



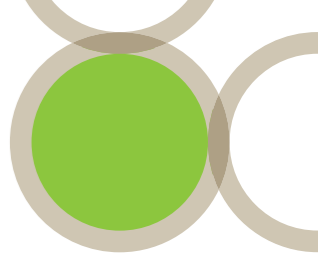
Investments, land and resource grabbing: preventing human rights violations

June 2012

English Summary



ccfd-terre solidaire



An issue for the Rio+20 Summit

The control of natural resources has always been a source of conflict for humanity. Gaining access to land, underground resources, and water, is a condition for human life and the development of our societies, but is as well a powerful means for accumulating wealth and power.

The desire created in this process makes many people greedy, and leads them to invent whatever strategies they can to conquer these precious resources. Conquests are undertaken by States, the elite, and the powerful. These conquests have encouraged a model of development, which in the final analysis has permitted a small percentage of the world's population to live a life of luxury, while leaving crumbs behind for the others. Yet today, this luxurious lifestyle itself is disturbing everything in the very societies that were supposed to benefit from it. We have indeed witnessed a series of imperatives in terms of civilisation, progress, and growth, in the name of which those undertaking this conquest of resources have all too often pursued a single-minded objective: profit and power. Meanwhile, countless women and men have been struggling, sometimes even risking their lives, to gain access to these resources in order to survive.

Today, 14% of the world's population is undernourished, while the wealthiest 1% of people is grabbing 45% of the total wealth, and is chained to a way of

consumption based on hogging resources. This can be seen in the new wave of land and resource grabbing, which is a headlong rush all over the globe to pursue economic growth and the accumulation of wealth by the already affluent or the new rich at any cost.

Resource grabs go under the nicer name of 'investments'. This term evokes the providing of capital and know-how to countries where they are supposed to be seriously lacking. In reality, it is most often a case of plundering, with many violations of the rights of local populations. Real investments are definitely needed. But which ones? By whom and for whom should they be made?

These questions should be at the heart of the Rio+20 Conference: there can be no sustainable development without respect for human rights, and without a fairer distribution of natural resources, which we know are limited. There is no end in sight to these resource grabs, unless a will stronger than this individual and collective greed prevails. These investments must be controlled and regulated, and then judged in terms of how well they respect the rights of local populations and future generations. Thanks to decades of activism and proposals by civil society organisations, the United Nations, OECD, and some States have defined standards; however, they are non-binding and remain inadequate. They must now follow through on what they have started, and not give in to the lure of growth and the 'need' to conquer new markets, which are only private sector interests. The general interest and the common good must prevail.

Founded in 1961, the purpose of **CCFD-Terre Solidaire** is to develop international solidarity in France and in countries of the South. To do this, it uses 3 complementary levers: support for development initiatives, a policy of education on development in France, and an advocacy strategy addressed to **French, European and international political and economic decision-makers**.

CCFD-Terre Solidaire, 2012.
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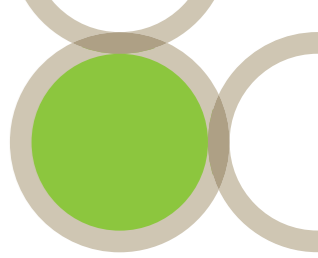
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A challenge for justice... A challenge for ecology and for the entire planet... A sensitive subject, of course, which will require us to go beyond superficial changes. The “Green Economy” and the principles of governance debated in Rio must bring this question to the forefront. The present model of development must be reconceived so as to make access to resources, the protection of human rights, and the fulfilment of basic human needs – such as food – the main priorities. We must stop the planet from being cut up into small pieces in the interest of a small

the scale of the phenomenon

States and international institutions, such as the United Nations and the World Bank, which have had their budgets shaken by the debt crisis, are turning increasingly to the private sector to find the resources needed to invest in development, and even to honour their aid and cooperation commitments. The result has been the creation of public policies in which the term ‘public’ is devoid of meaning, since economic and private stakeholders are now at the heart of their strategy. Likewise, in addition to national governments, a wide range of stakeholders now play a role in this complex phenomenon including local figures, project funders, and transnational corporations. Relationships among these stakeholders are quite ambiguous, which tends to favour the interests of investors rather than ensuring that the rights of local populations are respected. The investments are generally presented as quite attractive in terms of advantages

minority of people who will end up dying themselves in the process. Nations, corporations, investors, civil society organisations, and citizens themselves must all work together to find new paths forward. Enabling each person to have a fair share of the resources on our planet, so that humanity can live together in dignity: that is the challenge to take up for Rio+20 and its plan of action.

and benefits for the host countries. In fact, this is far from true, and these investments often result in multiple violations of human rights, which local populations are unable to fight. According to CCFD-Terre Solidaire, it is this entire process, with a great number of stakeholders and impacts, which constitutes the phenomenon of land and resource grabbing. It is *“the legal or illegal takeover of land (by purchase, renting, occupation, or any other means), which has a negative impact on local communities or those who were originally using the land; that is, when the real estate transactions directly or indirectly affect the economic, societal, and environmental model of the local communities, and therefore infringe upon the rights laid out in the International Human Rights Charter. The conflicts of interest related to this practice are the clear signs of an unbalanced power relationship between investors, governments, and local communities. This inequality is exacerbated by the inadequacy of the mechanisms that enable the local communities affected to gain access or have recourse to justice.”*

The motivations that push the different stakeholders to invest obviously have common roots, which are the economic gains they can make. Claims of satisfying a need – such as food security or decreasing a country’s reliance on petroleum – often hide a need to secure growth for the investor countries, by guaranteeing private stakeholders in

Proposals for regulating investments

The conditions that should be imposed on these investments must be formulated in light of these negative impacts, so that they will really have beneficial effects. Certain regulations have already been drafted in response to pressure coming from civil society organisations: the United Nations and its subsidiary bodies have written most of these texts, which are legal references in terms of human rights and transnational corporations, the defence of the rights of indigenous peoples, responsible investments, and land tenure. However, because they are non-binding, these texts are not effective enough.

Instead of simply focusing on foreign investments, it is by supporting family farms and local micro-enterprises, and giving them priority in terms of access to resources (land, water, etc.) that the food situation will improve. Foreign investments will not be useful or pertinent unless they are made within this kind of framework. In addition, these foreign investments will

the North as well as in the emerging countries new markets and profitable economic activities. In this process, land is transformed into a basic product, which is like any other and is subject to the relationship between offer and demand in deregulated markets, on the basis of the major but fallacious argument that it will create a new source

not benefit local populations unless they are made in a way that respects human rights.

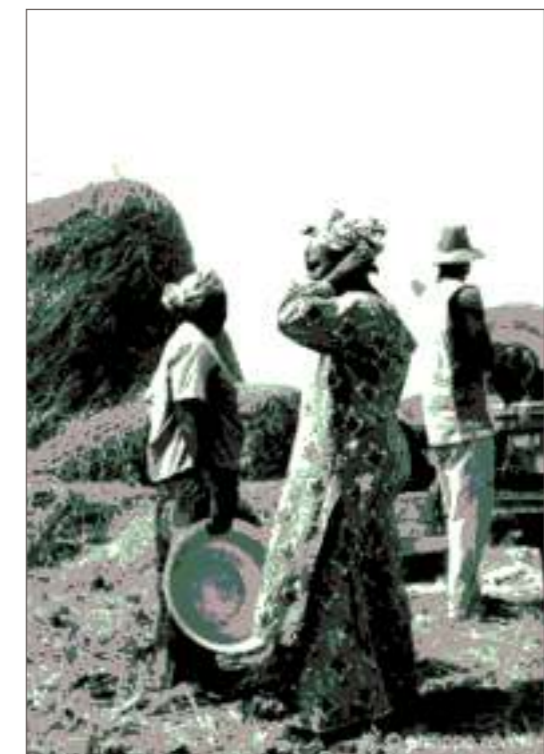


photo: Philippe Revelli

CCFD-Terre Solidaire recommendations

If investments do not comply with international human rights standards, they may not contribute to the development of the countries in which they are made, but instead hinder that development. International standards do exist; however, it is difficult to enforce them due to a lack of control mechanisms, of implementation, and of sanctions when a violation does occur. This international body of standards does not enable closing of loopholes in national legislation. Today, States and international institutions should promote

Make public investment a priority!

► **States must stop shirking their responsibility by sub-contracting project development, funding, and implementation to private economic stakeholders.** They must **reinvest in their public policies, via their own budget resources or via their cooperation policies**, particularly in their agricultural programmes. The institutional framework that regulates the activities of public actors is now much fuller when it comes to preventing violations of rights¹.

► On a daily basis, local populations and civil society organisations demonstrate and implement viable and sustainable

the operational implementation of these international standards, in order to guarantee that human rights are respected when investments are made for land or other natural resources. The Rio Earth Summit is one of those rare occasions on which States can consult each other and send a strong political message to the entire world.

Given that this is a multi-faceted issue that involves various stakeholders, States must take action in several areas:

alternatives that meet the needs of local communities. These initiatives must be supported and further strengthened. To achieve that goal, **investments must be made within the framework of participative policies. Priority must be given to small-scale, local economic initiatives, which respect the rights and potential of local populations in programmes** that target the agricultural sector in Southern countries.

► Investments must meet the needs of local populations and not only of the markets. We are far from reaching a consensus on the concept of a 'Green Economy', which has been promoted by international institutions. Its definition remains ambiguous, and it does not include internationally recognised human rights as one of its fundamental pillars.

Only an economy in which human rights are an intrinsic value could be considered to be a 'green' economy.

Investors must be supervised in light of the impacts they have on human rights

► **Transnational corporations must be held accountable for human rights violations stemming from their activities in Southern countries.**

In 2011, significant progress was made on the question of the impact of corporations on human rights, in particular, thanks to the United Nations Human Rights Council's adoption, in June 2011, of the **Guiding Principles on Business and Human Rights** and the **conceptual "protect, respect, repair"**² framework, which clearly stipulates that corporations have a responsibility to respect human rights. At about the same time, the OECD was finishing a new version of its Guidelines for Multinational Enterprises, which is today the highest standard in terms of corporations and human rights.

Today, the United Nations is expecting States to transpose these new standards into their national laws so that they can be effectively enforced. To achieve this goal, States must:

- Set up a legal regime in terms of liability between the head offices of transnational corporations (often based in Northern countries) and their subsidiaries and sub-contractors, which have business operations in Southern countries;
- In this way, States will make it easier for the victims of transnational corporations, who live in Southern countries, to obtain a fair trial.

► International financial institutions, bilateral and multilateral development banks, and credit export agencies must

require their clients (corporations) to implement reasonable diligence procedures in terms of human rights, and make funding conditional upon the results:

- **Creating conditionality clauses on the respect of human rights** and national and international rules on social, environmental, and fiscal matters for the corporations that receive funding and the companies to which the State subcontracts work on the projects it funds;
- **Evaluating the impact of any decision made to grant a concession**, privatise or make any other economic reform on human rights, particularly economic, social, and cultural rights;
- Encouraging the signing of **long-term agreements**, which are sequential-type and that provide for the partial renegotiation of agreements according to changes in the political situation, with regards to sustainable development and the respect of human rights, in the spirit of what was established in the Convention on biological diversity (1992)³;

► **All of these principles and measures must be used as a basis for reflecting on the World Bank's Responsible Agriculture Investment (RAI) principles**, which concern the responsibilities and duties of private, financial stakeholders. The 'Guidelines for Multinational Enterprises' includes two addenda on the question of investments and human rights that have not yet been integrated into RAI principles.

¹ For example, the possibility of modifying European directives on the basis of impact studies.

² Resolution of the United Nations Human Rights Council: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G11/144/72/PDF/G1114472.pdf?OpenElement>

³ Recommendation n°47 in the opinion issued by the French National Advisory Commission on Human Rights: http://www.cncdh.fr/IMG/pdf/_CNCDH_Responsabilite_des_entreprises_VI.pdf – See also the proposals made by the Sherpa association about the influence of sustainable development on contract law: <http://www.business-humanrights.org/Links/Repository/185581>

States must adopt coherent policies, and make sure they implement them effectively. They must:

► Implement and make sure that the tools adopted today are coherent (**Voluntary Guidelines on the Responsible Governance of Tenure of Land, Guiding Principles on Business and Human Rights, Guidelines for Multinational Enterprises**) so as to develop investment frameworks that include legally binding commitments for private and public economic stakeholders.

► Make the right to food⁴ the main concern of any policy that impacts agricultural issues so as to ensure

that policies remain consistent with each other (the agricultural, energy, trade, infrastructure, and investment policies). National and international policies must be formulated in a way that takes into account food sovereignty and support for family farming.

► At all international meetings, reassert the **central role played by United Nations organisations** to ensure the implementation and consistency of its actions, and very specifically confirm the preponderant role played by the **Committee on World Food Security in world agricultural and food governance**, and give it the corresponding technical, political, and financial means needed, while providing it with legally binding instruments. The same is true for the possible creation of a specialised United Nations Environmental Agency. As is the case for the CFS, **civil society organisations should have access to a mechanism that enables them to participate.**



photo: Philippe Revelli

4. The human right to food: "the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear." Special Rapporteur on the right to food - <http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx>

