



LARGE- SCALE LAND DEALS IN SUB- SAHARAN AFRICA:

The Importance of
Feminist
Engagement





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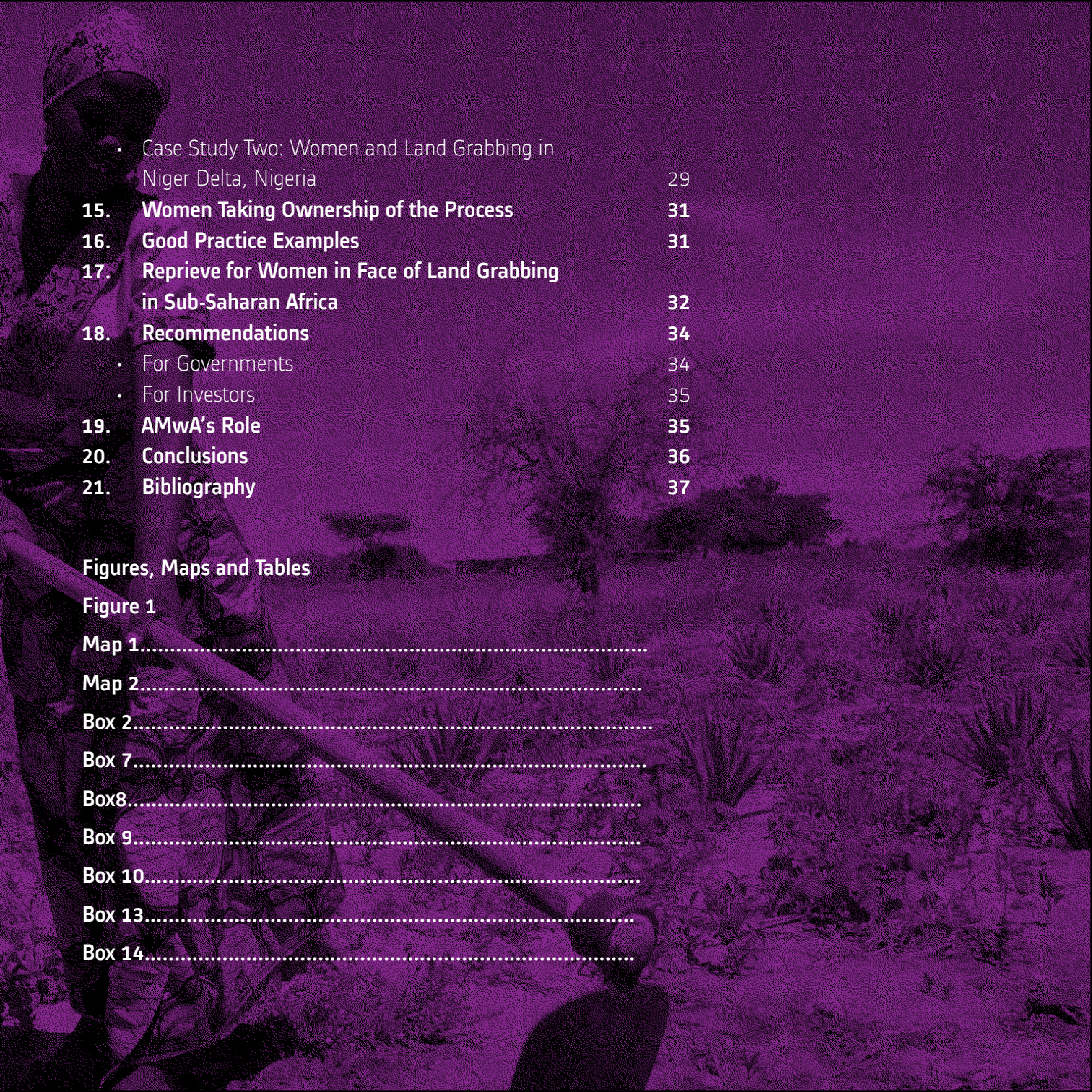
The Importance of Feminist Engagement

A paper prepared for Akina Mama wa Afrika (AMWA) for the 2014 African Women Leadership Training (AWLI).



Table of Contents

Acronyms	3
1. Executive Summary	4
2. Introduction	6
3. Aim and Objectives	
4. Women and Land	7
5. What is Behind the Arrangements?	9
6. Identifying Key Players	11
7. Why Africa?	16
8. Types of Contracts	17
9. Land Deals: Relevant Parties	18
10. The Character of Land Deals	18
• The Issue of Transparency	18
• The Issue of Land Rights	19
• Flawed Consultation Patterns	20
• Defective Contracts	21
• Low Quality Compensation	22
11. Strain on Water Resources	23
12. Environmental Degradation	24
13. Bilateral Investment Treaties- The Issue of Scale and Tenure	25
14. Land Grabbing and the Importance of Feminist Engagement	
• Gender and Land Grabs	26
• Case Study One: Women and Land Grabbing in Rift Valley, Kenya	28



• Case Study Two: Women and Land Grabbing in Niger Delta, Nigeria	29
15. Women Taking Ownership of the Process	31
16. Good Practice Examples	31
17. Reprieve for Women in Face of Land Grabbing in Sub-Saharan Africa	32
18. Recommendations	34
• For Governments	34
• For Investors	35
19. AMwA's Role	35
20. Conclusions	36
21. Bibliography	37

Figures, Maps and Tables

Figure 1

Map 1.....

Map 2.....

Box 2.....

Box 7.....

Box 8.....

Box 9.....

Box 10.....

Box 13.....

Box 14.....

Acronyms

AMwA	Akina Mama wa Afrika
AU	African Union
CAADP	Comprehensive African Agriculture Development Programme
CBOs	Community Based Organisations
CCM	Chama cha Mapinduzi (Tanzania)
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CSOs	Civil Society Organisations
ESIA	Environmental and Social Impact Assessment
FAO	Food and Agricultural Organization
ICESCR	International Covenant of Social, Economic and Cultural Rights
IFAD	International Fund For Agricultural Development
IFPRI	International Food Policy Research
IIED	International Institute for Environment and Development
IISD	International Institute for Sustainable Development
LDPI	Land Deal Politics Initiative
TIC	Tanzanian Investment Center
UNDP	United Nations Development Programme

I) EXECUTIVE SUMMARY

01

This report is a product of an in- depth desk study which was undertaken in July 2014. We believe it will make a significant contribution towards highlighting the nature and extent of the land grabbing phenomenon in Sub-Saharan Africa and how it impacts the women.

Literature on large-scale land acquisitions in Sub-Saharan Africa comprises the geographic scope of the report. The main focus of the report was on land grabbing in Sub-Saharan Africa. In the process, we also presented issues pertaining to the legality of some contracts entered into between investors and rural communities. It was expressly argued that it is imperative to equip women with the requisite skills to get them to understand and appreciate the question of land grabbing well enough so as to distinguish between the different types of land deals. That way, women will claim their space at the forefront of the land grabbing agenda from an informed position. The initiative focused on sub-Saharan Africa. It examined the key drivers of land acquisitions, and the contractual arrangements underpinning them and their effects on the local populations, particularly the women. It was emphasized that measures to support women's land rights, as well as those of other vulnerable people, namely: indigenous peoples and communities, in the face of land acquisitions, are indeed necessary.

“The main focus of the report was on land grabbing in Sub-Saharan Africa. In the process, we also presented issues pertaining to the legality of some contracts entered into between investors and rural communities..”



AFRICA



<< Map1: Location of Land Grabbing Covered in Report

Finally, the report recommends areas of improvements for governments, investors, CSOs, private sector and the public.

It also suggests strategic partners and allies whose contribution and support would be invaluable in building the women's movement, which would in turn strengthen women's proactive participation at the forefront of the land grabbing agenda.





II) INTRODUCTION

02

The rise in commercial land acquisitions in sub-Saharan Africa is fast becoming an issue of significant importance on both the international and continental sphere. Commercial land acquisitions involve the buying or leasing of large pieces of land in developing countries by domestic, transnational companies, governments and individuals.

“...a **“new wave”** of land deals on the continent poses significant threats to local populations and the future trajectories of agrarian change.”

Governments concerned about food security are promoting acquisition of farmland in foreign countries as an alternative to purchasing food from international markets. For poorer countries with relatively abundant land, incoming investors may bring capital, technology and market access, playing an important role in catalyzing economic development in rural areas. Although land dispossession of rural African communities dates back to colonial and post independence eras, a **“new wave”** of land deals on the continent poses significant threats to local populations and the future trajectories of agrarian change. The new wave of land deals is not the improved investment in agriculture that millions had hoped for. Instead, this recent wave of land deals is continuously plagued by corruption on both the government and investor level, resulting in land degradation, land dispossession, deception, violation of human rights, and the destruction of livelihoods.

“...There is a growing fear that this new wave of investment will do more harm than good if the issue of **land grabbing** is not addressed.”

Due to globalization and increases in foreign investment, the issue of **“land grabbing”** is on the rise. Coined by civil society organizations that are skeptical towards the growing trend of commercial land pressures, the phrase **“land grabbing”** is a reflection of the negative impacts of the process on affected populations. The surge in large-scale land acquisitions was initially described in enthusiastic terms by intergovernmental organizations, including: the World Bank and various United Nations agencies; however, the tone has become increasingly skeptical and even critical.¹ There is a growing fear that this new wave of investment will do more harm than good if the issue of land grabbing is not addressed. Nevertheless, the current wave of land deals is not entirely different from previous struggles over land. What is particularly different is the scale, speed and character of more recent land deals. Current discussions on land grabs often focus on **“mega land deals”** made by foreign investors; however, the current wave of land deals are often made by domestic actors, shrouded in secrecy, controversy and corruption. It is therefore vital to highlight and understand the different types of land arrangements, including those that are often omitted from discussions.

Furthermore, lacking from the debate is a deeper analysis of the gendered implications of this recent phenomenon; although it is commonly known that women are more vulnerable when it comes to land changes. Land is a critical issue for women; in many cases, it can even be said that the question of land itself is a prism through which structural patterns

¹ Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response

“accessed literature shows that women are more affected by land grabs than men and are more vulnerable to its negative consequences. In many cases, the impact of inequality in land rights has aggravated women’s socio economic status and even increased the number of women engaging in sex work....”

of gender inequality can be revealed.² The rationale for paying specific attention to gender issues in agricultural practices derives from a wide-ranging body of empirical evidence that demonstrates the many ways in which women are essential to improvements in household agricultural productivity, food security and nutrition. Furthermore, accessed literature shows that women are more affected by land grabs than men and are more vulnerable to its negative consequences. In many cases, the impact of inequality in land rights has aggravated women’s socio economic status and even increased the number of women engaging in sex work, as well as given room for sexual harassment and violence against women. It has also contributed to family and marital instability, leading to separation or divorce. All the same, even though many studies have revealed the gendered implications of land grabs, many fail to assess the women’s situation in a deeper way. Therefore, there is need for the new wave of land deals to be understood from a feminist perspective.

This paper addresses the current information gap on the differential gendered effects of Africa’s recent wave of large-scale land deals through the following steps: (1) an overview of phases of large -scale land deals and past literature on the gendered effects of land grabs; (2) a presentation on the nature of these recent wave of land deals; (3) highlighting of the importance of feminist engagement in the context of these land deals; and, finally, (4) a recap of promising initiatives and recommendations.

² Using CEDAW to Secure Women’s Land and Property Rights: A Practical Guide. The Global Initiative for Economic , Social and Cultural Rights (pg.9)

III) Aim and Objectives

The main aim of this study was to provide an analysis of the recent wave of large-scale land deals in sub-Saharan Africa; specifically, from a feminist perspective. The specific objectives were as follows:

- To undertake an in-depth desk research on the recent wave of land deals in the African Sub region and how women and marginalized groups are affected by this recent phenomenon.
- To examine the character and components of the recent land deals and highlight the gaps that exist and the potential areas for women's advocacy.
- To present issues pertaining to the legality of some contracts directly entered into between investors and rural communities..”
- To identify areas for leadership development for women to enable those affected by land grabs to claim their rights.
- To provide recommendations on how AMwA can position itself, given its niche in the African Women's Leadership Institute, as a main protagonist of women's redress in the face of the escalating state of land grabbing.



IV) Women and Land

A gender analysis situated in an international, national and local context is needed to be able to make a fair analysis of the gendered impacts of land grabbing, whether executed by local or international actors.

As an identified marginalized societal group, women are particularly vulnerable to land grabs and issues of land tenure. In the context of smallholder farms, most African women are responsible for generating income and securing the nutritional needs of their families, making

04

“...most African women are responsible for generating income and securing the nutritional needs of their families, making them key sources of food security and food production within their families and communities.

them key sources of food security and food production within their families and communities. However, women are generally not considered owners of land but are owners of crops, since they often have control over cultivation rather than land. When land becomes scarce or rises in value, or when rights are formalized through titles or registration, women’s rights to use land are revealed to be secondary and tenuous. The rights to receive rarely turns out to be as compelling as the rights to give. Men use their position of dominance to **“expropriate”** women’s rights to land. Women whose rights to farm a plot of land were guaranteed by marital or kinship status, lose these rights and face a diminished access to land, which underlies and reinforces a greater economic and social insecurity. The literature on women’s access to land is replete with examples of these often dramatic reductions in rights.”³

In light of these realities, discrimination against women in the area of land continues to pose significant challenges:

- In many countries, women do not have equal legal rights to land which is often held by a male family member;
- Under many systems of customary law, widowed women are not permitted to inherit land;
- When women do have access to land their parcels are usually of a smaller size and lower quality than those of the men.⁴

³ Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response

⁴ Using CEDAW to Secure Women’s Land and Property Rights: A Practical Guide. The Global Initiative for Economic , Social and Cultural Rights (pg.9)

“Women in sub-Saharan Africa are not just struggling with power relations on a local level but also in global and national power structures...”

Even when women do have titles and control over land they can be constrained by other socioeconomic factors. These constraints include: illiteracy; lack of capital, collateral, farm management experience; and adequate training. Furthermore, most societies remain strongly patriarchic, which is reflected in customs, traditions and laws. Women in sub-Saharan Africa are not just struggling with power relations on a local level but also in global and national power structures. These structures have tremendous impacts on women’s livelihoods through land deals and land transactions by national and international actors. From a gendered perspective, the supposed creation of new jobs from land deals will most likely benefit men only, and women are likely to remain in the un-paid informal sector. However, it is important to note that women have not remained passive in the recent land changes. The wave of new land deals have provoked women to fight for their land and food security. Nevertheless, more work needs to be done. Feminist engagement is needed to enable women to understand land grabbing issues such that they are in position to distinguish between the different types of land deals; an achievement that will put them at the forefront of the land grabbing agenda.



V) What is Behind the Arrangements?

05

The current wave of land deals in Africa originates from three main drivers: food, biofuel production and security of investments. While other drivers, such as: the growing carbon market and the financial meltdown in late 2009 have been identified as potential drivers.

The most popular analysis indicates the global food crisis of 2007-2008 as a major catalyst. The effects of the food crisis has led to a building momentum **“behind the idea that long term control of large landholdings beyond one’s own national borders is necessary to supply the food and energy needed to sustain one’s own population and society onto the future.”**⁵ The food crisis forced many countries including the Gulf States to re-evaluate their strategies and secure **“offshore”** food production to supply their growing population. In an effort to meet the Millennium Development Goal relating to the eradication of poverty and hunger, countries have turned to land acquisitions as an effective tool in sustaining their growing populations. Outsourcing food production through investment in agricultural land abroad appears to be a more secure and viable option.

The rising oil prices in the period 2007 - 2009 and the fear of hitting the peak in oil production has created incentives for companies to acquire land for the production of biofuel crops. The production of liquid biofuels is a key driver of much recent land acquisitions. The production of biofuels

The food crisis forced many countries including the Gulf States to re-evaluate their strategies and secure **“offshore”** food production to supply their growing population.

⁵ Borras, S. and Franco, J., (2010) From Threat to Opportunity? Problems with Idea of a “Code of Conduct” for Land-Grabbing Yale Human Rights & Development L.J., Vol 13, (pg. 508)

estimates suggest that 20 to 60 million hectares of land in Africa have been acquired for large-scale agricultural investments through long-term renewable leases

requires feedstock of jatropha, palm oil, maize and soya for biodiesel; and sugarcane for bioethanol.⁶ Globally, the World Bank has found that 21 percent of land deals in 2009 were for biofuel production, while the International Land Coalitions' (ILCS) places this estimate higher at 44 percent.⁷ Most estimates suggest that 20 to 60 million hectares of land in Africa have been acquired for large-scale agricultural investments through long-term renewable leases. In many cases, land deals with such characteristics lead to forced evictions and a reduction in food production for local communities. Unless policies move against encouraging further biofuel investment in response to concerns on its impact on food security, biofuels are likely to remain an alternative option.⁸

A final key driver of direct investment in land is based on the premise that land is considered a safe and profitable investment in an unsteady financial context.⁹ There is a growing school of thought that identifies farmland as one of the best investments of our time. Reports indicate that more than 90 funds from all over the world are investing in farmland.¹⁰ While food and energy security emerge as key drivers of government-backed agricultural investment, private sector involvement seems mainly driven by expectations of competitive returns from agricultural production. Farmland is being used for various engagements beyond the production of agricultural commodities. Investments are being made to exploit mineral resources and other precious and rare meals. Although the safety of investment is relative and largely dependent on the internal

6 Future Agricultures, Land Grabbing in Africa and the New Politics of Food, (Policy Brief) , (Pg. 1)

7 Future Agricultures, Land Grabbing in Africa and the New Politics of Food, (Policy Brief) , (Pg. 2)

8 Cotula,L, Vermeulen,S, Land Grabs or Development Opportunity? Agricultural Investment and International land Deals in Africa. IFAD. (pg.63)

9 Praskova, Dagmar. Land Grabs in Africa - A Threat to Food Security. Prague Global Policy Institute-Glopolis (pg. 5)

10 P.Makutsa, Land Grab in Kenya, EAFF 2010.

and external political situations in host countries, if solid partnerships are made with the host country an investor can expect high returns.¹¹

From the perspective of host countries, foreign investment is seen as capable of bringing new technologies, development of productive potential, improved infrastructure and employment. In some countries, there is an explicit strategy to create incentives for foreign investment. In Tanzania, on several occasions, the State President, Jakaya Mrisho Kiwete, is on record as having directly exhorted villagers to identify village lands to be put to use by investors in mutually beneficial arrangements.¹² Unfortunately, evidence reveals that state-led agricultural investments rarely improve the lives of rural communities; as much of its economic benefits remain among elites.



11 Praskova, Dagmar. *Land Grabs in Africa - A Threat to Food Security*. Prague Global Policy Institute-Glopolis. (pg.13)

12 Tinyade Kachika. *Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response*. (pg.18)

06

VI) Identifying Key Players

“...a recent conference on global land grabbing hosted by the Land Deal Politics Initiative (LDPI), several detailed case studies showed how regional economic powers are emerging as more significant actors: Brazil in Latin America, South Africa in Africa, China in Asia and others..”

In the context of sub-Saharan Africa, there is no single dominant model for financial and ownership arrangement in land deals. Instead, a wide variety of locally specific arrangements among governments, local leaders and the private sector tend to guide transactions and sales. Much attention on land deals has been given to foreign investors, indicating the existence of a north - south phenomenon.

However, a range of actors, including multinational companies, sovereign wealth funds and other financial institutions, can also be identified as significant stakeholders. According to the 2011 Policy Brief by Future Agricultures, this recent wave in **“land grabbing”** has witnessed not only European and North American actors seeking out farmlands deals, but also the rise of south-south” deals.¹³ Furthermore, at a recent conference on global land grabbing hosted by the Land Deal Politics Initiative (LDPI), several detailed case studies showed how regional economic powers are emerging as more significant actors: Brazil in Latin America, South Africa in Africa, China in Asia and others.¹⁴

While acknowledging the variety of land deal stakeholders named above, most reported international land deals involve the private sector and host governments. In such scenarios, the national government is **“grabbing”** the land from citizens and allocating it to private companies without the consent or knowledge of local communities.

¹³ Future Agricultures, Land Grabbing in Africa and the New Politics of Food, (Policy Brief) , (Pg. 6)

¹⁴ Future Agricultures, Land Grabbing in Africa and the New Politics of Food, (Policy Brief) , (Pg. 2)

“...Investment promotion agencies are actively putting farmland on the international market on behalf of governments under pressure to catalyze economic development and improve the balance of payments. Such deals have also been rigged with corrupt deals and processes...”

For example, there has been extensive media coverage on rice plantains in the lower Volta region of Ghana. The deal was a joint venture between the Government of Ghana; Prairie Rice of Texas, United States; and the Ghanaian Commercial Bank. The government originally acquired the land in 1977 and Prairie Rice began cultivation in 2008. Prairie Rice intended to expand its rice cultivation to at least 5,000 hectares. The land was acquired by government decree at a price of US\$260 per hectare.¹⁵ The deal ran into trouble when lawsuits were filed alleging that the land sold belonged to community members in the Volta region. The company was allowed to cultivate on the land while the issue was being resolved and paid US\$100,000 registration fee to the Lands Commission.¹⁶ Such private land deals remain prevalent throughout Africa and local communities are rarely consulted.

Domestic companies are also key players in promoting farmland to foreign investors. Investment promotion agencies are actively putting farmland on the international market on behalf of governments under pressure to catalyze economic development and improve the balance of payments. Such deals have also been rigged with corrupt deals and processes. The Transparency International’s Global Corruption Barometer reported that 15 percent of people dealing with land services had to pay bribes.¹⁷ Some African governments have taken to providing incentives, including duty free imports of capital goods used for projects, lack of restrictions on the use of land, and permission to utilize underground water sources for free. This is shocking departure from the commitments made at the intergovernmental and international level - from the L’Aquila Food Security Initiative to the Comprehensive African Agriculture Development Programme (CAADP) - which emphasized support for smallholder farmers, particularly women.¹⁸

15 Global Food Security Response West Africa Rice Value Chain Analysis. USAID Report 2009 (pg.13)

16 Global Food Security Response West Africa Rice Value Chain Analysis. USAID Report 2009 (pg.13)

17 Praskova, Dagmar. Land Grabs in Africa - A Threat to Food Security. Prague Global Policy Institute-Glopolis (pg. 5)

18 Praskova, Dagmar. Land Grabs in Africa - A Threat to Food Security. Prague Global Policy Institute-Glopolis (pg. 5)

07

VII) Why Africa?

“...land in Africa is cheap and sometimes free to investors. In many cases, land deals involved renewable leases for over 50 years in return for small payments made to national, provincial or local governments...”

The rationale behind Africa as the location for commercial land developments is centered on the belief that much of Africa’s land is empty and available. According to the World Bank’s 2009 report entitled: **“Awakening Africa’s Sleeping Giant: Prospects for Commercial Agriculture in the Guinea Savannah Zone and Beyond”**, much of Africa’s land is underutilized and ripe for commercialization.¹⁹

It argues that in order to meet the growing demand for food as the world population rises, countries must capitalize on the immense land reserves located throughout the continent. Another reason put forth by critics of land deals, is that land in Africa is cheap and sometimes free to investors. In many cases, land deals involved renewable leases for over 50 years in return for small payments made to national, provincial or local governments. In some instances, once-off compensation is given to the rural communities with the promise of jobs and development projects. However, maintaining these promises has proved challenging throughout the continent. Evidence shows that Africa’s eighty million small-scale farmers who supply most of the food that feeds the population already occupy much of the land being allocated to investors on long-term leases.²⁰

¹⁹ Future Agricultures, Land Grabbing in Africa and the New Politics of Food, (Policy Brief) , (Pg. 2)

²⁰ Friis, C. Reenberg, A. Land Grab in Africa: Emerging Land System Drivers in a tele-connected world. Global Land Project. University of Copenhagen. GLP Report No.1

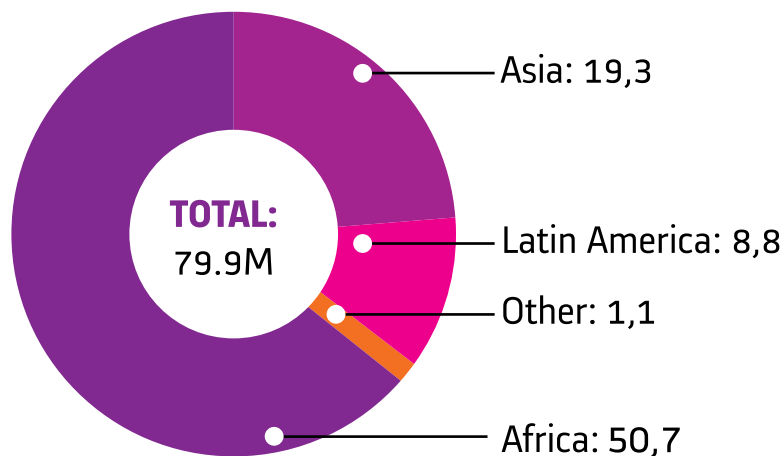
While narratives rationalizing such deals emphasize that land being targeted is “idle land,” further case studies suggest that this term often reflects an assessment of the productivity, rather than the existence of current land uses.²¹ The World Bank hoped that commercialization would focus on more marginal regions, bringing underutilized lands into production. However, research now suggests that investors are favoring areas with higher rainfall and proximity to urban centers and transportation resources, essentially competing with local small-scale farmers for already existing land.

“...The World Bank hoped that commercialization would focus on more marginal regions, bringing underutilized lands into production. However, research now suggests that investors are favoring areas with higher rainfall and proximity to urban centers and transportation resources..”

Figure 1

Reported Cases of Land Grabbing and Biofuel Developments across Africa

Go Africa- Total area of reported land deals*, 2001 -20011 (Hectares,m)

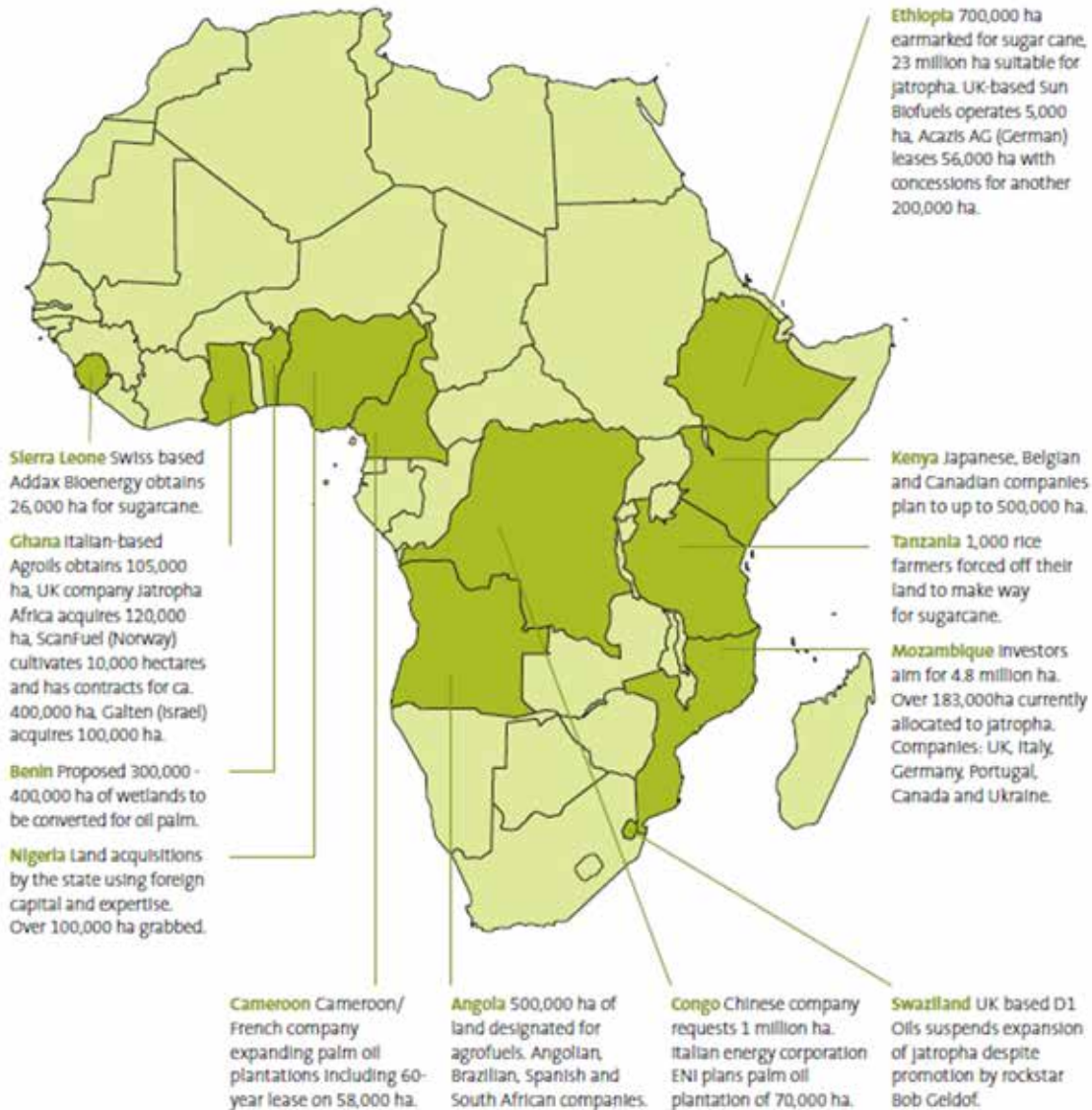


Source: Oxfarm, CIRAD, CDE at University of Bern, International Land Coalition *Preliminary Estimate

Source: The Economist

21 Future Agricultures, Land Grabbing in Africa and the New Politics of Food, (Policy Brief) , (Pg. 3)

Reported Cases of Land Grabbing Across Africa



Source: Friends of the Earth Europe, Africa: up for grabs

VIII) Types of Contracts

08

In a recent review of contracts and large-scale land deals, Cotula (2010) differentiates between three different dominant models of contracts; concession contracts, production-sharing agreements and joint ventures.²²

i) **In concession contracts**, the leasing partner grants the investors the right to run operations on the given land and exploit resources for a specified time in exchange for fees, taxes or royalties. In this case, monetary compensation from the investor to the government will bypass the people who had been using the land for farming or habitation or both, rural men and women, will almost certainly lose the ability to use the land in question for their own productive purposes. If farmers, particularly women farmers, are used to receiving proceeds from their land in the form of food, the transition to a cash economy may be further destabilized. As will be discussed in the next chapter, one major concern with this type of contract is the serious lack of transparency in the process and the dearth of information that local populations have about the terms of their contract (GRAIN 2008). This lack of transparency may be particularly detrimental to rural women who are already less informed of their rights.

²² Meinzen-Dick, R., Behrman, J. The Gender Implications of Large-Scale Land Deals. IFPRI Discussion Paper 01056. International Food Policy Research Institute. (pg.24)

ii) Production-sharing agreements in instances of large-scale land deals involve the investor providing physical capital and technological investments, and the party selling or leasing the land provides the land. As compensation, the investor and government share resources produced by the deal. Typically, this type of deal is employed when the land in question will be used for production of high-value products (eg. oil and fuels). Many of the same issues that local men and women face in the case of concession contracted are also prevalent in production-sharing agreements and include gender disparities that may arise from disproportion lack of compensation for the land, loss of land for productive and habitation purposes and the lack of transparency.

iii) In the case of joint ventures, a contract is made between the investor and local partners (host states, local elites, or local community associations) with the goal of running a business venture together. Joint ventures most commonly take the form of contract farming agreements and may be incorporated (with a formal body created in the country an) or unincorporated (run on the contract). Although joint ventures are typically held to be the most equitable because they involve contracts made directly with community groups, it does not necessarily mean that they are gender equitable. Case studies on gender and land deals in Mozambique find that women are often left out of consultations and negotiation processes (Duvane, 2010). As a result of this shortcoming, women are less likely to have influence over key issues, such as: control of revenue from deals and monetary compensations which may bypass them and go directly to male relatives.²³

²³ Meinzen-Dick, R, Behrman, J. The Gender Implications of Large-Scale Land Deals. IFPRI Discussion Paper 01056. International Food Policy Research Institute. (pg.21)



IX) Land Deals: Relevant Parties

In their basic form, land arrangements involve at least two parties. In the African context, the private or joint equity firm constitutes the “acquiring” party. The other party of the deal often constitutes a land provider, a government or the more rarely seen landowner.

Each “deal” may involve multiple contracts and legal instruments, which form a framework agreement outlining the key features of the overall deal. These frameworks tend to include the host governments’ formal commitment to making the land available to the investor. The extent to which land deals are negotiated or standardized varies across countries and across different stages of negotiation. Each deal typically involves a wide range of parties through multiple states of preparation, negotiation and contracting with multiple agencies within the host government playing a significant role. At the minimum, the investor is likely to need to

09

engage separately with government agencies at the local level. In Tanzania, for instance, where the Tanzanian Investment Center (TIC) plays a hands-on role in facilitating land access, formal approval for the investment is needed from the TIC (financial viability), the Ministry of Agriculture (agricultural viability), the Ministry of Lands and Housing Development (land registration) and the Ministry of Environment (environmental impacts assessment). Coordination and communication among government agencies tasked with different aspects of the investment process can be poor, hampered in part by departments which prefer to report positive outcomes only without sharing problems and setbacks (Sulle, 2009).

On the investor side, one of the fundamental challenges is local knowledge and capacity, and associated issues of coordination between head offices in home countries and staff tasked with negotiating complex deals in host countries. The complexity and risk in international land deals usually requires the involvement of a number of external service providers, such as: agricultural advisors, consultants and international contract lawyers. However, private investors have the advantage of being able to act as a single legal entity with a cohesive set of demands - an advantage not shared by affected communities.

X) The Character of Land Deals

10

The lack of primary and secondary information is a significant challenge to experts specializing in the recent land deal arrangements. Experts tend to face difficulties in acquiring reliable information on land deal negotiations.

This results from the fact that land deals normally lack transparency and are initiated with little public knowledge. In spite of this, general trends have been identified characterizing the recent land arrangements in Africa. Evidence suggests that preference is increasingly placed on long-term leasing of agricultural land as a main form of investment, with very few investors opting for complete purchases. The duration of the lease ranges from 50 years to 99 years with land generally leased at a very low cost. In Ethiopia, the rent of one hectare ranges from US\$3 to \$10 per year.²⁴ With very few exceptions, strong investment protection is always included in land deals with regard to expropriation, non-discrimination, and standards like **“fair and equitably clauses”**; but few provisions accommodate public interest. Based on existing literature on land deals in sub-Saharan Africa, certain key features of documented land deals and negotiation processes can be identified. A report on sub-Saharan land deals carried out by the Food Agricultural Organization (FAO), The International Fund for Agricultural Development (IFAD) and the International Institute for Environment and Development (IIED) provide

²⁴ Cotula, L., Vermeulen, S., Land Grabs or Development Opportunity? Agricultural Investment and International Land Deals in Africa. IIED, FAO and IFAD, 2009. (pg.63)

a thorough analysis of the character of land deals in the region. This report is the basis for the analysis below.

(a) The Issue of Transparency

The recent wave of land deals in Africa tends to be framed by lack of transparency in negotiations. There is a general sense among observers that negotiations and agreements occur behind closed doors with no public knowledge. In the course of a study conducted by FAO and IFAD, research revealed that in most of the focus countries, basic data on the size, nature and location of land investments were not accessible through the national and registry or other notionally public sources.²⁵ During the data collection process, researchers needed to make multiple contacts and meetings with government officials to access even superficial information on land acquisitions. Even in countries where there were official “land banks” available for investment, records were incomplete, contra-dictionary or not effectively communicated. While details about individual land deals may need to be sheltered to protect commercial confidentiality, lack of transparency seems to be particularly problematic as it may lead to high levels of corruption. Perhaps more importantly, the lack of transparency in negotiations makes it particularly challenging in protecting the rights of local communities.

(b) The Issue of Land Rights

International law stipulates that land rights are a precondition for any legitimate land deal. Yet in many cases, both foreign investors and state governments violate the land rights of existing users. This becomes

25 Cotula, L., Vermeulen, S., Land Grabs or Development Opportunity? Agricultural Investment and International Land Deals in Africa. IFAD. (pg. 69)

particularity relevant when land is held under customary tenure. The majority of rural African communities hold land under customary tenure. This is split into communal customary tenure (grazing lands and worship shrines) and individual customary tenure (homes and gardens). Customary land is inherited from generation to generation: parents will show their children the land given to them by their own parents, and when the father and mother or both are deceased, the children know which land belongs to them. Many rural communities have no laws to define land tenure and use when dealing with customary land. Traditional leaders are responsible for appropriating customary land and settling disputes. However, communities have neither structured leadership nor expertise to be able to engage or negotiate strategically with investors; communities are therefore susceptible to manipulation by investors and host governments who want to acquire rights to the land.

Text box 2: Biofuels in Tanzania

In Tanzania, 640,000 hectares have been allocated for biofuels production – for jatropha curcas, sugar cane and palm oil – and potential investors have applied for a total of 4 million hectares. The areas targeted are forested areas on which villagers depend for food and livestock grazing – a crucial source of livelihood. Although the Village Land Act of 2009 requires that people be compensated for any land loss, the processes for consulting on this, and determining the level and manner of payment of compensation, has been fraught with conflict, not least because much of the compensation is paid to state authorities rather than local people. Investments based on outgrower models have reportedly been less conflictual and secured more local support. Following widespread opposition to land allocation to biofuels investors, and evidence of people being dispossessed, the government imposed a moratorium on new projects, and developed in consultation with civil society a set of National Biofuels Guidelines to address concerns about the displacement of local people and the shift from food to fuel production.

Source: Sulle, Emmanuel and Fred Nelson. 2009. Biofuels, land access and rural livelihoods in Tanzania. London: International Institute for Environment and Development.

Despite instances of **“land grabbing”** by foreigners, it must be noted that national governments, state or local authorities and traditional leaders are most responsible for land grabbing. In many cases, governments have displaced landholders in favor of investors. Emerging evidence also suggests that “rather than seeking secure political environments, many investors are opting for destinations where local people can easily be removed from their land, in most cases with the help of local authorities. A World Bank Report surveying fourteen countries across three continents found a strong negative correlation between good governance on land rights and investor interest.²⁶ Put simply, investors (not all) are taking advantage of corrupt governments and weak legal systems to acquire cheap land, often with severe disadvantages to local communities.

(c) Flawed Consultation Patterns

The lack of appropriate consultation of local populations is perhaps the most important area of concern for the people. Although some countries, namely: Mozambique, Mali and Tanzania require that communities be consulted prior to the initiation of land deals, several deals have been initiated without proper consultation. Box 7 demonstrates instances of inadequate consultation by foreign nationals in Tanzania and Mali. This scenario also reveals another key issue that leaves communities vulnerable: the sole consultation of elites by foreign investors. In some scenarios, the government has no knowledge of contracts, which demonstrates that there are no formal mechanisms or incentive for district-level operatives to liaise with the regional and central government

²⁶ Byamugisha, Frank. Securing Africa's Land for Shared Prosperity. A Program to Scale Up Reforms and Investments. World Bank Report 2009 (pg. 132)

to ensure that companies follow the established land and investment regulations. This demonstrates that flawed consultation occurs at various levels, posing significant challenges to protecting affected communities. Furthermore, when women are concerned, they tend to be disregarded in formal negotiations and are not in a position to debate land contracts.

Box 7: Examples of Flawed Consultation Patterns By Investors in Mozambique and Mali

New Forest Limited Project, in Tanzania

In Kilolo, Iringa Region of Tanzania, New Forest Limited have planted over 3000 hectares mainly with pine trees. The villagers had been planting on much of this land, but the officials claim it was grass land. The terrain is hilly and the practice was for people to plough in the valleys and the lower slopes of the hills and graze animals on the higher slopes. What happened is land transfer by 'fiat'; there was a lot of pressure from the central government pressuring the villagers to meet and approve the letters sent by the District Executive Director (DED) to the village assembly. The DED called a village council meeting and immediately afterwards called a village assembly to approve the request. The promise was that a road will be built and a hospital. After the approval the government proceeded to transfer the status of the land from village land - that the village council has control over - to general land that the national government has control over. People do not know how the process of transfer is carried out and they came to realize only later that the land was no longer theirs. They were persuaded to accept an investment, but did not realize it would mean the loss of land for the village.⁹⁸

The Malibya Project in Mali

In October 2008, Malibya Agriculture started its first operations without having carried out the Environmental and Social Impact Assessment (ESIA) first. The inhabitants affected by the decision were neither primarily informed nor involved in a consultation process as required by the law. The people were informed long after the agreement was signed and thus customary land rights were ignored. When conflicts with the local population occurred in the beginning of 2009, first meetings between villagers and the project were held. According to local authorities (*sous-préfet*), these meetings with 30 villages and hamlets were transformed into public consultations and thereby officially substituted the ESIA. No real ESIA has been conducted.⁹⁹

Source; Data adapted from; Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response

(d) Defective Contracts

The issue of defective contracts is a significant contributor to the vulnerability of small-scale farmers, leaving these populations vulnerable to land grabbing scenarios. The lack of bargaining power, unclear provisions, false promises, secrecy, as well as interests by investors to maximize their gains, all, tend to affect the qualities of contracts.²⁷ Coupled with high levels of illiteracy in Sub-Saharan Africa, local populations are at a significant disadvantage, leading to one-sided deals. The experience in Mali with the Malibya project (Box 8) demonstrates that even contracts supported by the government could also be susceptible to investor exploitation.

Box 8: A One Sided Government Contract in Mali

Malibya Agriculture is leasing 100,000 hectares of irrigate land “free from any juridical constraints or individual or collective property that hinders the exploitation of the land” for 50 years to develop farming activities, agro-industries and cattle rearing. The contract can be renewed up to a total of 99 years. According to the funding agreement, re-housing and negative impact mitigation costs are the responsibility of the Malian Government. Apart from the water fees and the obligation to respect the Malian law and regulations on the environment, the contract does not say anything else about any duties or obligations of the Libyan side. No taxes, fees or other payments are mentioned. Article 17 states that the two parties agreed upon the “*gratuité de la terre*” (no payment for the land). According to information provided by the Niger Basin Authority, Malibya-Agriculture is currently funding infrastructure developments because the Malian government does not have the financial means to do it now. Malibya will later be reimbursed by the Malian Government.

Adapted from Diallo A., and Mushinzimana G., December 2009, and African Farm News in Review, 2010

While the government may have known about the existence of the Malibya contract, a situation in Ghana (Box 8) demonstrates that in some scenarios, local chiefs are unable to understand the sophisticated nature of land deals and are coerced into signing agreements they understand little to nothing about.

²⁷ Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response. OXFAM. (Pg. 33)

Box 9: Chief Coerced into Thumb Printing a Contract in Ghana

A Norwegian bio fuel company took advantage of Africa's traditional system of communal land ownership and current climate and economic pressure to claim and deforest large tracts of land in Kusawgu, Northern Ghana with the intention of creating "the largest *Jatropha* plantation in the world." By-passing official development authorization and using methods that hark back to the darkest days of colonialism, this investor claimed legal ownership of these lands by deceiving an illiterate chief to sign away 38 000 hectares with his thumb print. . . The chief was very categorical that he had not made such a grant and that he had also been battling with those "white people" to stop them – without much success. He confirmed that he "thumb printed" a document in the company of the Assembly-man of the area which had been brought to his palace by the "white people" but he did not confirm its contents.

Source: Nyari, 2008

The Deceleration on Land Issues and Challenges in Africa stipulates that land laws provide security in the form of compensation for local populations who lose land as a result of land deals. However, the issues are: what types of compensation are rural communities entitled to? And if the compensation is awarded, who is benefitting from it?²⁸ There has been significant disagreement concerning the amount of compensation and the entitled beneficiaries. This confusion has made communities vulnerable due to lack of practical safeguards to prevent their exploitation when conducting transactions with investors. According to Box 10, compensation seems to be remote for small-scale farmers in Mali who are affected by large-scale projects like the Malibyan project.

28 Tinyade Kachika, *Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response*. OXFAM. (Pg. 34)

Box 10: Landless and Penniless Small Scale Farmers in Mali

Entire villages lived on the 100,000 hectares the Malian government leased to the Libyan company for 50 years. Land belonging to 57 families was seized. These lands are currently used or have been used until recently by the local population for rain fed cultivation (millet, sorghum, maize, peanuts, fonio, pumpkin, watermelon, vegetables and others). The lands are also used for pasture and cattle crossings. In addition, forests provided a lot of resources for daily life as well as sources of revenue (e.g. fire wood and charcoal). Now, all forests have been taken by Malibya, parts of the farm land and settlement areas are already flooded and transhumance routes are blocked. All these activities are carried out without any compensation of the local population. Auguste Drago, Director General of Office du Niger, promises that compensation will be provided to locals soon. But he does not say when and how they will be compensated. "We can compensate them in kind. We can compensate them with buildings, houses, and we can set up orchards. Otherwise, we can give them cash," Mr. Drago says.

Adapted from Diallo A., and Mushinzimana G., December 2009, and African Farm News in Review, 2010

Contrary to the Malibyan project, some positive outcomes have emerged from other projects. A project implemented by the Dutch/Belgian Company Bioshape in Tanzania saw the delivery of corporate social responsibility investments, such as: building houses for school teachers, a market and village leader's offices.²⁹ However, even when corporate social responsibility is exercised local populations are still dissatisfied with the levels of compensation. The lack of compensations may even be more harmful to specific societal sub groups, namely, women who tend to remain invisible in negotiation forums for compensations.

²⁹ Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response. OXFAM (pg.36)

XI) Water Resources

11

Most foreign agricultural projects are heavily dependent on irrigation, posing significant threats to the livelihoods of rural communities. Most investors favor land with good access to water and the potential for irrigation. Water rights are often imbedded in land deals but are never paid for.

As demonstrated in Box 13, a scenario in Mozambique led to the near acquisition of 407 million cubic meters of water to irrigate the ProCana sugarcane plantations. Although this project was canceled, it reveals the potential threat to local farming activities in the area, as a significant amount of water would need to be reallocated to ProCana.

Box 13: Peasants' Water Interests Sidelined in Mozambique

The land that had been allocated to ProCana its sugarcane plantation (for ethanol production) is located adjacent to the Massingir dam and the Elephants River. ProCana claimed that they got the assurance from the national government that their irrigation needs were going to be protected at all times. ProCana was going to need 407 million cubic metres of water to irrigate its sugarcane plantation. Hence, if this plan on water (re)allocation would have been carried out, in all probability it would have caused negative consequences to the farming activities, existing and future, by peasant households in the area. Such (re)allocation of water resources, especially in relatively dry places like Mozambique, would have undermined the capacity of local communities to produce their own food for their consumption. In this case, the right to water and food of these communities would have been endangered.

Source: FIAN, 2010



Local communities can expect to face issues surrounding the lack of irrigation water, water shortages during dry sessions and a reduction in water intended for food production. The presence of water related risks to land grabbing calls for states to be party to the International Covenant of Social, Economic and Cultural Rights (ICESCR), which all countries except Mozambique are party to. Article 1(2) of the Covenant provides that people may not be **“deprived of its means of subsistence, State parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.”**³⁰ Given the fact that the continent is projected to become more water-scare in the future, the impacts of land deals on local water users are critical areas that should not be ignored.

³⁰ The International Covenant of Social, Economic and Cultural Rights. Resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27



XII) Environmental Degradation

Environmental degradation is another key issue brought about by increased large-scale land grabs on the continent. This is mostly attributed to the intensity of large-scale land acquisitions that fail to take into account the effects on the environment.

A case study on land grabbing in Uganda, particularly on oil plantations in the Bugala Island, Lake Victoria assessed the impacts on rural communities and on the local environment, highlighting the detrimental effects of land grabbing on biodiversity. Prior to the recent rise in land grabs in the early 2000s, the area was known for its rich biodiversity. Tourists regularly visited the island to see the monkeys and also to watch birds. However, the introduction of oil

12

plantations being developed as part of a government project with backing from the International Fund for Agricultural Development (IFAD) and the World Bank has led to tropical forest being cleared and damage to biodiversity. As a result, monkeys have been forced to hunt for alternative sources of food, leading to destruction of crops, including the oil plan fruits. The local authorities have classified monkeys as vermin and ordered that they be killed.³¹

The loss of habitat has also affected populations of snakes, antelopes and waterbucks.³² The oil plantations have also damaged wetlands on the island, affecting wildlife. The loss of forest and grassland cover to make way for the plantations have increased problems with soil erosion. Some preventive measures have now been taken, including using cover crops. This, however, may lead to future problems with silting in Lake Victoria. Furthermore, the loss of forest has also affected the micro-climate and led to a loss of natural windbreaks. As well as exacerbating soil erosion and adding to problems with dust, the increased wind speeds on Lake Victoria has affected fishermen, by increasing turbulence and making it harder to fish.³³ In many cases, the loss in biodiversity as a result of mono-crop production means that women no longer have access to raw material used to make local rattan handicrafts, which tends to be a common means for income generation.

31 A Study on Land Grabbing cases in Uganda. Prepared by the National Association of Professional Environmentalists. (FoE-Uganda) April 2012 (pg. 19)

32 A Study on Land Grabbing cases in Uganda. Prepared by the National Association of Professional Environmentalists. (FoE-Uganda) April 2012 (pg. 19)

33 A Study on Land Grabbing cases in Uganda. Prepared by the National Association of Professional Environmentalists. (FoE-Uganda) April 2012 (pg. 19)

XIII) Bilateral Investment Treaties - The Issue of Scale and Tenure

13

Bilateral investment treaties have been a significant result of large-scale land acquisitions in Africa. The International Institute for Sustainable Development (IISD), has found that the terms of the land deals, and legal frameworks that govern them, impose restrictions on important areas of policy, such as: land, food, agriculture, scale and tenure.

Evidence suggests that African governments are initiating deals that tie their hands in terms of making needed policy changes for years and decades to come. Simply put, large-scale projects are being implemented with tenures that could even exceed 50 years. This poses significant challenges in the event that government needs to protect citizens' rights or restrict export in times of acute food shortages. According to Future Agricultures - an African-based alliance of research organizations -

“ experience with international arbitration of disputes between investors and national governments shows that investors' rights to export their produce (even in times of food shortage) and to use water (even in the face of rising water scarcity) typically trump the rights of governments to protect their citizens' basic needs”. International investment and trade laws do not stipulate that investors sell to domestic markets or restrict exports during food shortages. This becomes particularly

relevant in the context of agrarian change as control is placed in the hands of few - especially those who control input and outputs of markets. At a time when Africa is supposed to be moving towards smallholder-led agricultural commercialization, the issue of land-grabbing is posing significant threats to food security and further weakening women's land rights.



XIV) Land Grabbing and the Importance of Feminist Engagement

14

1) Gender and Land Grabs

As discussed in previous sections, the global phenomenon of land grabbing is a growing issue affecting the rural poor populations in many African countries. The effects have been the loss of land, houses and water, forced evictions or forced employments. Women generally have more limited access to land and other natural resources than their male counterparts. Among the multiple causes are: African inheritance systems; tenure arrangements and land use patterns that tend to be unfavorable to women. Women form the bulk of the labor force in the agriculture sector and are responsible for nourishing the family. Despite that responsibility, women are marginalized in contract signing, which renders their experiences and concerns invisible in the negotiations. Women also tend to have limited capacity to negotiate and lack the adequate information to make informed decisions. From a feminist perspective, there is need to bring women aboard on land grabs since their experiences are often untold. According to the Marta Nussbaum theory, women's capabilities to fully develop their lives are minimized when their land has been grabbed.³⁴ In the present global context of increasing commercial pressures on land, women are both likely to be affected differently from men by large-scale land deals. The issue of land

³⁴ Zetterlund, Ylva. Gender and Land Grabbing, A post-colonial feminist discussion about the consequences of land grabbing in Right Valley, Kenya. Malmö University. (Pg.23)

tenure is particularly relevant to women due to the fact that women's rights to land are generally weaker than those of men. While men's rights to ancestral land are determined by membership in a lineage, women gain rights through a relationship with a male of that lineage (often a husband). In the context of land grabbing women often find themselves in a particularly vulnerable position. Women are more likely to carry the burden of land grabbing than men, given their role as primary food providers. A woman from Tanzania captured some of the hardships that women face due to land grabbing as follows:

It is the woman who is affected most because she is the main producer of food for the household. The woman is feeding the household. We normally used to go there [to the former community land on which the bio fuel company is now growing Jatropha] for farming and collecting firewood. Now we cannot go there anymore. They are prohibiting it. Now I have to go to another forest [to collect firewood]. This is a little bit far away. I would have to leave here now at ten o'clock and would be back at two o'clock. It is heavy. It is now harder work for me to go as compared to the other area. Because of this I can spend less time on my farm because the work time has been reduced.¹³⁹

Source; Data adapted from; Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response

In addition, women who are primary care givers to the sick and children particularly feel a community's relocation due to land acquisition. The lack of social amenities is likely to be felt more by women. Women are also affected in the realms of agriculture when relocated to new areas, as they are often obliged to partake in the highly labour intensive job of breaking new field with no sophisticated technology. Women are rarely compensated

for the hardships brought about by land loss as investors continuously fail to recognize that women deserve compensation in their own right. The impact of land grabbing is particularly pertinent to women because it is surfacing at a time when the issue of women's land rights is yet to be resolved. Various transnational companies have put forth the argument that women stand to benefit from the production of biofuels; however, evidence suggests that these arguments do not reflect the current realities of women. A report by Oxfam provides evidence suggesting that the likelihood of rural women gaining increasing incomes from biofuel is reduced by the power dynamics relating to access and control of land in many societies. The study report on six African countries suggests that women have more limited access to resources than their male counterparts, especially with regard to access to control over resources and land.³⁵ In the context of land deals, the role of gender is an important dimension of social differentiation that must be understood in order to inform appropriate policy alternatives. Few researches have specifically focused on the gendered aspect of land grabbing. However, some case studies have emerged highlighting the need for feminist engagement, including the following:

a) Case Study One: Women and Land Grabbing in the Rift Valley, Kenya

In 2013, Ylva Zetterlund of Malmo University conducted a study to analyze the land-grabbing situation from a gendered perspective in the Rift Valley, Kenya. Through analyzing women's experiences, Zetterlund aimed to delineate the ways in which land grabbing has affected the

35 Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response. OXFAM (pg.11)

lives of women and to determine the kinds of political action that need to be taken in rural areas to address the situation. Similar to many African countries, Kenya has also experienced large-scale agricultural investments. The land grabbing situation in Kenya is different from that of the contemporary land grabbing debate. Whereas much in the global debate revolves around land deals and investments and how these are beneficial or not, Kenya struggles with land grabs made by local elites, the government and private persons.³⁶ Since Kenya's independence different actors have been involved in taking land from rural populations, with many socio-economic impacts. The changing land situation has had severe impacts on rural women in the Rift Valley.

Kenyan law stipulates that women and men share the same land rights, but considering its history with patriarchal traditions women's rights are not always acknowledged. The land situation in the Rift Valley is characterized by resettlements, evictions and broken promises. Since women are often the ones providing for their families, the responsibility to address the challenges from lost land often falls on them. According to the Wendo Sahar Aszed program at Dandelion Africa, the need to find new incomes can even lead to prostitution as a last resort to providing for the family (Zetterlund interview with Aszed). Many of Zetterlund's interviewees had been forced to leave their homes for different reasons, some due to post-election violence in 2007/2008 and for others the land was grabbed by the government because they were living in protected forest areas. At the

³⁶ Zetterlund, Ylva. Gender and Land Grabbing, A post-colonial feminist discussion about the consequences of land grabbing in Right Valley, Kenya. Malmö University. (Pg.23)

time of the interviews, many of the women had been living in tents for nine months and had been assured of land by the government.

One woman described her life in the forest as good life where the children in her family went to school, how they owned cattle and were able to farm. Once her land was taken, her life changed tremendously. Even though she had finished high school with the ambition to continue to college, she was unable to do so since no one could afford to pay fees. Since her land was taken, she was also more dependent on other people to survive. Before evictions women could provide for themselves and some of the interviewed women even went to school. One of the interviewed women was going to start university when she was evicted from her land. The situation in Kenya's Rift Valley indicates that when women are forced to leave their land, they do not only lose their land they also lose possibilities and opportunities.

b) Case Study Two: Women and Land-Grabbing in Niger Delta, Nigeria

Popularly known as the giant of Africa, Nigeria's vast oil reserve, natural resources and income potentials present a ripe platform for investment by foreign companies and wealthy nationals. This has led to the scramble and acquisition of large-scale land for varying forms of investments. With the vesting of land rights in the hands of governments, the discovery of oil has given rise to more opportunities for land grabbing and created inroads for many multinationals and related companies to seek investment opportunities in Nigeria. This era of land deals has

witnessed a sale-out by the government, the critical stakeholders in the oil sector as well as certain elements in the host communities, negatively impact local communities. Economic liberalization has led to the non-enforcement of existing rules and regulations guiding investors, including oil companies operating in the Delta, where most of the oil reserves are located. Although such policies have attracted more foreign investment in the industry, the government failed to consider the effects such policies would have on communities in the Delta region.

Based on the various issues that have followed the liberalization of the oil industry, there is a crucial need to review the Land Use Acts to address the menace of land grabbing in Nigeria. due to increased oil exploitation activities by oil companies, and annexation of massive areas of arable land for oil industry related activities, such as: pipelines, flow stations, access to roads and campsite for oil workers.³⁷ Furthermore, increased oil exploitation and production activities heightened the environmental devastation of land, water and air. All this resulted in diminished productivity, thereby threatening the viability of the local economy in which women play a vital role. **“Since farms are failing, palm trees are not bearing fruit, and fish are depleted,”**³⁸ said Grace Ekanem, a women’s group leader; “women are not only unable to feed their families they also cannot earn enough money to send their children to school nor can they afford medical treatment.”³⁹ Land grabbing therefore deprives women of economic security and places a heavy burden on them as mothers, wives and traders in the Niger Delta. But the issue is in most

37 The right to Land and Justice for Women in Africa. African Women’s Land Rights Conference Report. ACORD, Oxfam, ActionAid. 2011(pg. 59)

38 The right to Land and Justice for Women in Africa (pg. 59)

39 The right to Land and Justice for Women in Africa (pg. 59)

cases more acute in rural Nigeria where the women are not even entitled to owning land independently without recourse to marriage.

Among the various issues that have followed the liberalization of the oil industry is the crucial need to review the Land Use Acts to address the menace of land grabbing in Nigeria, especially its effects on women in the Niger Delta. In the face of the challenges of land grabbing, land is put to uses other than growing food for local consumption. Even trade threatens food security in Africa, particularly, for women in rural areas. As a result, land grabbing by oil companies has generated strong opposition from local communities, especially women who dominate the trading class and are responsible for catering for the family. Land grabbing also affects access to water by communities, which at the household levels falls in the purview of women's responsibility. In the Niger Delta, the source of water has been contaminated by the oil industry. Women therefore have to spend more time and walk longer distances to fetch water. In many cases women are left with no choice but to drink the same water which is polluted by oil spills. Where land exists within the region, the oil spills have affected the farmlands, which no longer give the requisite yields to accommodate families. The increased burdens on women exacerbate gender inequalities. Women are faced with increased workloads stretching them further and even affecting their health. Women face income losses from the conversion to the oil industry of land used for food crops for both household consumption and sales.



XV) Women Taking Ownership of the Struggle

15

As a result of hardships brought about by recent land deals, women in various communities have stood up to investors to assert their rights and voice their concerns. For example, women in the Masai community organized a protest against their forced eviction from their land.

The threat of land loss can be a trigger for women's empowerment within their communities, whereby some women come to assume leadership responsibilities on behalf of vulnerable people. At the grassroots level, women are devising strategies to address the issue of land grabbing and secure their land. For example, in Kenya and Malawi, women have formed watchdog groups with the aim of holding leaders accountable for the loss of land. In Ghana and Cameroon, women have formed groups and collectively come together to buy land, a strategy used to overcome high land prices and to ensure that women gain a secure title to land.

a) **Good Practices Examples**

Few African countries have created counter measures to the issue of land grabbing. Countries aiming to guarantee the rights of their people, ensure food security and protect the environment reflect the best practices.⁴⁰ Customary rights are protected to varying degrees in Mali, Mozambique,

⁴⁰ Praskova, Dagmar. Land Grabs in Africa - A Threat to Food Security. Prague Global Policy Institute-Glopolis (pg. 42)

Tanzania and Uganda.⁴¹ Ghana, Mozambique and Tanzania require that the concerned communities approve all land transfers with further requirements for protection of access rights and fair compensation.⁴²

On its part, Cameroon set up land fees at a higher level, and provides 60% of this revenue to local municipalities and villages. Mali requires an arrangement whereby most of the land is allocated to a company controlled by the host government and which involves the application of international social and environmental standards. Deals in Liberia specify investors' commitments to jobs and partnerships with local farmers. The Liberian contracts have been ratified by parliament and are available online."⁴³



41 Praskova, Dagmar. Land Grabs in Africa - A Threat to Food Security. Prague Global Policy Institute-Glopolis (pg. 21)

42 Promises, Power and Poverty: Corporate land deals and rural women in Africa. Oxfam Briefing Paper. April 2013. (Pg. 31)

43 Promises, Power and Poverty: Corporate land deals and rural women in Africa. Oxfam Briefing Paper. April 2013. (Pg. 34)

XVI) Reprieve for Women in the Face of Land Grabbing in Sub-Saharan Africa

16

There is a need for comprehensive national land policies that secure land rights for women by protecting them against negative impacts of large scale agricultural involvements in sub - Saharan Africa.

Thus far women have been identified as the backbone of agriculture on the continent, therefore, it is crucial that strategies are put in place to address the risks that women face in the context of land grabbing. African nations must strive to achieve better and more productive use of land in accordance with the continental framework and guidelines that support the land rights of women.

Thus far, The African Union (AU) has already adopted the Framework and Guidelines on Land Policy in Africa, which calls on states to ensure equitable access to land. In recognition of patriarchy in land ownership laws, which conferred title and inheritance rights to male family members, the Framework and Guidelines assert: **“If law and policy are to redress gender imbalances in land holding and use, it is necessary to deconstruct, reconstruct and re-conceptualize existing rule in land under both customary and statutory law in ways that strengthen women’s access and control of land while respecting family and**

other social networks.”⁴⁴ The guidelines recommend that states enact laws that secure women’s access and control of land, while respecting rights regardless of marital status, and allowing for the co-ownership by spouses of registered land. Most importantly, women’s participation in land administration structures must be promoted. The guidelines further assert that **“to ensure full enjoyment of land rights, these measures must be part of an ideology which removes all issues regarding the land rights of women from the private sphere of marriage and family and places them in a the public domain of human rights.”**⁴⁵ According to the AU report, despite their progressive language on women’s rights, the Framework and Guidelines are silent on the issue of land grabs and this is an area that the African Union must address.

Some countries, such as Tanzania, have already taken legislative steps to ensure the participation of women in local land administration structures such as: village councils and village adjudication committees.⁴⁶ However, the challenge is that although countries may have fair constitutional or statutory provisions towards promoting equality between men and women, it has been demonstrated that the practical realization of these laws often clashes with the force of discriminatory traditional systems on the ground. Furthermore, another challenge is the observation that **“women in local land councils are not even informed on their roles and are unfamiliar with procedures and the manner in which meetings are done; and mostly lack knowledge of the issues raised at**

44 Framework and Guidelines on Land Policy in Africa: A Framework to strengthen Land rights, enhance Productivity and Secure Livelihoods. Prepared by the African Union, African Development Bank, Economic Commission for Africa.

45 Framework and Guidelines on Land Policy in Africa: A Framework to strengthen Land rights, enhance Productivity and Secure Livelihoods. Prepared by the African Union, African Development Bank, Economic Commission for Africa.

46 Tinyade Kachika, Land Grabbing in Africa, A Review of the Impacts and the Possible Policy Response. OXFAM (pg.32)

the meetings.”⁴⁷ Additionally, the Guiding Principles on Business and Human Rights to implement the United Nations Protect, Respect and Remedy Framework, in its Resolution 17/4 of June 16, 2011, sets out corporate responsibilities for transnational and business enterprises to host communities regardless of location, size, ownership and structure. To achieve tangible results for affected individuals and communities contributions must be made towards socially sustainable globalization. This is perceived in good light, as its application will impact positively on women.



⁴⁷ Framework and Guidelines on Land Policy in Africa: A Framework to strengthen Land rights, enhance Productivity and Secure Livelihoods. Prepared by the African Union, African Development Bank, and the Economic Commission for Africa.

XVII) Recommendations

In the face of the recent wave of land deals in sub-Saharan Africa, governments, investors and development and human-rights organizations need to intervene to protect local food production and the interests of rural women and their communities. Oxfam, in collaboration with other relevant organizations, have developed a comprehensive list of recommendations to curtail this recent wave of land deals, specifically focusing on improving the status of affected women.⁴⁸ Below is a list of recommendations the made.

Governments need to make robust interventions in the following areas:

- Public investments should be targeted at supporting women's small-scale local food production and ecologically friendly mixed production methods;
- As part of gender-sensitive land reform, national land audits and publicly accessible land registries should be established, and reinforced by community mapping that engages women;
- Existing natural capital, biodiversity and ecosystem assets should be conserved and rehabilitated;
- Investors and large land deals should be regulated to ensure transparency and to incorporate the informed consent and

⁴⁸ Promises, Power and Poverty: Corporate land deals and rural women in Africa. Oxfam Briefing Paper. April 2013. (Pg. 38)

- maximum benefit to rural women and others whose land rights are affected, including consideration of the long term net benefits;
- Wealth and welfare should be shared more fairly through gender responsive government budgets and expenditures, public provision of services, and state regulation of markets;
- Women's sources of income should be diversified through investment in cottage industries and agricultural employment, including payment, where appropriate, for ecosystem services that women provide;
- Legal and financial services should be extended to rural women, including court and paralegal systems, securing banking, and rural connectivity.

Recommendations for Investors:

Investors and corporations need to be sensitive to the socio-cultural and productive roles of rural women and take deliberate steps to engage directly with rural women and their representative organizations.

This is based on the evidence that relying on intermediary levels of national and local governments or traditional authorities to represent the interests of rural women has proven to be inadequate.

Investors and their companies should put resources into the following:

- Identifying what rural women's vested interests in land are and how investment plans can add value and not undermine their priorities;

- Ensuring that women's existing food production activities are enhanced, and not undermined, by seeking investment options that do not require land transfers;
- Embedding a gender perspective throughout all environmental and social assessment of the investments;
- Establishing channels of communication at the community level that enable women, in particular, to raise and resolve their concerns with the company;
- Honoring commitments made to communities and ensuring that women benefit from them.

XVIII) AMwA's Role

18

AMwA should collaborate with women leaders from local organizations, national governments, policy-making agencies and other civil society organizations, especially those working on women's land rights and sustainable development initiatives.

AMwA should place strategic focus on strengthening networks and coalitions to build the capacity of women's leadership in Africa, as it is an essential ingredient to solving critical issues of land grabbing on the continent. United Nation's studies demonstrate that women are key to sustainable development; yet there is a severe gap between their daily lives and their strategic access to specific information, collaborative networks, resources and to policy and decision-making roles to be able to make an impact on environmental and social issues. Addressing the issue of recent land deals should be extended to benefit many more women in terms of closing this gap by offering a variety of forums, training programs and interactive platforms to discuss policy, community needs and strategies, and to mobilize action on women's rights in the face of the recent wave of land deals. This will allow women to build a collective voice and to strengthen their production. Above all, the collective voice of rural women can shift the balance of power in their favor.

XIX) Conclusion

This paper has attempted to examine the recent wave of land deals in Africa's sub-region and its specific implications for women and gender relations. In doing so, the research has addressed the types of land deals being carried out in various parts of the continent, as well as the nuances in the legalities of these transactions.

The evidence points to broad and deep impacts on the economic, social and environmental situations of the communities involved. Initially, expanding large-scale land acquisitions were supposed to have brought foreign investment and improve the livelihoods of local populations. However, evidence suggests that these projects have led to the displacement of local communities, specifically creating an increased burden on women who tend to be responsible for the family's well being. Furthermore, the large-scale land grabbing has also caused severe damage to the natural environment, including the clearing of forests, loss of biodiversity and the depletion and containment of water.

To improve the situation of women and other affected populations, action needs to be taken at various levels, including: CSO's, governments and investors. While working to ensure positive outcomes for women, despite the substantive systematic gender discrimination they face, it will be especially important for women's organizations to not just focus on specific policies around land grabbing and the development of gender-sensitive tools, procedures and measures; but rather, to also remember to cast their net more widely and ensure coordinated action with the whole range of women's groups within civil society, especially those seeking to improve women's representation and participation in decision-making at all levels of governance.

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20

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