IFAD OCCASIONAL PAPER 2

Responding to 'land grabbing' and promoting responsible investment in agriculture

IFAD
Investing in rural people

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ISBN 978-92-9072-213-7
Printed January 2011
Reprinted April 2015

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December 2010

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The current controversy about large-scale land acquisitions by foreign investors has put land rights issues and responsible agricultural investment more visibly back on the global development agenda.[1] It has also raised questions regarding the world's future development trajectory. In both respects, it has opened up important international space for discussion on how to improve land administration systems and investment in agriculture, so that the land rights and livelihoods of smallholder farmers, pastoralists and other vulnerable groups are strengthened.

'Land grabbing', however, is an issue of concern that is broader than foreign land acquisitions. It is important to focus on the potential threats that foreign land acquisitions pose to the land rights and livelihoods of smallholder farmers, pastoralists, indigenous communities and other vulnerable groups. But it should neither divert attention from the role being played by domestic elites and weaknesses in national land administration systems, nor should it preclude the possibility that foreign investors could play a constructive role in supporting smallholder farmers.

This paper aims to contribute to the current debate by reflecting on the challenges being faced and some of the possible responses. In particular, it focuses on various proposed principles and guidelines for promoting good land governance and responsible investment in agriculture.

The nature and scale of the concern – there's no smoke without fire

In recent years, the global estimate of foreign interest in land acquisition has been between 15 to 20 million hectares,[2] although some observers believe the figure is much higher.[3] Most of the land is in Africa, Latin America and parts of Asia,[4] and is already owned de facto by rural communities under a range of diverse tenure systems – although often these rights are not registered. Frequently, national states consider underused land as being available for disposal to outside investors. But this perception is starting to change in many developing countries. It is increasingly recognized that, while some land may be underutilized, very little is not owned, vacant or unused.

1 While growing concerns have been expressed over the past five years or more regarding the increase in large-scale land acquisitions by foreigners, the NGO, GRAIN was the first to produce a comprehensive report in October 2008 on global land grabs. Since 2009, the International Land Coalition has maintained a blog page on media reports, research, presentations and other information on the growing demand for land. See http://www.landcoalition.org/cpl-blog/.

2 This estimate is based on an April 2009 International Food Policy Research Institute (IFPRI) Policy Brief. However, it does not give an actual figure, instead it gives estimates of the size of certain deals taken from media reports. Reference to a global figure appears to have been made in a press statement by the authors of the brief.

3 GRAIN believes that this figure is higher because many of the deals reported have not been implemented, making it difficult to give an accurate estimate.

4 According to various reports, the main countries targeted are: Africa: Angola, Benin, the Congo, Ethiopia, Liberia, Madagascar, Mali, Mozambique, Nigeria, The Sudan, the United Republic of Tanzania, Zambia; Latin America: Argentina, Brazil, Mexico, Paraguay, Peru; Asia: Cambodia, Indonesia, Kazakhstan, the Lao People's Democratic Republic, Pakistan, the Philippines, Ukraine.

Although research is being done,[5] and the picture is becoming clearer, there is still uncertainty as to the nature and scale of the demand for land, and the actual number of acquisitions or long-term leases realized.[6] It seems that many reported land deals have not materialized, and of those that have, only a small portion of the land acquired (sometimes less than 10 per cent) is actually being exploited.[7] However, some deals appear to have gone through with very little public attention.[8] Much of the current research focuses on acquisitions greater than 1,000 hectares or even 5,000 hectares, thereby ignoring a large number of ongoing smaller ones.[9] It also focuses on land acquired by foreigners, although there is increasing evidence that in some countries (e.g. Brazil, India, Indonesia) acquisitions by domestic investors contribute significantly to a process of land concentration and growing inequalities.

In general, there is insufficient information on the impacts that realized land deals have had on the livelihoods of rural communities in the affected countries – either negative or positive. Many agreements contain promises of financial investment, employment, technology transfers and income generation. But despite their possible positive benefits, evidence is scant as to whether these have been fulfilled. A challenge to assess these impacts, is that large-scale foreign deals are often part of a wider package of proposed bilateral development assistance. These could include, for example, investment in large-scale infrastructure, such as ports or hydro-electric schemes. Therefore, an assessment needs to consider the wider and longer term impacts on the countries concerned. Nevertheless, research suggests that some large-scale acquisitions have not met expectations and, instead, have had a negative impact. However, there is also evidence to suggest that some foreign investment in agriculture (smaller deals and not necessarily including land acquisition) is having a positive impact. Better documented research on impacts, both positive and negative, is needed.[10]

One area of debate has centred on the legitimacy of foreign land deals – are they illegal, dubious land grabs or legitimate acquisitions? Some critics consider all foreign acquisitions as illegal land grabs per se. Given that many large-scale land acquisitions occur in countries with weak land governance and high corruption, their legitimacy can be questioned. Even in countries where legal frameworks and land governance

5 Research papers are being produced at a prolific rate, unfortunately many draw on media or other research reports. A few of the more notable recent, or ongoing research studies, include: the International Institute for Environment and Development (IIED)/Food and Agriculture Organization of the United Nations/IFAD study in five countries in Africa (Cotula et al. [2009]); the World Bank's global study (Deininger and Byerlee [2010]); Deutsche Gesellschaft für Technische Zusammenarbeit's (GTZ) study of four countries in Africa and Asia (Görgen et al. [2009]); the FoodFirst Information and Action Network's study of two countries in Africa (FIAN International [2010]); the Organisation for Economic Co-operation and Development's global study (OECD [2010]); Oxfam International's research in six countries in Africa (Kachika [2010]); and the International Land Coalition's ongoing 35 cross-sectoral studies (forthcoming).

6 It appears that several reported deals have not materialized. For example, the 1.3 million hectare Daewoo Logistics deal in Madagascar; the 40,000 hectare Qatar deal in Kenya; the 10.0 million hectare deal with South African farmers in the Democratic Republic of the Congo; and the 400,000 hectare Jarch Capital deal in Southern Sudan. In 2009, the EuropAfrica CSO grouping consolidated reports by FIAN, GRAIN, the IFPRI and IIED, and updated the status of various deals reported by them. This provided a more comprehensive overview. It also highlighted the fact that many of the reported deals have not yet been signed. It would also appear that some of those that have been signed, have not been implemented. The authors note the difficulties of doing statistical analysis on the reports. It would seem that a regularly updated, comprehensive database on large-scale land acquisitions is still lacking. It would be a useful resource.

7 See Deininger and Byerlee (2010).

8 For example, the 500,000 hectare Varun deal in Madagascar was not mentioned in initial media or research reports.

9 For example, smaller parcels of land have been acquired for the cut flower industry south of Nairobi and in the Rift Valley in Kenya. This has had a significant impact on pastoralists' land rights.

10 See Andrianirina-Ratsialonana and Teyssier (2010), for a good example of such research.

institutions are stronger, certain deals may not have been done transparently. But, at least in some cases, it seems that due process may have been followed in negotiating the investment. Therefore, proper consultations appear to have been carried out with legitimate community leaders, and real efforts made to ensure that the deals benefitted the communities concerned.

An important aspect related to the above, is that 'land grabbing' does not only involve foreign deals. Indeed, illegitimate foreign land deals may only be a small part of the 'land grabbing' occurring in many countries. More significantly, in some countries, land grabs are carried out by national and local elites, competing land users (pastoralists, crop farmers), and land grabs within families (men from women and, where the incidence of HIV/AIDS is high, from widows and orphans).[11] Focusing only on large-scale land acquisitions by foreigners can divert attention from more serious 'land grabbing' in some societies. Therefore, the response to 'land grabbing' needs to look more broadly at strengthening transparent, accountable and accessible land administration institutions that protect the rights of vulnerable people against all land grabs.

Furthermore, the current wave of land acquisitions has to be placed in a historical context of land dispossession, ongoing competition for land by a range of stakeholders, and anticipated trends. While there is renewed concern about 'land grabbing', the trend is not new. Land dispossession of smallholder farmers, pastoralists, indigenous peoples and other rural communities, has been a continuous process over centuries of foreign and internal colonization, as well as post-independence 'land grabbing'. In analysing the recent increase in demand, some researchers focus on the last five years, others focus on the last 10 to 15 years, but it is important to look further back. However, looking to the future, the recent increase in competition for land is linked to a rapid increase in global population growth and associated shrinking of the planet's natural resource base. The world's population is expected to increase by almost 50 per cent in the next 30 years – from about 6.5 billion to 9.2 billion people. The demand for land, therefore, is unlikely to diminish in the future.

A range of stakeholders, from civil society, governments of both investing and recipient countries, and intergovernmental organizations, have expressed their concerns about the possible negative impact that increased demand and competition for land and water is having on the land rights and food security of rural people in developing countries. This has resulted in a range of land grabs at the expense of smallholder farmers, pastoralists and indigenous peoples. All land grabs need to be vigorously opposed, in particular, those that involve very large land acquisitions, and those that dispossess entire communities and peoples. Nevertheless, it is important to recognize that not all investments in agriculture by outsiders are illegitimate. Some have followed due process and can provide positive benefits for rural communities.

11 For example, the 2007/2008 upheavals in Kenya are widely attributed to the consequences of post-independence land acquisitions by the political elite, and reallocation on a patronage basis. Much of the subsequent constitutional and land policy debates have focused on addressing this legacy. Similarly, Zimbabwe's land redistribution programme has resulted in former white-owned farms being acquired by the political elite. In Uganda, one of the key land reform challenges remains the restoration of Mailo land allocated by the British to the Buganda traditional elite. In Rwanda, reconciling the legacy of colonially instigated ethnic divisions and subsequent loss of land, has been the main challenge for securing land rights of smallholder farmers.

Towards more responsible investment in agriculture

Rapid population growth, changing consumer patterns, climate change, a shrinking natural resource base, and continued extreme poverty and vulnerability in rural societies, especially in the developing world, require a major shift in the approach to development. There is a need for increased investment in agriculture in the developing world focusing on promoting and supporting smallholder farmers, pastoralists and artisanal fishers. The main assets that they have are land, labour and their creativity. Often what they need is secure land, water and other natural resource rights, capital investment, expertise, appropriate technology and access to markets.

The main investors in land and agriculture in developing countries are the approximately 500 million smallholder farming households. They support a third of the global population, and produce up to 80 per cent of the food consumed in the developing world. These farmers are typically among the poorest and most neglected in development support and investment terms, yet they play a key role in achieving poverty reduction and food security. Therefore, enabling poor rural people to be part of the solution for global food security must be a priority for governments, the international development community and any other investors.

Women play a critical role in agricultural production in developing countries, where they usually make up the majority of the agricultural workforce. Hence, their economic and social empowerment is essential.

Governments in developing countries have a responsibility to foster the development of smallholder farmers and pastoralists through comprehensive agricultural development programmes. However, they generally lack sufficient finances, or their policies and investments favour large-scale farmers. Globally, it is estimated that there is a shortfall of between US$14 billion to US$30 billion per annum of investment in agriculture by the international development community and governments in developing countries.[12] This is a critical shortfall for both food security and poverty alleviation. While every effort needs to be made to increase spending in agriculture by developing country governments, private-sector investment can also play a major role in meeting this shortfall.

There is often a negative perception regarding private-sector investors, especially among representative organizations of smallholder farmers and indigenous communities. This is not without reason. Some outside investors have not engaged sufficiently with communities in which they are investing, and many communities have seen little or no benefits from such investments. Many of the investments that are considered exploitative may not involve land acquisition, but illegal logging and fishing, or monopolistic control over agricultural inputs or markets. However, outside private investors come in all shapes and sizes. They may be either blatantly exploitative profiteers, innovative entrepreneurs or driven by a strong sense of social responsibility.

Socially responsible private-sector investors can play a significant role in providing much needed capital for appropriate technologies, and access to export and domestic markets. Often these investors are relatively small scale, and tend not to be considered as seriously by governments as large-scale investors. Also, government focus is often on investment that promotes export markets. While these markets can offer opportunities,

12 Fan and Rosegrant (2008); Cramon-Taubadel et al. (2009); FAO (2009b).

local and national markets are generally more important for poverty reduction, food security and economic growth.

One approach to increasing sustainable private-sector investment in agriculture, is to promote mutually beneficial partnerships between smallholder farmers and private-sector investors – preferably partnerships that do not require large-scale land acquisitions. Such partnerships can take the form of outgrower schemes, contract farming or joint share equity schemes, with outside investors focusing mainly on providing expertise and other support in agroprocessing or improved access to markets.[13] The success of such partnerships, and the real benefits to smallholder farmers and rural communities more generally, depends on the level of ownership, voice (governance), risk-sharing and benefit-sharing between partners.[14]

Some serious investors in agriculture are increasingly looking towards mutually beneficial and sustainable partnerships as it makes good business sense. And many smallholder farmers are prepared to negotiate if they are properly consulted, well informed of the implications and potential risks, and see a real benefit. Any land relinquished in such deals should be done preferably on a temporary basis (e.g. through a lease agreement), and should not be on the scale being seen at the moment.

Establishing mutually beneficial partnerships are possible, but they require sustained support by a range of service providers (government, civil society, private sector), and effort and time. Particular attention needs to be given to empowering smallholder farmers and rural communities to engage on equal terms with outside investors. There is also a need to monitor the implementation of agreements to ensure that the anticipated benefits are realized.

Actions for opposing 'land grabbing' and promoting more responsible investment in agriculture

Much is being done by various stakeholders to promote responsible investment in agriculture and to oppose 'land grabbing'. Governments have a key role to play in promoting responsible agricultural investment and in developing transparent, accountable and accessible land administration institutions that can recognize and defend the rights of rural communities – especially of the most vulnerable households. Social mobilization by community leaders and civil society organizations to oppose 'land grabbing', in general, and by outside investors in particular, is essential. Land grabs (not only those by foreigners) and their negative impacts need to be documented and disseminated by researchers and the media – as do good examples of sustainable and mutually beneficial partnerships between outside investors and rural communities. Civil society and private-sector service providers can play a major role in empowering rural communities and in strengthening good land governance. Socially responsible investors have a role to play in influencing both governments and other investors. One area of social mobilization that is often neglected, but could be highly effective in shaping investment, is mobilizing consumer sentiment in developed countries in support of socially responsible investment. Intergovernmental, multilateral and bilateral organizations have a part to play in supporting the above.

13 See, e.g. Hetterschijt (2009); Jadhav (2010); Kingman (2010); Makhathini (2010); Mwendya (2010); Romano and Liversage (2010); Sulle (2010); Tagoe (2010). See also the various websites on 'inclusive' business models referenced at the end of this paper.

14 Vermeulen and Cotula (2010); Cotula and Leonard, eds. (2010).

Among the actions that can be taken by intergovernmental organizations, is the development of guidelines or principles for good land governance and responsible investment in agriculture. There are several initiatives underway in this regard,[15] but two that have gained more attention recently are the processes for: (i) developing voluntary guidelines on responsible governance of tenure of land and other natural resources,[16] which is being facilitated by the Food and Agriculture Organization of the United Nations (FAO), with the support of a wide range of stakeholders, including IFAD; and (ii) developing principles for responsible agricultural investment, which is being facilitated by FAO, IFAD, the United Nations Conference on Trade and Development and the World Bank.[17]

The 'voluntary guidelines' are an outcome, in part, of the International Conference on Agrarian Reform and Rural Development held in Porto Alegre, Brazil in 2006. They aim to strengthen land governance by providing guidelines to governments, international development organizations and other concerned stakeholders. To some extent they build on and, hopefully, will reinforce the African land policy framework and guidelines initiative being led by the African Union, the United Nations Economic Commission for Africa and the African Development Bank, and endorsed by the Summit of the African Union Heads of State and Government held in Sirte, Libyan Arab Jamahiriya in June 2009.[18] The 'voluntary guidelines' process is relatively advanced, with various ongoing regional and special interest consultations being done. It is expected that the 'voluntary guidelines' will be endorsed by government representatives in 2011.

The 'principles for responsible agricultural investment' follows a more iterative process because it is a platform for dialogue and consultation, rather than a set of hard and fast 'rules' to be followed. A draft set of principles has been proposed as a "discussion note to contribute to an ongoing global dialogue" and consultations are ongoing.[19] The principles proposed are:

(i) existing rights to land and associated natural resources must be recognized and respected;

(ii) investments must not jeopardize food security but must rather strengthen it;

(iii) processes for accessing land and making associated investments must be transparent, monitored, and ensure accountability by all stakeholders, thereby improving the business, legal, and regulatory environment;

(iv) all those materially affected must be consulted, and agreements from consultations are recorded and enforced;

15 See, e.g. Towards Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources (FAO [2009a]); Framework and Guidelines for Land Policy in Africa (AU/AfDB/UNECA [2009]); Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (FAO/IFAD/UNCTAD/World Bank [2010]); IFPRI's proposed key elements for a code of conduct for foreign land acquisition; Basic Principles on the Purchase and Leasing of Large Areas of Land in Developing Countries (BMZ [2009]); Large-scale land acquisitions and leases: A set of core principles and measures to address the human rights challenge (De Schutter [2009]); and the "Santiago Principles" (IWG [2008]).

16 See FAO (2009a).

17 See FAO, IFAD, UNCTAD and World Bank (2010).

18 See AU, AfDB and UNECA (2009).

19 There has been some criticism regarding the Responsible Agricultural Investment (RAI) Principles. Initial criticism focused on the World Bank's involvement in the initiative rather than the substance of the proposed Principles – see La Via Campesina et al. (2010); Faryadi and Ramos (2010); and De Schutter (2010). However, recently critics have raised more substantive concerns that the Principles do not consider issues of landlessness. And should include specific references to the principles of "free, prior and informed consent" by affected communities in the consultation over deals, and to various covenants, protocols and international law. See FIAN et al. (2010).

(v) projects must be economically viable, respect the rule of law, reflect industry best practice and result in durable shared value;
(vi) investments must generate desirable social and distributional impacts, and must not increase vulnerability; and
(vii) environmental impacts must be quantified, and measures must be taken to encourage sustainable resource use while minimizing and mitigating negative impacts.

As with the 'voluntary guidelines', the 'principles' aim to give guidance and a framework for discussion for governments, and intergovernmental and civil society organizations. They could become a common reference framework, but there are no plans at this stage to submit them for formal approval by governments or other bodies.

Although different in nature, both initiatives have grappled with the purpose and nature of the outcomes they are trying to realize. Experience has shown that mandatory regulations, or other similar documents requiring obligatory compliance are more difficult to negotiate; take longer to agree; are sometimes diluted as a result; and are often more difficult to enforce. Hence, it is generally believed that 'voluntary guidelines' or 'principles' would be more appropriate, as they could be developed with greater multistakeholder engagement in a relatively short time, and with stronger statements. However, it is recognized that neither 'voluntary guidelines' nor 'principles' are enforceable in themselves, but they can mobilize support for good and against bad practices. They can also draw on or refer to existing mandatory treaties, laws and codes for enforcement.

In both processes, there is concern that focus should not only be on the issue of large-scale foreign land acquisition. Good land governance needs to protect the rights of rural communities, especially vulnerable people, against all 'land grabbing', as well as dealing with issues of corruption, transparency, accountability and affordability. And responsible investment in agriculture is preferably not only about large-scale foreign land acquisitions, but it is about promoting sustainable agriculture, reducing poverty and meeting the world's food needs – especially the food needs of the rural poor in developing countries.

Conclusions

'Land grabbing' is an issue of concern broader than foreign land acquisitions. A range of actions are therefore required to address the threats and challenges faced. Governments in developing countries have a key role to play in fostering the development of smallholder farmers, and in ensuring responsible investment in agriculture with the support of international development partners and civil society organizations. Private-sector investors – whether small or large, domestic or foreign – can play a positive role too. Social mobilization is essential, but so is responsible governance in land administration. Guidelines and principles alone will not address the challenges being faced. Engagement in the process of defining them, combined with social mobilization and some considered tactical alliances could, however, maximize the opportunity that the concern about 'land grabbing' has created for those involved in improving the well-being of smallholder farmers in developing countries.

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Websites on 'inclusive' business models

FAO Contract Farming Resource Centre:
http://www.fao.org/ag/ags/contract-farming/index-cf/en/

Hivos Knowledge Programme on Small Producer Agency:
http://www.hivos.net/Hivos-Knowledge-Programme/Themes/Small-Producer-Agency

Regoverning Market Resources:
http://www.regoverningmarkets.org/en/og/view/74/resourcebyterm

Royal Tropical Institute Value Chains for Development Portal:
http://portals.kit.nl/-/12505/KIT-Portals/Value-Chains-for-Development

Wageningen Expertise Centre for Chain and Network Studies:
http://www.wageningencns.wur.nl

WBCSD-SNV Inclusive Business Alliance:
http://www.inclusivebusiness.org/

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ISBN 978-92-9072-213-7