

Briefing

Land acquisitions and rights

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Policy pointers

Governments must address local people's rights to common land, including adhering to standards for free, prior and informed consent, whether approving commercial land investments or extending protected area systems.

Conservation projects and 'green' industries (including carbon offset markets and REDD initiatives) must ensure they are not party to 'green grabs' that dispossess local people.

Securing local collective land tenure can offer an effective landscape-scale conservation strategy. New global initiatives and instruments such as the FAO Voluntary Guidelines on the Responsible Governance of Tenure present opportunities for greater collaboration between conservation and land rights or social justice organisations.

The controversial issue of 'land grabbing' should catalyse better and stronger collaboration between environmental and development organisations, and a stronger strategic focus on community land rights by conservation groups and initiatives.

Land grabbing: is conservation part of the problem or the solution?

Large-scale land acquisitions are increasing in pace and scale, in particular across parts of Africa, Asia and Latin America. Weak governance and poor land use planning mean that commercial 'land grabs' often damage biodiversity as well as dispossessing people from customary rights and livelihoods. Land can also be 'grabbed' for 'green' purposes, triggering conflicts that undermine potential synergies. Expanded state protected areas, land for carbon offset markets and REDD, and for private conservation projects all potentially conflict with community rights. Such conflict is counterproductive because secure customary and communal land tenure helps enable sustainable natural resource management by local communities. This briefing presents the experience of international development, wildlife and human rights practitioners, shared at a symposium on land grabbing and conservation in March 2013.

Large-scale land acquisitions have increased in pace and scale due to changes in commodity markets, agricultural investment strategies, land prices, and other policy and market forces. So-called 'land grabbing' (see Box 1) has spread in countries with relatively weak governance and poor legal protection for customary land rights. The areas most affected are the global 'commons' — traditionally used collectively by local people — including much of the world's forests, wetlands and rangelands (Box 2). These landscapes support up to two billion mostly poor and rural people and hold a large proportion of the world's biodiversity.

In some cases land grabbing occurs with environmental objectives in sight — including setting aside land for biodiversity conservation. Therefore, conservation can drive land grabbing. Historically, expropriation of local communities' land and rights for state conservation areas has caused much conflict. Now, trends and patterns of commercial land acquisition present a major and growing threat to conservation objectives as

well. Yet often the best way to prevent large-scale conversion of forests or rangelands to alternative commercial land uses is by strengthening local communities' collective land rights — the time is ripe for greater collaboration between conservation and local community land rights interests (and their supporters).

In March 2013, stakeholders from conservation NGOs, development organisations and indigenous/community rights groups met to explore interactions between conservation, land acquisitions and community land rights at a meeting organised by IIED's Poverty and Conservation Learning Group, in collaboration with the International Land Coalition, Zoological Society of London and Maliasili Initiatives.¹ It particularly examined opportunities for greater convergence and synergy between stakeholders' interests.

How land grabbing affects people

Acquiring rural land in the developing world is nothing new. The difference is the increasing

Secure local land rights offer a foundation for managing natural resource use

frequency and scale of acquisitions since the mid-2000s, driven by growing global demands and prices in agricultural and mineral commodities.² Information on scale and coverage of land acquisitions is patchy and unreliable but

some countries have seen rapid changes.

Allocated land is often considered empty or vacant because it lacks permanent settlements

or signs of agriculture. But much is in fact used by local communities for livestock grazing, seasonal or shifting cultivation, subsistence hunting and for harvesting forest products. Much of these rangeland and forest areas are also rich in biodiversity, being relatively undisturbed and often benefiting from long-standing local natural resource management.

Land tenure in such areas is often unregistered, customary and communal. Many states neither recognise nor provide opportunities to register such tenure. This deprives communities of legal rights to the lands and resources their livelihoods

depend on, leaving residents unable to resist external claims, be they commercial, state or from powerful private interests.

How land grabbing affects conservation

The global land rush is challenging many biodiversity conservation efforts. Examples from Uganda, Indonesia, the Democratic Republic of Congo, Liberia, Cambodia and Laos all highlight areas of high biodiversity lost to commercial agriculture (sugar, palm oil and rubber among other crops) and to mineral extraction. Many of these losses are from within existing state-protected areas.⁴ In Liberia, for example, four large oil palm companies have concessions covering 622,000 hectares, much of it formerly forest land. The relocation of residents is intensifying forest use outside of the concession areas, creating further problems.⁵ In western Ethiopia, the government's land allocations to external agribusiness investors in and around Gambella National Park threatens local pastoralist communities' livelihoods, but also the antelope migration between Ethiopia and South Sudan (one of the largest remaining wildlife migrations).^{6,7} These are not isolated examples — conversion to commercial uses is a key pressure driving governments around the world to degazette or downsize protected areas.⁸

Rights and conservation are inter-related

The effects on people and nature are interlinked. For example, weaknesses in local communities' or indigenous peoples' land and territorial rights are increasingly recognised as a threat to forest conservation, with major implications for global climate change and biodiversity protection. In Indonesia, for example, recognition of local communities' rights is largely absent, and forest clearances for industrial palm oil plantations often violate local peoples' customary land (but see Box 3). By contrast, in the Amazon Basin, roughly 20 per cent of the total land area (several hundred million hectares) is now legally recognised as belonging to various indigenous groups and other rural communities. These areas are often well protected from clearing and fire, and have helped stem deforestation rates.

Green grabbing?

Land acquired for 'green' purposes such as for protected areas, forest concessions, biofuel plantations or carbon offsets can also become a land 'grab' if it meets the description in Box 1.⁹ The Convention for Biological Diversity's (CBD's) recently adopted Aichi Targets, part of the convention's strategic plan,¹⁰ call for the global

Box 1. 'Land grabbing' — a definition³

The International Land Coalition's Tirana Declaration defines 'land grabbing' as acquisitions or concessions that are one or more of the following:

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

Box 2. Land grabs and rangelands

Rangelands deserve special attention in land grabbing discussions. They are inherently vulnerable, frequently important for biodiversity (for example in East Africa), and are prone to violent competition over increasingly scarce natural resources such as pasture and water. Conservation agencies (government and NGO) often attempt to protect rangelands with measures that restrict local use, management or tenure rights, driving major conflicts between pastoralists and conservation agendas. Commercial agricultural and biofuels investors desire rangelands, seeing them as under-populated and under-used. And as governments often fail to recognise pastoral systems' economic productivity they allocate rangelands to alternative commercial uses, creating further conflict. For example, many land-based investments annex water rights as well as land — often along watercourses that are crucial to herders. Displacing these people generates social and environmental problems elsewhere, including damaging pressure on natural resources, and reliance on food and development aid.

land area under protection to increase to 17 per cent (from its current level of 12.5 per cent). Some fear this will encourage a new expansionist surge in state protected areas, alienating local communities' land and resource rights.

For example, in Tanzania the government is attempting to create an exclusive 'wildlife corridor' along the eastern boundary of Serengeti National Park that would effectively alienate 150,000 hectares of Maasai communities' grazing land and homesteads, in practice undermining livelihoods for up to 20,000 people and creating a massive conflict between local communities, state conservation goals and investment interests linked to wildlife. The root of the conflict is not 'conservation' per se, as the local communities have a strong track record of co-existing with large wildlife populations. Rather, the conflict centres on how wildlife is used, and who benefits: the state (or at least certain national elites) or local pastoralist communities.¹¹ Another example that some consider to be 'green grabbing' includes a growing trend, supported by conservation NGOs and philanthropists, of land acquisition for biodiversity conservation in countries such as Chile (see Box 4).

Conservation through communal land rights

Land rights and conservation clearly have a complex and evolving relationship, and land rights issues are beginning to feature strongly in debates around conservation, REDD and climate change.

Secure local land rights offer a foundation for managing natural resource use sustainably — supporting long-term conservation outcomes as well as local resilience and livelihoods — and many conservation efforts around the world are working to secure tenure.

Such efforts can reduce the risk of land grabs and develop new opportunities for conservation. Secure tenure can also help states meet their CBD targets in ways that support, rather than threaten, local livelihoods. For example, Namibia has made outstanding progress against CBD targets, reporting nearly 40 per cent of its total land area under protection.¹² It has devolved wildlife user rights to local communities that form locally owned and managed communal conservancies, now covering roughly 17 per cent of Namibia's total land area (about the same area as state-protected areas). These conservancies, are internationally recognised as leading models of community-based conservation.¹³

Nevertheless, investing in community land rights alone will usually not be sufficient to ensure conservation outcomes. Additional work is needed to clarify and address management

Box 3. Supporting community land rights as a conservation strategy in Indonesia¹⁴

Forest tenure and management rights in Indonesia are complex. Most forest is classified as state property (although a recent court decision calls for large-scale recognition of customary rights in forested lands¹⁵). The government awards area and management rights, and forest management has long favoured government and private sector interests, with a strong emphasis on commercial plantation and logging concessions. But recent years have seen increasing interest in local communities managing state forests, and in developing legal frameworks to facilitate this. For example, Hutan Desa (Village Forest) designation can give a village rights to manage state forest within its administrative boundary for 35 years, with a focus on protection and sustainable use.

By 2011, Fauna & Flora International, district government and the Poros Masyarakat Kehutanan Merangin (Merangin Forest Peoples Group — a local NGO) had helped 17 villages in Merangin District, Jambi Province, secure Hutan Desa rights to 44,100 hectares. Substantial community facilitation and capacity building has proved essential, however the potential rewards are great. If effective, sustainable and scaleable, the Hutan Desa community-based forest management model will be a genuine alternative to the prevailing concession-based approach that drives forest conversion, species and habitat loss, and land conflicts.

Box 4. Private protected areas in Chile¹⁶

Conservationists often see ownership, or long-term leases, as a sure way to achieve conservation objectives. Over the past ten years, land purchases for conservation objectives — known as Private Protected Areas (PPAs) — have emerged across Chile, now totalling around 1.6 million hectares and covering around 2 per cent of the country. Chile now has around 21 per cent of its total land area under private or state-managed conservation. One of the largest (and most controversial) individual land purchases is Doug Tompkins' 275,000 hectare PPA in the north of Chile (Tompkins also owns US-based recreational company North Face).

While not fitting the Tirana Declaration definition of land grabs, the project was still controversial. The property stretched from the Argentine border to the Pacific, effectively cutting Chile in two, and was seen as a threat to national sovereignty. Conservation philanthropy was relatively new to Chile, and so Tompkins' motives were misunderstood and questioned. The controversy was such that the Chilean government forced Tompkins to sign a temporary accord in 1997, stopping him buying land and imposing other restrictions.

arrangements and responsibilities, capacity, economic incentives for conservation, and governance arrangements.

Challenges and opportunities

Conservation organisations often see the complexity of land rights and use debates, and their variability from country to country, as a barrier. Land conflicts are often deeply rooted in governance failures — often both unfamiliar and uncomfortable territory for international conservation organisations, particularly those working closely with state agencies. And 'land grabbing' is essentially about rights — not a traditional concern for many conservation

organisations. Few have the capacity to undertake this kind of work alone.

But new partnerships with human rights based NGOs and with development organisations, both local and international could offer a route to achieving shared goals. For example:

- The Africa Biodiversity Collaborative Group (ABCG) is a partnership of six international NGOs working in biodiversity conservation across Africa. The network promotes dialogue and exchange between member institutions, and has large-scale land acquisitions as a priority topic.
- The Conservation Initiative on Human Rights is a consortium of international conservation organisations established to strengthen practice for integrating human rights within global conservation practice. A focus on land rights could be a natural issue for this group.
- Commodity and private sector roundtables and 'safeguard' mechanisms are increasingly important for getting land-based agricultural investments, including forestry and palm oil, to develop and adopt social and environmental standards. Standards can create commodity investments that are less harmful, and even beneficial, for both biodiversity and community land rights.
- Social and environmental safeguard mechanisms are attracting growing attention on issues related to REDD+, forest trade and law enforcement. REDD+ is increasingly making the link between reducing deforestation and securing land and natural resource tenure at state, provincial and national levels.
- The FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security¹⁷ may provide new

opportunities for national and local actors to lobby governments to strengthen land rights and be more transparent about large-scale land deals. Although the guidelines are non-binding, they have undergone widespread consultation and review by both state, and non-state actors. Conservation organisations have had little involvement to date, but could use the guidelines as a new 'hook' that opens political space to talk about law reform.

- Indigenous Peoples' and Community Conserved Territories and Areas (ICCAs) have been widely documented and promoted as a way to integrate local communities' and indigenous peoples' territorial rights with formal conservation aims. ICCAs are increasingly promoted by IUCN and within the CBD processes, and in 2013 UNEP-WCMC issued a toolkit to support conservation by indigenous peoples and local communities.¹⁸

Land grabbing and land rights could (and should) catalyse stronger collaboration between environment and development organisations. Conservation organisations could offer a focused response to the global land rush by placing strategic emphasis on community land rights as a major cross-cutting issue for conservation. Supporting greater local-level efforts to document, strengthen and secure such rights is a foundation for sustainable landscape-scale natural resource use and management.

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The International Land Coalition is a global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

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Notes

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