

Large-Scale Land Acquisitions, Information and Institutions

Lessons Learned after a Decade of Land and Natural Resources Grabbing and Possible Ways Forward

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In October 2008, the NGO GRAIN published the Report “SEIZED! The 2008 land grab for food and financial security”¹. This moment can be referred as the birthday of the recent but fast-growing literature on land grabbing or – with a more politically correct expression – Large Scale Land Acquisitions (LSLAs). After almost a decade of research and interventions, we feel it is time to take stock of the lessons learnt so far and draw some recommendations for the future. On the one hand, the crucial question raised by Cotula and his colleagues in their seminal contribution [1] remains still open: *is it just land grabbing or is it a development*

opportunity? Alongside with this one, other crucial questions remain unsolved, so that the overall impact of this phenomenon is still under debate and scrutiny. However, on the other hand, LSLAs have been dissected from a variety of angles during the last decade. The quality and amount of available information increased, and the existing literature highlighted some clear features and regularities in the maze of elements related to LSLAs.

The Land Matrix², which contains records for more than 1700 transnational land deals over 200 hectares (ha) since the year 2000, can give an idea of the size of the phenomenon. Overall, the database on transna-

tional land deals covers a surface of 76.5 million ha – an area that is roughly comparable to the surface of the whole Turkey. When looking at the negotiation status³ in the Land Matrix, almost 50 million ha of land globally passed onto the hands of international investors, some 20 million are still under negotiation, while around 7.5 million ha are part of land deals that eventually failed or were cancelled. The data shows that the LSLAs is a global phenomenon, with more than 130 countries involved either as investor or destination country, or both. Sub-Saharan Africa is the main end for transnational land deals, and yet the most targeted countries are often found elsewhere

and include Indonesia, Ukraine, Russia, Papua New Guinea and Brazil. Despite a concentration of the deals in the agriculture and forestry sector, the intention of the investment is often multiple and can vary across a wide spectrum of motivations, ranging from agricultural investments to tourism, from renewable energy production to mining concessions, from industrial development to natural resources conservation. It does not surprise then, that – depending on the specific purpose of the investment – land is often targeted together with other natural resources, such as forestry, metals or water [2], thus making the land grabbing only one of the many aspects of a more global competition

over the control of natural resources. LSLAs are not happening in *Terra Nullius*. Indeed, according to the latest analytical report by the Land Matrix [3], transnational land deals concentrate often in regions with a relatively high population density and where the former land use was already cropland. This piece of evidence, together with other regularities emerging from the existing literature, might help in explaining the dark side of land grabbing – that is, the surge in land conflicts, disposessions and forced evictions often experienced by local communities when their land becomes the object of negotiation. Among these regularities, the weak institutional environment of desti-

nation country deserves a mention. In order to investigate more in depth this aspect, we built a cross section of 94 target countries and we plotted the overall area given to international investors⁴ against the set of *World Governance Indicators*⁵ by the World Bank, as well as against indicators from the *Institutional Profile Database*⁶ measuring the perceived security of property rights and land tenure. In line with the existing literature [4], we found that the countries that are putting more hectares in the hands of international investors tend to be associated with weaker institutions and lower levels of tenure and property rights security (*Figure 1*). Another recurrent element in the LSLAs narrative is the lack of trans-



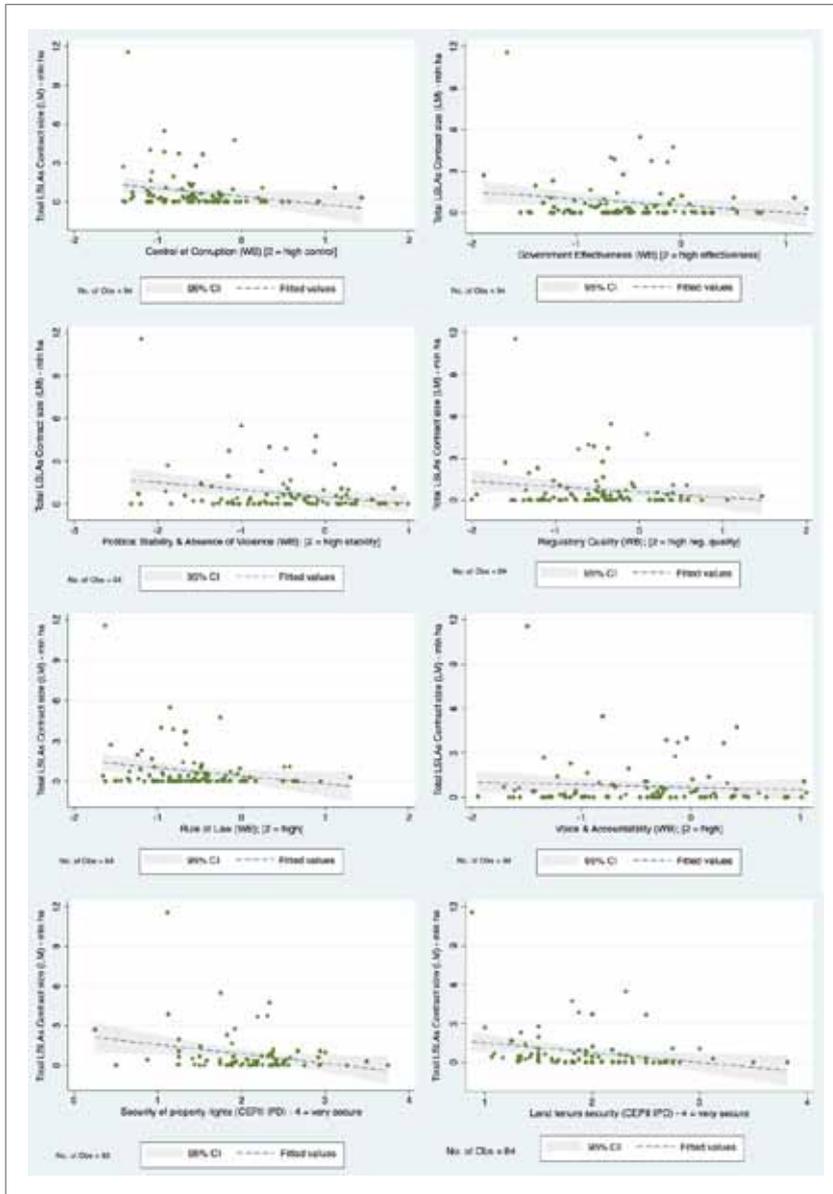


Fig. 1 Total LSLAs contracted size and institutional variables in target countries
 Source: Authors' elaboration

parency that surrounds transnational land deals, from the negotiation phase to the registration of concluded contracts. Indeed, the negotiation process often takes place behind closed doors and with limited evidence of the application of the *Free, Prior and Informed Consent*

(FPIC) principle⁷ to local landowners, especially in presence of informal, customary and collective tenure regimes⁸. If we look at the ten most targeted countries according to the Land Matrix – namely, the Democratic Republic of Congo, Papua New Guinea, Indonesia, Brazil, South Su-

dan, Mozambique, Ukraine, Congo, Russia and Argentina – the associated value of the Land Ownership component of the *Global Open Data Index*⁹ (GODI) – which measures the level of openness, completeness and accessibility of land ownership records – is often very close to zero, when the information is not missing at all. Among these countries, Russia and Ukraine have the highest GODI value for Land Ownership respectively with a score of 45% and 30% – values that are still very far from denoting open, up-to-date and accessible cadastral registries.

With weak institutions, poor definition (and enforcement) of tenure rights, and limited access to relevant information, local communities – when involved in the negotiations – tend to be cornered into a marginal bargaining position, often mirroring their general socio-economic status at the national and local level. If this is the case, then the communities affected by LSLAs are left aside of the negotiation process, with little chances that their voice can be heard, and with limited ability to influence the investment and the other parties involved.

In the first part of this note we have highlighted how the grabbing problem is intertwined with the overall question of the decreasing governance capacity. The weak institutional set-up, both at governmental as well non-governmental level, coupled with high (increasing) asymmetries of power and information have created a mix where rent seekers can easily insert themselves into local economies and landscapes and access to increasing amount of natural resources without any fair regulation or redress mechanisms. These phenomena are not necessarily new but have certainly gained

in exposure as a result of the food prices crisis beginning of 2000s. For sure, better organized and informed organizations have also facilitated a wide exposure of these grabbing into the international media. Altogether this has also resulted in the International community driving more resources – both economic and intellectual – towards addressing these problems.

Although their roots are not necessarily linked to the grabbing question, both the FAO *Voluntary Guidelines on the Responsible Governance of Tenure of Land*¹⁰ – hereinafter simply VGGT – and the CFS¹¹ endorsed *Principles for Responsible Investment in Agriculture*¹² – hereinafter simply RAI – have appeared in the debate when the grabbing problem was becoming increasingly evident. Framing the discussion has been the first concern of the international community, and in this respect, the seminal work of Cotula *et Al.* we cited in the opening of this article, should be recalled as one of the very first attempts to describe the issue.

Efforts are underway, particularly through the VGGT and less by the RAI, to do “something” at national level to avoid more unscrupulous processes and to stimulate increased participation of local players particularly through the mechanism of FPIC. However, the adoption of such mechanism is still limited so far, perhaps because some critical problems are not really discussed or dealt by the same international community: the first refers to the accessibility and transparency of information related to the overall land question, which relates to policies, legislation and institutions at the national and sub-national level, and tackles information asymmetries between the different players involved. The second refers

to the – much needed – more proactive role that some international honest brokers like the UN agencies, can and should play to promote a sound enforcement of a rights-based approach to natural resources governance, especially considering that transnational land deals are often occurring in a legal vacuum when it comes to international law.

The good news here is that attempts to address the land information gap have been carried on in recent years, for instance by the already mentioned Land Matrix initiative, which focuses specifically on LSLAs, or by the Land Portal Foundation¹³, which brings together information on land governance from a variety of sources into a free-access open data platform. The problem to be addressed is quite simple and obvious: the more the information on the different aspects of the land question are available at the same level for all concerned players, the easier will be for the weaker actors – such as local communities and Indigenous Populations – to pretend to play in the same category as the well prepared “investors”. However, facilitating access and transparency (and quality, of course) of land related information is clearly not enough when dealing with the political economy of the grabbing. Power control by local or international elites not interested to lose or share any parcel of their power if not forced by superior and major constraints, does represent the main bottleneck to be tackled. Therefore, beyond the promotion of internationally (non-binding) instruments like the VGGT, more efforts are needed in order to use the moral suasion capacities of the UN agencies to find ways to (at least partially) compensate this huge gap. Intuitively, socio-economic and

political stability are important elements of interest – whatever the specific sector and the target country is – for the investor who is willing to invest a large amount of capital in order to acquire land. This is why it might be expected that national and international investors should be genuinely willing to take part in local initiatives promoting a more stable environment to carry out business. The same can probably be said – at least at the theoretical level – for the governments of those countries where grabbing is taking place. However, it is well known that from theory to practice there is a huge distance. This is where a role can be found for those international honest brokers we mentioned earlier (such as, but not necessarily limited to, United Nations agencies). The objective of such an intervention should be to promote more equitable power sharing and facilitate the engagement of concerned stakeholders through a dialogued and negotiated approach that should lead to some sort of agreement (or, alternatively, to a legally binding rejection of the deal), with rules and responsibilities clearly defined for all parties. To smoothly promote such an approach, the baseline is represented, in many countries, by the recognition of historical customary and indigenous (and sometimes collective) territorial rights, irrespective of their formalization into national laws. The respect of rights that are inscribed into history do represent, for the concerned parties, the credibility to engage into any subsequent process of investment negotiation.

The difficulties of such a process refers to the fact that by opening the negotiation table to local stakeholders and their vision, rights and interests, this tripartite dialogue will

necessarily force a different division of power from the traditional direct negotiations between governments and investors. Much rhetoric has been promoted in the recent decades about “participatory” approaches. Time has come to recognize that this is not enough. Participation can be easily manipulated and does not protect against the risk of elite capture of the benefits within the local community itself. Therefore, new languages and approaches are to be put in place. The GreeNTD¹⁴ is a possible answer to that [5]. The principles of dialogue and negotiation have been promoted for several years in countries like Mozambique, where a new *Land Policy* and a new *Land Law* have been elaborated through a really inclusive process later ratified by National Assembly in 1995 and 1997 [6]. The concrete implementation of these acts is obviously subject to

continue back and forth by powerful national and international actors. However, several years of dedicated technical assistance have allowed for the strengthening of national capacities, within and outside government institutions, to defend themselves the spirit and the contents of those policies and law. This element of long term engagement is also important to highlight. A similar process has been promoted in Angola, since the year 1999¹⁵, and again, the capacities of local governance institutions at provincial level (at least in some of the provinces) are in place not just to confront or conflict but in order to promote sound recognition of land rights and then sound negotiations with investors.

Evidences from the field point to the critical importance of this rights recognition as pre-condition to engage into negotiation and agreements be-

tween communities, investors and State institutions. In these cases, a sound agreement for all parties can be found, signed and implemented. On the contrary, when customary rights are not respected and recognized, the risk of generating (new) conflicts becomes a serious one. Enhancing the capacities of these weak players for them to be able to sustain a fair negotiation is another delicate and long-term piece of the cake. Rebuilding institutions for sustainable rural development is an issue that has been discussed by the international community for more than two decades and there is still a long way before having better informed and better equipped national institutions capable not just to oppose to any sort of investors, but to govern those phenomena through an inclusive process where communities and their leaders should democratically be involved.

¹ The GRAIN Report can be accessed from <http://www.grain.org/article/entries/93-seized-the-2008-landgrab-for-food-and-financial-security> (Last access 23/Nov/2017)

² The Land Matrix database is freely available on line at <http://www.landmatrix.org/en/> (Last access 20/Nov/2017)

³ The Land Matrix reports each deal negotiation status based on three main categories, namely ‘concluded’ (Oral agreement or contract signed), ‘intended’ (expression of interest or under negotiation) and ‘failed’ (negotiation failed or contract cancelled)

⁴ Based on the negotiation status (see note 7), we aggregated the size of all ‘concluded’ deals by destination country

⁵ Data are available on-line at the World Bank’s data bank:

<http://databank.worldbank.org/data/reports.aspx?source=worldwide-governance-indicators>

(Last access: 3/Dec/2017). For more information about the WGI indicators please visit:

<http://info.worldbank.org/governance/wgi/#home> (Last access: 3/Dec/2017). Values in Figure 1 are calculated as the simple average of all non-missing data points in the 2000-2016 period

⁶ Information about the Institutional Profile Database are available at: <http://www.cepii.fr/institutions/en/ipd.asp> (Last access: 3/Dec/2017), where data can be freely downloaded after registration. Values in *Figure 1* are calculated as the simple average of all non-missing data points in the 2006-2016 period. The 2001 round of the IPD has not been used in this work, due to incomparability with the methodology of subsequent rounds

⁷ As defined in Articles 10, 11, 19, 28 and 29 of the *United Nations declaration on the Rights of Indigenous People* (UN Res. 61/295, 13 September 2007) and restated in Section 9 of the FAO-endorsed “*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*”

⁸ See [3], pp. 39-42

⁹ The *Global Open Data Index* tracks Governments’ progress on open data release in different domains, including *Land Ownership*. The data cited here, originally produced by Open Knowledge International in collaboration with Cadasta Foundation, were retrieved from the Land Portal website: <https://landportal.info/book/dataset/oki-godi> (Last access: 20/Nov/2017)

¹⁰ The VGGT are available at: <https://landportal.info/library/resources/faodocrep69cedff9-d20d-5aed-8de5-1524bc24949e/voluntary-guidelines-responsible> (Last accessed: 5/Dec/2017)

¹¹ CFS is the acronym for the U.N. Committee on Food Security

¹² The RAI are available at: <http://www.fao.org/cfs/home/activities/rai/en/> (Last access: 5/Dec/2017)

¹³ The Land Portal can be accessed at LandPortal.info (Last access: 5/Dec/2017). Most of the data we used in *Figure 1*, despite being collected, curated and originally produced by the different organizations acknowledged in this article, have been downloaded from the Land Portal

¹⁴ Greening the Negotiated Territorial Development (GreenNTD) is a methodological proposal elaborated by FAO. Examples of the application of such a negotiated approach can be found in the Democratic Republic of Congo, Abyei Box and Darfur. See for instance <http://www.fao.org/3/a-i6258f.pdf> and <http://www.fao.org/3/a-i7422e.pdf> (Last access: 9/Dec/2017)

¹⁵ For more information about the process promoted in Angola, see: <http://www.fao.org/docrep/007/y5639t/y5639toa.htm> and <http://www.fao.org/3/a-mk753e.pdf>

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