AGAINST THE GRAIN October 2015

SOCIALLY RESPONSIBLE FARMLAND INVESTMENT

a growing trap

A high-level meeting between government and corporate officials hosted by the Dutch embassy in Riyadh describes adhering to "responsible" farmland investment standards as a process of "coercing" supply chains. (Photo: Embassy of the Netherlands, KSA)

GRAIN

Rules on how to "responsibly" invest in farmland are popping up all over the place, from corporate boardrooms to UN meeting halls. But do they really help communities whose lands are being targeted or do they just help investors and the governments that are complicit with them? Where should we–as social movements trying to support communities–focus our efforts? Does it make sense to fight land grabbing by adopting rules on how to do it more responsibly? In this discussion paper, GRAIN aims to stimulate reflection and discussion on these important questions.

In 2012, GRAIN published a report arguing that "regulation" is a misguided approach to stopping the scourge of land grabbing.[1] By regulation, we mean efforts to impose constraints, norms, rules or standards on land deals in order to make them less harmful to people and the environment. Far from turning farmland acquisitions into win-win propositions, we showed how the development of "standards" was simply generating a whole new industry to accredit "responsible" land deals, thus absolving them of the "land grab" label. We argued that these approaches were superficial at best, and primarily aimed at securing social acceptance for the expansion of an agricultural model that only benefits a small number of elites.

What has happened since 2012? A lot more of the same. Those most actively pushing for norms, guidelines, protocols and regulations on land grabbing appear to be the corporations themselves. They need such frameworks to allow them to continue doing business and making money without too many people protesting. And governments and intergovernmental agencies are following suit; in the past few years, they've come up with a dizzying array of new guidelines and principles to regulate land grabbing. A wide range of civil society organisations have also gotten involved in pushing for norms on land grabbing, either by drafting principles, helping broker deals that adhere to certain standards, or trying to use some of these texts or the political space around them as tools for rural communities to assert their rights.

In our experience, so-called responsible farmland investing is generally bad news. At first glance, it may seem like a good idea. Who could argue with a code of ethics intended to guide agribusiness investment? But both politically and in practice, it rarely works to the advantage of local communities. Rather, it creates a mirage of accountability that responds to the needs of investors, donor agencies and politically influential elites–*not* communities. What we are witnessing on the ground with most of these so-called responsible investment schemes is nothing more than a public relations exercise.

Regulating land grabs: corporations move ahead

Due to increasing public scrutiny, companies are under increasing pressure to not be branded as land grabbers or linked to deforestation and other negative environmental or social impacts of farmland investments. To avoid consumer boycotts or legal measures that could restrict their operations, they are rushing to generate their own internal norms, or adhere to external ones, that can put a stamp of "responsible investment" on their plantations, farmland funds, shareholdings or supply chains (see box "How big is socially responsible investing? As big as China"). For example:

1. GRAIN, "Responsible farmland investing? Current efforts to regulate land grabs will make things worse," August 2012, https://www.grain.org/e/4564.

How big is socially responsible investing? As big as China

Whether you call it "ethical" investing, "sustainable" investing, "impact" investing or "environmental, social and governance"-guided investing, meeting certain standards as a way of doing business has moved from being trendy to being a dominant approach. In the US, at the end of 2014, "socially responsible investing" or SRI represented **US$6.6 trillion**–18% of the whole pool of professionally managed investments of US$36 trillion.[1] That reflects a growth rate of 76% since 2012. In Europe, SRI represents 11% of the whole pool of professionally managed assets of EUR 18.2 trillion or **EUR 2 trillion**.[2] That reflects a growth rate of 23% for investments in sustainability, 92% for investment in exclusions (e.g. no nuclear or no GMOs) and 132% for impact investing (investments that generate positive social returns in addition to financial gains) since 2011. In Australia and New Zealand, SRI represents a whopping 50% of all professionally managed investments or **AU$630 billion**.[3] For these three markets alone, following the finance industry's own definition of "social responsibility," we are talking about **nearly US$10 trillion**. That is the GDP of China.

1. The Forum for Sustainable and Responsible Investment, "Report on US Sustainable, Responsible and Impact Investing Trends 2014," http://www.ussif.org/Files/Publications/SIF_Trends_14.F.ES.pdf.
2. Eurosif, "European SRI study 2014," http://www.eurosif.org/publication/view/european-sri-study-2014/
3. Responsible Investment Association Australasia, "Responsible investment on the rise again to 50% of the investment industry," 11 August 2015, http://responsibleinvestment.org/wp-content/uploads/2015/08/RIAA-RI-On-The-Rise-Again-To-50-Of-The-Investment-Industry-FINAL-MR.pdf

• the number of signatories to the United Nations Principles for Responsible Investment (UN PRI) rules on farmland doubled between 2011 and 2014, and the UN PRI has now incorporated those rules into its general guidance for investors;[2]

• the Peoples Company, a big land investment facilitator in the US, has produced an in-depth white paper on responsible farmland investment;[3]

• Credit Suisse and other financial companies have issued guidance on responsible agribusiness investing for private equity firms active in emerging economies, with an emphasis on farmland acquisitions;[4] and

• individual corporations like Illovo Sugar and Nestlé are publishing their own internal codes of conduct on farmland investing.[5]

What does all of this talk about responsible farmland investing look like on the ground? Stefania Bracco of the UN Food and Agriculture Organization (FAO) tried to quantify it.[6] She took the Land Matrix database of large-scale land deals in Africa and assessed how many of those follow some standard presented as "responsible investment."[7] The results are sobering. Just one-quarter of the land deals were made by companies participating in a certified–i.e. third party validated–socially responsible investment (SRI) scheme. In the specific case of biofuels,

2. PRI commodities work stream, http://www.unpri.org/areas-of-work/implementation-support/commodities/
3. Peoples Company, "White paper on socially responsible farmland investing shows benefits of new practices," 4 May 2015, http://peoplescompany.com/blog/2015/white-paper-on-socially-responsible-farmland-investing-shows-benefits-of-new-practices.
4. See Credit Suisse et al, "Private equity and emerging markets agribusiness: Building value through sustainability," 13 May 2015, http://asria.org/publications/private-equity-and-emerging-markets-agribusiness-building-value-through-sustainability/.
5. For Illovo, see http://www.illovosugar.co.za/Group-Governance/Group-Guidelines-on-Land-and-Land-Rights. For Nestlé, see Chris Arsenault, Large food firms back voluntary plan to stop land grabbing," Reuters, 17 August 2015, http://mobile.reuters.com/article/idUSL5N10S2Z620150817.
6. Stefania Bracco, "Large-scale land acquisitions in Africa: Exploring players, roles and responsibilities," unpublished manuscript, 2015 (copy on file with GRAIN).
7. The Land Matrix is a database of largescale land acquisitions maintained by a group of mainly academic institutions: http://www.landmatrix.org/.

The number of signatories to the United Nations Principles for Responsible Investment (UN PRI) rules on farmland doubled between 2011 and 2014, and the UN PRI has now incorporated those rules into its general guidance for all investors.

one-third of the projects had no connection to social responsibility; while for another 20% of projects there was no information available about their SRI status. Similarly, a recent UNCTAD-World Bank study of large-scale agricultural investments looked at 39 established projects in Africa and Asia and found that less than one-third (30%) were affiliated with a certified SRI scheme.[8] This means that the majority of farmland deals either proclaim to adhere to standards of corporate social responsibility without being subject to scrutiny, or fall outside any SRI frame.

Some big international civil society groups in the meantime have taken another approach, trying to get global food manufacturers like Unilever, Coca Cola, Pepsi and Nestlé to adhere to certain standards and then giving them public recognition for it. This has been described by a high-level meeting of governments and corporations as a process where companies "coerce" their suppliers to conform to guidelines of responsible business conduct.[9]

While it is always good for corporations to clean up bad practices, internal industry surveys reveal that the primary motivation driving companies to adhere to standards on land investment is the risk to their reputations.[10] In other words, their goal is to avoid the

8. The World Bank, "The practice of responsible investment principles in larger-scale agricultural investments: Implications for corporate performance and impact on local communities," 2014, http://unctad.org/en/PublicationsLibrary/wb_unctad_2014_en.pdf

9. Dutch Embassy in Riyadh, "Roundtable on international Responsible Agricultural Investment: proposal for a trilateral approach", Report of a high-level meeting, 20 January 2015, Residence of the Netherlands Ambassador, Diplomatic Quarter, Riyadh, http://www.agroberichtenbuitenland.nl/golfstaten/wp-content/uploads/sites/26/2015/03/imgcq683tsm.pdf.

10. Bernd Schanzenbaecher and James Allen, "Responsible investments in agriculture, in practice: Results and conclusions from a case study review," EBG Capital AG, 2015, http://aldenimpact.com/wp-content/uploads/2015/03/RESPONSIBLE-INVESTMENTS-IN-AGRICULTURE-IN-PRACTICE.pdf.

Corporate actions to reduce "reputational risk" are rarely synonymous with communities keeping control of their lands.

land grab label. It is true that since 2008, public pressure has, in some cases, succeeded in getting companies to pull out of land deals and projects. Evidence from the ground, however, makes it clear that corporate actions to reduce "reputational risk" are rarely synonymous with communities keeping control of their lands.

Governments offer up more guidelines

Governments, mainly from industrialised countries, have also ramped up their efforts to facilitate responsible farmland investments. They do this primarily by trying to translate the Voluntary Guidelines (VGs) for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security, adopted by the Committee on World Food Security (CFS) in May 2012, into national legislation. The European Union (EU) is now pushing the VGs in Africa through at least two independent programmes affecting 21 countries.[11] In addition, the G8 New Alliance on Food Security and Nutrition–a set of funder-driven agribusiness projects in Africa, many of which involve large-scale land acquisitions–has adopted its own internal guidance for responsible land deals and encourages corporations participating in the New Alliance to put them into practice. Individual donor governments such as France, the UK and the US have also developed standards and guidelines that "their" corporations and development cooperation agencies are supposed to comply with (yet seldom do). Finally, the African Union has produced its own guiding principles on large-scale land investments in Africa through the Land Policy Initiative (LPI).[12]

Meanwhile, intergovernmental agencies and multi-sector groups are drawing up numerous new tools for farmland investors to use to prove their compliance with standards of good corporate behaviour (see box "Guidelines galore").

11. See AFSA and GRAIN, "Land and seed laws under attack: Who is pushing changes in Africa?" January 2015, pp 8-9, https://www.grain.org/e/5121.

12. UNECA, "Guiding Principles on Large Scale Land Based Investments in Africa," African Union, AfDB and UNECA, 2014, http://www.uneca.org/publications/guiding-principles-large-scale-land-based-investments-africa.

Guidelines galore

- Agence française du développement, together with the Comité Technique Foncier et Développement, has its own operational guide to due diligence (2014) for French investors
- CFS Principles for Responsible Investment in Agriculture and Food Systems (October 2014)
- CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (May 2012) + Operationalising the Voluntary Guidelines on the Responsible Governance of Tenure: a Technical Guide for Investors (September 2015)
- UK DFID is developing how-to guides on "Responsible Investment in Land and Property" and Landesa (connected to Bill Gates) is the group assigned to produce them.
- FAO/IFAD/UNCTAD/World Bank Principles for Responsible Agricultural Investment (2009)
- The G8 New Alliance has just adopted (June 2015) an Analytical Framework for Responsible Land-Based Agricultural Investments, which harmonises donors' operating principles and aligns them with the CFS Voluntary Guidelines and the LPI's Guiding Principles
- IFC Performance Standards and IFC Voluntary Agro-Commodity Standards: Good Practice Handbook, Roadmap to Sustainability (2013)
- Interlaken Group, a collaborative involving major transnational corporations, governments, UN agencies and NGOs has just released a Land and forest rights' guide on how investors can implement the VGs (2015)
- The Land Policy Initiative (African Union, African Development Bank and UN Economic Commission for Africa) Guiding Principles on Large Scale Land Based Investments in Africa (2014)
- The OECD, together with the FAO, due diligence guidance (2015)
- The Roundtable for Responsible Soy certification standards; the Roundtable for Sustainable Biofuels guidelines for land rights; the Roundtable for Sustainable Palm Oil Principles and Criteria for the Production of Sustainable Palm Oil; Bonsucro production standard for sugar; and a number of other standards for responsible cotton, coffee, cocoa, etc.
- UN Guiding Principles on Business and Human Rights
- UN PRI Principles for Responsible Investment in Farmland as of September 2014
- USAID Operational Guidelines for Responsible Land-Based Investment (March 2015)
- World Bank safeguards and standards, currently being revised (as of July 2015)

Civil society: making progress or losing out?

A number of civil society organisations and social movements have also been promoting responsible investment as a matter of strategy. For instance, many groups have been pushing for the implementation of the VGs at the national and regional levels. While acknowledging that the text is not perfect (it does not condemn land grabbing, for example) they see it as providing political support to communities' land rights. Some have been doing this through UN- or government-led initiatives, such as an FAO programme in Senegal, in which many national groups are participating, or the African Union's Land Policy Initiative, in which regional networks are engaging or considering engaging. In other cases, international networks such as FIAN, IPC and ActionAid are running their own programmes to promote and implement the tenure guidelines at country level. These efforts target not just Africa, but aim to get the VGs incorporated into national law everywhere including Europe, Latin America and Asia.

Thus far, Guatemala is the only country that has integrated the VGs into a national land policy framework.[13] The country has one of the most unequal landholding structures in the world, with 60% of its farmland devoted to large-scale plantations for export. The new Integrated Rural Development Law is supposed to address this historic injustice and strengthen the

13. "Integration of the Voluntary Guidelines into land policy in Guatemala", VGs Newsletter, FAO, November 2014, http://www.fao.org/nr/tenure/whats-new/november-2014-newsletter/en/. Ollantay Itzamná, "¿Desarrollo Rural Integral para qué y para quiénes?" Rebelión, 1 June 2015 http://www.rebelion.org/noticia.php?id=193983

As one of the Roundtable for Sustainable Palm Oil's longstanding NGO members admits, "industry non-compliance with the RSPO standards is ubiquitous."

rights of peasants and indigenous peoples to their lands. Yet it makes no mention of land redistribution and provides no tangible support to peasant production, upholding instead the existing market-based system which has only accelerated land concentration in the countryside.[14]

Some organisations–such as Friends of the Earth, Fern, Global Witness and ActionAid–have undertaken a different tack, working to get the EU to reform its financial legislation to include the screening of investments for land grabbing-related criteria. The idea is to ensure that financial institutions like banks and pension funds are required to engage in landgrab-free lending, spending and investing–and to back that up with sanctions. But the prospect of creating strong anti-land grab regulations of this sort is quite far-off. Given the current political context in which few European governments are interested in reigning in finance, many more years of heavy campaigning would be required before significant headway could be achieved.

Another CSO-supported endeavour over the last few years was the negotiation of a set of principles for responsible agricultural investment ("RAI") within the Committee on Food Security at the FAO.[15] The RAI principles were meant to go a step further than the Voluntary Guidelines on land tenure and establish agreed norms of behaviour for corporate investment in food and agriculture more broadly. Many civil society groups and networks supported and participated in the negotiation of these principles. For La Vía Campesina and others, the idea was to assert the importance of small food producers as investors, and clear the way for their needs and interests to take centre stage. Instead, however, this view got sidelined by other interests and the final text has been denounced by many CSOs who participated in the negotiations.

14. Ollantay Itzamná, op cit.

15. The principles for responsible agricultural investment developed at the CFS are sometimes identified by the lower case acronym "rai" to distinguish them from the principles for responsible investment developed by the World Bank, FAO, IFAD and UNCTAD ("RAI" or "PRAI").

An analysis by the Transnational Institute highlights some of the main problems with the CFS RAI: human rights are subordinated to trade rules; free, prior and informed consent of indigenous people is included, but subject to reservations; the principles envision a weak regulatory role for the state, leaving current power imbalances intact; farmers' rights are coupled with the interests of seed companies; and while civil society fought hard for the inclusion of agroecology, it appears only alongside references to the corporate-friendly term "sustainable intensification."[16] In the French Land and Development Technical Committee's scathing assessment, the CFS' RAI does little more than condone the World Bank's RAI.[17]

Okay, we need a campaign to tell the public that we put social responsibility ahead of profits so we can make more profits.

RAI gone wrong

In practice, "responsible" agricultural investment frameworks seem to be backfiring—or at least proving irrelevant.

Feronia

Take the case of Canadian company Feronia, which has 120,000 ha of concessions in the Democratic Republic of Congo for oil palm plantations and large-scale cereal farming. The company is 80% owned by the UK government's CDC Group together with development finance agencies of France, Spain and the US. Feronia and its shareholders all have policies and standards addressing environmental and social issues, working conditions and financial integrity. Moreover, Feronia has a "zero-tolerance" policy on corruption. The Spanish government shareholder is prohibited from investing in any activity that involves "unacceptable risk to contribute to or be complicit in human rights violations, corruption or negative social or environmental impacts," while CDC's participation requires that Feronia's operations not be the subject of any environmental, social or land claims. The African Agriculture Fund, through which French and Spanish state stakes in the project are channelled, has its own Code of Conduct for Land Acquisition and Use, but refuses to make it public. Beyond these internal rules, Feronia and its shareholders have also collectively committed to adhere to standards managed by the World Bank, the International Finance Corporation, the Organisation for Economic Cooperation and Development and the International Labour Organisation.

Yet Feronia is in serious breach of these standards. Its plantations were acquired without the consent of local communities and in murky circumstances involving multimillion-dollar payouts to a close aide of Congolese President Joseph Kabila. In testimonies to GRAIN and RIAO-RDC, local community leaders describe horrific working conditions that violate national labour laws. Villagers cannot use any of the lands within the concession areas for agriculture or livestock, even the abandoned areas, and they are beaten, whipped and arrested by company guards if they are caught with oil palm nuts gathered from the plantation area. So far, the only practice that Feronia has had to carry out as a condition for financing is to conduct a CDC-imposed Environmental and Social Assessment of its palm oil operations.[18]

The RSPO

Or consider the Roundtable for Sustainable Palm Oil (RSPO), set up in 2004 under the leadership of the World Wildlife Fund (WWF) and several of the world's largest food and plantation companies. For the

16. Sylvia Kay, "Political brief on the principles on responsible investment in agriculture and food systems," TNI, March 2015, https://www.tni.org/en/briefing/political-brief-principles-responsible-investment-agriculture-and-foodsystems.

17. Comité technique « Foncier & développement », "État des lieux des cadres normatifs et des directives volontaires concernant le foncier," octobre 2014, http://www.foncier-developpement.fr/wp-content/uploads/Etat-des-lieux-des-cadres-normatifs1.pdf.

18. For more information on Feronia, see GRAIN and RIAO, "Agro-colonialism in the Congo," June 2015, https://www.grain.org/e/5220.

IPOP: Land grabbing in disguise

Another key pillar of responsible farmland investing is "sustainability." The oil palm sector again provides a strong example of why this principle is so problematic in practice. In September of 2014, the four companies that control 80% of Indonesia's palm oil production signed the Indonesia Palm Oil Pledge (IPOP) with the backing of the US State Department.[1] The pledge is supposedly meant to help stop deforestation for the production of palm oil. But in return for staying out of primary forests, the companies receive a license from the Indonesian government to grab lands elsewhere—which typically means land being used by communities (so-called "degraded" land). To implement IPOP, the companies are calling on the government to "codify the elements of the pledge into law." Specifically, they want Indonesia's policy on land swaps to be amended so that companies can more easily "shift their operations from forested to degraded land."[2]

"We're serious about producing palm sustainably, but we need strong regulations that enable us to protect high-carbon stock forests and high-conservation areas," said Cargill Indonesia CEO Jean-Louis Guillot. The government, however, is crying foul, claiming that the companies are trying to dictate law. "The pledge already breaches the State Constitution. We lose our sovereignty because we are controlled [by the pledge]. Our authority is being taken over by the private sector," said the Environment and Forestry Ministry's San Afri Awang.[3]

For many, IPOP is land grabbing in disguise. In the name of responsible investing, the oil palm giants gain access to even more lands and lock in that access through new legal instruments.

For many, IPOP is land grabbing in disguise. In the name of responsible investing, the oil palm giants gain access to even more lands and lock in that access through new legal instruments. (Photo: Tatan Syuflana/AP)

1. The four companies are Golden Agri Resources, Wilmar, Asian Agri and Cargill. See "Palm giants ask Indonesian gov't to clear path toward sustainability," Eco-Business, 4 May 2015: http://www.eco-business.com/news/palm-giants-ask-indonesian-govt-to-clear-path-toward-sustainability/. They have since been joined by Musim Mas, the fifth largest oil palm producer in the country, and the Chamber of Commerce and Industry of Indonesia.
2. Eco-Business, op cit.
3. Hans Nicholas Jong, "Govt opposes zero-deforestation pledge by palm oil firms," The Jakarta Post, 29 August 2015, http://www.thejakartapost.com/news/2015/08/29/govt-opposes-zero-deforestation-pledge-palm-oil-firms.html.

companies, the RSPO was a means to protect the growth in consumption of a hugely profitable commodity from growing criticism about massive deforestation, land conflicts and labour exploitation. Some of the NGOs that initially signed up to the RSPO saw it as an opportunity to address the power imbalance between communities and workers on one hand and powerful companies and complicit governments on the other.

On paper, the RSPO has some strong language around free, prior and informed consent (FPIC). Most importantly, it has a grievance mechanism that communities and workers can use to defend themselves against companies that fail to meet the criteria. But as one of the RSPO's longstanding NGO members admits, "industry non-compliance with the RSPO standard is ubiquitous."[19]

In Liberia, for instance, RSPO member Golden Agri-Resources, one of the largest oil palm plantation companies in the world, signed a 225,000 ha land deal with the Liberian government. The Forest Peoples Programme, as part of an FAO project to put the Voluntary Guidelines into practice, conducted a review of the deal and found no trace of FPIC, despite Liberian land laws requiring it and Golden Agri-Resources' stated commitment to it. The affected communities took their complaints to the RSPO but to no avail. The company is "still manifestly failing to comply with many relevant RSPO, legal and other best practice standards," notes the Forest People's Programme. "Most worrying of all is the picture that emerges of companies whose current business model fundamentally undermines any prospect of their project's community engagement achieving FPIC compliance."[20]

In Malaysia, another RSPO member, Felda Global Ventures, was recently exposed for human rights and labour violations. Felda, which has amassed 700,000 ha of oil palm plantations in both Malaysia and Indonesia, is no small player. Its buyers include the US corporation Cargill, which provides oil to Procter & Gamble and Nestlé. A July 2015 investigation by the Wall Street Journal showed how workers are being trafficked into Felda's labour force, paid below minimum wage, poorly housed and abused.[21] "They buy and sell us like cattle," one of the Bangladeshi workers said, referring to the contractors who organise Felda's workforce, which is composed of 85% migrants.

Transparency is the number one principle of responsible investing for RSPO certification, as well as for most schemes promoting responsible investment, yet there are numerous examples of how transparency fails in practice. In Gabon, the Singaporean oil palm giant Olam put together a public-private partnership with the Ali Bongo regime to cultivate 50,000 ha in order to produce RSPO-certified palm oil. Already, 20,000 ha of forest have been cleared. According to local researcher Franck Ndjmbi, Olam was supposed to conduct a feasibility study before cutting the forest, but no such study was produced.[22]

Other examples

Reports from other experiences keep pouring in. In Nigeria, new on-the-ground research from Friends of the Earth shows how Wilmar, the world's top palm oil producer, is breaching its own responsible investment standards in Cross River State where it currently cultivates 30,000 ha and has plans for hundreds of thousands.[23] The abuses committed range from non-compliance with the company's obligations on FPIC to large-scale environmental destruction. In Laos PDR, Chinese investors who recently got a 10,000 ha land concession to produce rice in Champassak Province were expected to comply with the government's new "fair" investment model. This model requires that the farmers be joint stakeholders in the project through their labour or land contributions. In reality, colleagues report, the villagers received no share of the project's earnings nor was their consent sought before their lands were taken.[24]

19. "To make palm oil 'sustainable' local communities must be in charge," Forest Peoples Programme, 14 May 2015, http://www.theecologist.org/campaigning/2856781/to_make_palm_oil_sustainable_local_communities_must_be_in_charge.html.

20. "Hollow Promises: An FPIC assessment of Golden Veroleum and Golden Agri-Resource's palm oil project in Liberia," Forest Peoples Programme, 15 April 2015, http://www.forestpeoples.org/topics/agribusiness/publication/2015/hollow-promises-fpic-assessment-golden-veroleum-and-golden-agri.

21. Syed Zain Al-Mahmood, "Palm-oil migrant workers tell of abuses on Malaysian plantations," Wall Street Journal, 26 July 2015, http://www.wsj.com/articles/palm-oil-migrant-workers-tell-of-abuses-on-malaysian-plantations-1437933321.

22. VOA Afrique, "Le Gabon veut devenir le premier producteur africain d'huile de palme," 17 August 2015, http://www.voaafrique.com/content/le-gabon-veut-devenir-le-premier-producteur-africain-d-huile-de-palme/2920679.html

23. "Exploitation and empty promises: Wilmar's Nigerian land-grab," Friends of the Earth, June 2015, http://www.foe.org/news/news-releases/2015-07-worlds-largest-palm-oil-trader-comes-under-scrutiny.

24. Darren Daley of GAPE based in Champassak, communication with GRAIN.

Road to nowhere?

In 2014, PepsiCo—one of the world's leading industrial food manufacturers—agreed to implement a series of conditions put forward by Oxfam in its "Behind the Brands" campaign in order for its products to be labelled "land grab-free." The company began implementing the conditions and then produced an audit report to demonstrate how it was faring in its sugar supply chain in Brazil. Oxfam America found the company's way of accounting for its performance lacking in several regards and is now urging PepsiCo to improve.[1] While Oxfam's campaign was certainly well intentioned, this example illustrates what regulating land deals can lead to: international NGOs auditing the audits of multinational corporations that are trying to meet the criteria of the NGOs. Will this really stop the problem of land grabbing on the ground? Is this where we should be putting our energy?

1. Oxfam America, "PepsiCo publishes audit on land rights in Brazil," 8 July 2015, http://politicsofpoverty.oxfamamerica.org/2015/07/pepsico-publishes-audit-on-land-rights-in-brazil/.

In other cases, outright conflicts over the implementation of investment standards have broken out. In Tanzania, for instance, communities and civil society organisations have raised serious complaints about Eco-Energy, a Swedish-led joint venture to produce biofuels. The project is supported by the African Development Bank, the International Fund for Agricultural Development and the Swedish International Development Authority. It involves the production of sugar cane on 20,000 hectares. Almost 1,300 people displaced by the project claim that the company has violated Performance Standard no. 5 of the International Finance Corporation on involuntary resettlement.[25] But the company rejects their claims, calling them "invaders".[26]

Even in the United States, new reports detail how subcontractors for the Hancock Agricultural Investment Group—one of the country's biggest farmland investment brokers, owned by Canada's largest insurance company, ManuLife—systematically violated domestic labour and safety laws.[27] News of this only emerged because of legal action taken by the workers, something that few farmworkers are able to do. The case shows how the very structure of corporate land deals—in which, for example, an investor places money in a fund that pays a manager who pays a contractor who pays a subcontractor who engages in illicit activity—allows the system to evade responsibility. It also raises serious questions about how the Canadian and US governments can push responsible standards abroad when they are not able to enforce them at home. Indeed, the US food industry—like its counterparts from Australia to Great Britain—is rife with evidence of human trafficking, slavery and other deplorable conditions.

25. See the campaign launched by ActionAid in March 2015: http://www.actionaid.org/publications/take-action-stop-ecoenergys-land-grab.

26. EcoEnergy, 31 Mar 2015, http://www.ecoenergy.co.tz/fileadmin/user_upload/AA_Report_Response.pdf.

27. See Oakland Institute, "Down on the farm," 2014, http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Down_on_the_Farm.pdf.

Where to draw the line

The bottom line is that the push for so-called responsible investment in agriculture is not stopping land grabbing. In our view, the reasons for this are structural and stubborn. They include:

- The voluntary nature of all these rules and guidelines fails to create legitimacy, and therefore cannot lead to change. Who decides what "responsible" is? What guarantees are there that investors will comply?
- Companies know that they cannot be held to higher standards than national laws. If a country's laws do not recognise community land rights or other rights as "legitimate," they cannot be made to uphold them.
- There is a political choice to be made between promoting agribusiness and promoting community-led farming and food systems. Those who argue that they are compatible or that they must be made compatible are the elites. For the communities who have to give up their lands and livelihoods to make way for large-scale agribusiness projects, compatibility is a myth.

Which brings us to the question: what *does* work? What has succeeded in or contributed to stopping land grabs in the last few years? Where should civil society focus its efforts?

We see that two things have helped the most. First, there is no doubt about it: political pressure works. What companies call "hype"–media work, public scrutiny, campaigns, mobilisations, inquiries, resistance and direct action–actually does drive investors out and away. We have seen this with Gulf State investors and European companies operating in Africa. We have seen projects stopped or scaled back in Cameroon, Tanzania and Madagascar. Communities relentlessly demanding their lands back have also had some success in Sierra Leone (Addax), Cameroon (Herakles), Tanzania (Serengeti) and elsewhere. Of course, this is not overnight work. But it is essential–and in desperate need of serious support.

Second, exposing land grabs for what they really are–violent and devastating, and in many cases unlawful–can work too. Land deals have flopped or been terminated due to corruption, disrespect for human rights, tax evasion and the like. Legal inquiries in Colombia revealed a massive level of fraud being committed by Cargill in its land acquisitions there, leading to legislative change thanks to a bold and progressive political bloc in the congress. Mounting evidence about wrongdoings committed by Indian investor Karuturi in Africa have brought the company under scrutiny and into the courts; Karuturi is now struggling to stay afloat.[28] In Senegal, investigative work by civil society revealed the shady origin and structure of the Senhuile-Senethanol project, which led to its director being fired and jailed, although the project persists.[29] Important work by Global Witness to expose the role of Vietnamese "rubber barons"–and their supporters at Deutsche Bank and the World Bank–grabbing land in Cambodia and Laos for rubber production with impunity have started triggering changes.[30] The point is that shedding light on the criminality that often underpins land deals might be a more useful approach than making the investments more responsible.

What we are witnessing on the ground with most of these so-called responsible investment schemes is nothing more than a public relations exercise.

Of course, there is a need for diverse strategies and tactics. But for civil society groups, it is politically important to draw the line instead of trying to make land investments nicer, tamer, more inclusive, more sustainable and less abusive. Land grabbing, even under the best practices, is not compatible with food sovereignty, human rights and community well-being. It must be exposed for what it is and urgently stopped.

28. See the "Karuturi" section of farmlandgrab.org: http://farmlandgrab.org/cat/show/348

29. Collectif du Ndiaël and Re:Common, "Senegal land grab on the verge of implosion", 24 July 2015, http://farmlandgrab.org/25156

30. Global Witness, "Rubber barons" campaign page, https://www.globalwitness.org/campaigns/land-deals/rubberbarons/

GRAIN is a small international non-profit organisation that works to support small farmers and social movements in their struggles for community-controlled and biodiversity-based food systems. *Against the grain* is a series of short opinion pieces on recent trends and developments in the issues that GRAIN works on. Each one focuses on a specific and timely topic.

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