women and men, peasants, workers, fisherfolk, pastoralists, indigenous peoples, urban populations, consumers, etc.).
- We will oppose the ascendance of conservative and right-wing religious fundamentalism, racism and cultural discrimination. We will fight the new wave of neoliberal privatization laws and treaties.
- We will rethink the relation between our popular movements, the State, political parties and electoral processes, taking into account the

specific history and context of each country, and fight the generalized undermining of international and national human rights mechanisms.

- We will fight against US imperialism, and while we recognize the importance of multi-polarity in the world, we sound the alert about the emergence of new economic, political and military imperialisms.
- Through our organizations, we will strive to build convergence movements around alternative popular projects developed through collective constructions; we will also work to improve the organization of production, such as cooperatives, promote small- and medium-sized agro-industries in order to add value to our products, and we will work to achieve more and improved short and medium marketing circuits, and promote cooperation.
- We will struggle to address the issue of credit: how to obtain more credit for the peasantry and at the same time produce without credit and with less debt.
- We will oppose the institutional tendency (for example by the World Bank, FAO, and some academia and NGOs) to try to dilute the content of concepts such as "agrarian reform" and "agroecology", by launching "light" versions of these concepts, as in "access to land", "corporate social responsibility" and "industrial organic" food production in monocultures, with the objective of green-washing agribusiness.
- We will struggle to achieve international mechanisms to defend and support our visions and strategies that are not "voluntary" but rather compulsory and actionable.
- We will stop the approval and proliferation of dangerous new technologies, such as "terminator" seeds and synthetic biology.
- We will strengthen the participation of women and youth in our social movements. We will develop mechanisms to increase the number of youth who remain in the countryside. We will struggle against the dominant model of patriarchy in the capitalist system, and demand

the full rights of peasant and indigenous women to land, water and territory.

- We will carry out ever more unified international struggles to oppose our common enemies.

## **Defending the land and honouring life**

On this 17th of April, International Day of Peasant Struggles, 20 years after the El Dorado dos Carajás massacre in the State of Pará, Brazil, we are meeting once again, inspired by the thousands of men and women who defend the right to life itself, who fight for a more just society through a permanent struggle for

peoples' rights to land and territory, for the promotion of food sovereignty and agroecological production, to end hunger and poverty.

**Globalize the struggle! Globalize hope!**

**Global Campaign for Agrarian Reform  
of La Vía Campesina**

**Delegates from 4 continents and 10 regions,  
united to Defend Land and Honour Life.**

Source: <https://viacampesina.org/en/international-conference-of-agrarian-reform-declaration-of-maraba1/>



# Contemporary Challenges for the Global Campaign for Agrarian Reform

By Faustino Torrez

The Global Campaign for Agrarian Reform led by La Via Campesina, with LRAM and FIAN as partners, exists to support and mobilize solidarity for movements and struggles for agrarian reform and the defense of land and territory around the world. GCAR provides rapid crisis response, fact-finding missions, research and analysis, study materials, and spaces for the sharing of experiences in the struggle and discussion of joint action plans to movements and organizations around the world.

Faustino Torrez of Coordinadora Latinoamericana Organizaciones del Campo-La Via Campesina and the GCAR coordination team provides this summary of contemporary challenges for the Global Campaign:

**First challenge:** to transform the struggle for land into the struggle for territory; land is not just a place of work, it must be understood as a collective need, as a space for the collective organization of the peasant class, a space of resistance against capital.



In Carajas, Para, Brasil. Photo by Viviana Rojas Flores, La Via Campesina

**Second challenge:** to build a new model of production based on our own peasant agriculture. How are we going to use our land? What social function will we give to the land? We must focus on agroecology to produce healthy food in harmony with nature, and towards Food Sovereignty.

**Third challenge:** to achieve public policies that support the proposals of peasant movements in all areas—agriculture, housing, education, infrastructure, culture, etc. We need schools that strengthen our identity based on life in and for the countryside.

**Fourth challenge:** to carry out permanent processes of political formation. Around the world, the Left has had gaps in training. Our organizations have the challenge of building processes and political training spaces linked to the struggles of our organizations. We must create autonomous spaces for women, young people, and people of diverse sexual identities.

**Fifth challenge:** to create our own popular news and communications media that reach the people and that present our project to society. We need to strengthen dialogue both with our own bases and with society at large. We have to win hearts and minds.

**Sixth challenge:** to build an alliance between popular sectors in the countryside and the city. In the countryside, we must join efforts with other organizations that fight to defend territories, like indigenous peoples. And in the city with the working class, as our allies.

**Seventh challenge:** to organize and carry out more significant joint mobilizations against our enemies at the international level.

**Eighth challenge:** to strengthen internationalist solidarity by seeking creative ways to implement support in moments of crisis and mobilize the capacity for outrage. As Che Guevara said: “If you feel indignation at every injustice then you are our comrade.”



