

TNI Agrarian Justice Programme Discussion Paper



A 'Land Sovereignty' Alternative? Towards a Peoples' Counter-Enclosure

Saturnino M. Borras Jr. and Jennifer C. Franco

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Land sovereignty

1. Land sovereignty is the right of working peoples to have effective access to, use of, and control over land and the benefits of its use and occupation, where land is understood as resource, territory, and landscape.
2. Land sovereignty is both a call to action against a renewed corporate and (trans)national global push to enclose the commons and an assertion of the need for a people's enclosure of the land; supporting working peoples and their human right to control over land.
3. Land sovereignty goes beyond viewing land just as a resource to also considering land as territory and as landscapes. This embraces struggles by indigenous movements, rural labourers, urban activists and social movements North and South who have sometimes been excluded by traditional land reform campaigns.
4. Land sovereignty embraces plural understanding of property rights - encompassing communal, community, state, and/or private property rights - privileging the commons without romanticising it; recognising the importance of state property while confronting the contradictory role of state in land conflicts.
5. Land sovereignty builds on redistributive land reform, looking to go beyond it by supporting land restitution for people who previously benefited from land reform have been displaced and dispossessed in more recent land grabs and by supporting other land policies whose redistributive content can be shaped through mass struggles: e.g. forest land reallocation policies, community-based forest management, tenure reform and leasehold reform.
6. Land sovereignty connects with the popular demand and movements for food sovereignty allowing for a mutually reinforcing, synergistic interaction between them.

A 'Land Sovereignty' Alternative? Towards a Peoples' Counter-Enclosure

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Introduction

Dramatic changes around food, climate, energy, and finance in recent years have pushed questions of land use and land control back onto the centre stage of development discourse, at the very moment when the same conditions are spurring an unprecedented rush for land and water across the globe.² Although it is often overlooked, water also figures heavily in this new cycle of resource-grabbing, both as a driver of land grabbing for industrial agriculture, and as a target itself, as in the case of water-grabbing for hydropower or hydraulic fracturing (aka 'fracking'), for example.³ A fusion of the industrial agro-food and energy complexes has made land and water key resources in the global capitalist system again, fuelling in turn a huge renewed process of enclosure known as the 'global land grab'.

There is a need to come to grips with land issues in a changing global context and to rethink what may be needed to mobilise effectively in such a setting. The main frameworks of advocacy that have been employed by some academics, radical researchers and social movement activists have some particular limitations in the context of global land grabbing. Neither land reform nor land tenure security alone are well-equipped to be frameworks for analysis or action in the current conjuncture. Land reform remains important, but its limitations as a call to action are being exposed by the current cycle of land grabbing. Likewise, land tenure security is important, but alone is not enough, since adverse incorporation of the rural working poor classes into the corporate-controlled global food-feed-fuel regime does not necessarily require moving them off the land.

If, as our analysis suggests, there is a need to transition the people's demand for land from 'land reform' and 'land tenure security' to something else, then 'land sovereignty' as a framework is worth considering.

Global context

A convergence of global crises (financial, environmental, energy, food prices) in recent years has contributed to a dramatic revaluation of, and rush to control land and other resources such as water. The convergence of 'peak oil' concerns, climate change (with industrial agriculture and the transport sector combined probably contributing to more than half of greenhouse gas emissions), and persistent hunger (affecting one billion people in 2010) have combined with capital's need for continuous expanded accumulation. For mainstream economists, there is a lifeline: newly discovered 'reserve agricultural land' mainly in the South (World Bank 2010), estimated to amount to between 445 million and 1.7 billion hectares (Deininger 2011). In their view this represents land that can be transformed into new zones of investment for food, animal feed, and fuel production.

Greatly encouraged by such extravagant claims by technical 'experts', transnational and national economic actors from various business sectors such as oil and auto, mining and forestry, food, chemical and bioenergy are acquiring or eyeing large swathes of land on which to establish or extend large-scale extractive and agro-industrial enterprises. Initially seen to be limited mainly to the South, there is growing evidence that the trend is happening also in the North and in virtually all global regions and continents as well. Many of these deals are driven by transnational corporations (TNC), and in some cases are foreign government-driven, but almost always in close partnership (or collusion) with national governments. In some cases, national governments are actively shopping around for possible big investors.

The narratives justifying this cycle of land grabbing have been changing too. There has been a clear shift in mainstream development discourse, from alarm over global land grabbing to acceptance of it. Acceptance is founded on the assumption

¹ Borras is Associate Professor of Rural Development Studies at the International Institute of Social Studies (ISS) in The Hague, Netherlands and a Fellow of the Transnational Institute (TNI). Franco is a researcher in the Agrarian Justice Programme at the TNI in Amsterdam. Both are adjunct faculty at the College of Humanities and Development of the China Agricultural University in Beijing.

² We have written this conversational essay, with land sovereignty cast in normative terms, less as academics than as activists. It is part of our political journey together with so many comrades from since many years ago. It is a continuing conversation with fellow activists in trying to make sense of the challenges confronting the agrarian front, and how to reposition radical social movements in the emerging realignment of global state and social forces. As a conversational essay, it is rough in many edges, tentative in many parts. Many of the ideas here build on our previous works. It is therefore suggested to the reader to refer to three other related papers we have jointly authored, namely, Borras and Franco (2010a), (2010b) and (2010c). Several parts of this current paper draw from these three related papers of ours.

³ See Mehta, Veldwisch and Franco 2012; and Kay and Franco 2012.

that the ongoing rural crisis of persistent chronic poverty and widespread hunger is at base a crisis of investment (e.g., a lack thereof). According to this view, the current upswing of big-investor interest in land presents a must-seize opportunity to address this situation. In terms of strategy, this narrative manufactures a 'need' for 'multiple stakeholders' to agree on basic principles of 'responsibility' in order to create 'win-win-win' scenarios for all involved in land transactions and investments. This re-framing of the problem of land grabbing is captured by IFPRI's (International Food Policy Research Institute's) call for a code of conduct in late 2009 as the means to 'make virtue out of necessity', and is reflected in the World Bank's Principles for Responsible Agricultural Investment or RAI Principles.

The starting point of RAI is a particular vision of successful national capitalist economic development, where what is at issue is not a land problem but an investment problem, and so more large-scale 'investment' is considered the solution to (rural) poverty. The benefits are assumed to be: the creation of farm/off-farm job employment, the boosting of smallholder incomes, the transfer of needed technology, an increase in food production, the building-up of rural infrastructure, improved access to basic services, and the opening up of export opportunities. Attention is given to FPIC (free, prior, informed consent), full disclosure of relevant information, transparent transactions, as well as the technical efficiency and/or legal security of instruments such as registered land tenure rights (usually interpreted as individual private property rights), multi-stakeholder negotiations, written contracts, and state-civil society partnerships. Underpinning all this is a strident belief in a big corporate business driven and controlled development path.

The kind of corporate self-regulation proposed by the World Bank and others is a dangerous diversion from the real issues at hand with respect to land. It diverts attention from what is wrong with the economic development model it aspires to, and from the key role of land in the model. It also diverts our attention away from coming to terms with how rural poor people's land (and water) rights, interests and concerns must be prioritised and promoted, and not just recognised and protected.

The forces clamouring for such a solution today are the same ones that have been telling us for years that real redistributive land policies such as land reform and land restitution are

impossible. They are now telling us that land grabbing is inevitable. Confronted by their 'impossibility thesis' on the one hand, and their 'inevitability thesis' on the other, we appear to have no choice but to resign ourselves and accept that a TNC-driven and controlled development path—and its view of rural poverty, land, and land rights—is the only one left. In our view, this kind of response to land grabbing is likely to facilitate, not block, further land grabbing and thus should not be considered, even as a second-best approach. Some may argue that the RAI, despite its inherent weaknesses, is the most pragmatic approach on the grounds that large-scale land grabbing is inevitable in the current economic climate and political-institutional context. But land grabbing is not inevitable, and concerted efforts can and should be undertaken to stop it.

Local complexity

With this in mind, carefully analysing the views, strategies, and alternatives put forward by various quarters is crucial. All those who criticise big land deals do not necessarily share the same understandings of land grabbing, or of its implications in terms of immediate tasks and strategic alternatives. The differences in perspective can be class-based, as in the case of the (now defunct) International Federation of Agricultural Producers (IFAP) versus Via Campesina.⁴ Or, they can be ideological-political, as in the case of Via Campesina versus that of the World Bank or IFPRI. Future research, policy-making, and political action around land issues are likely to be heavily influenced by the dynamics between these two currents. They are likely to pursue divergent research agendas, including the kinds of questions asked and methodologies used, and leading to competing sets of policy proposals and political action.

At the same time, it is vital to see beyond polarised politics, and take stock of the heterogeneity of positions within the two poles, as well as the many shades of grey in between them. The same class-based and ideological fault-lines that separate IFAP and Via Campesina from each other are found (though to a lesser extent and intensity) within each camp too. Acknowledging diversity between and within various camps serves as an antidote to strong tendencies to oversimplify positions in the emerging academic, policy and political discourse.

⁴ Via Campesina, an international movement of poor peasants and small farmers from the global South and North, was formally established in 1993 as a critical response to neoliberal globalisation, which was perceived by many other rural groups as a grave threat to their livelihoods. Today, this movement unites more than 100 national and sub-national organisations from Latin America, North America, Asia, the Caribbean, Africa, and Europe opposed to neoliberalism and advocating a pro-poor, sustainable, 'rights-based' rural development and greater democratisation. It is an ideologically autonomous and pluralist coalition. Claiming global and popular representation, although the American and European groups were the most numerous and influential within it at least during the first ten years or so, Via Campesina has lately emerged as a major actor in the current popular transnational struggles against neoliberalism, demanding accountability from (inter)governmental agencies, rejecting neoliberal land policies, resisting and opposing corporate control over natural resources and technology, and advocating 'food sovereignty', among other issues.

Varied viewpoints may be a reflection of the diversity of actual land tenure arrangements, land use, and land use change on the ground today. Such complexity can complicate political action. Devilish details in the nature, direction, pace, and extent of land use change do not always fit easily into efforts to create simple clear messages for action. To illustrate, the popular focus on land use conversion from food production for consumption and local markets, to food and biofuel production for export, may inspire a lot of people to protest, but also ends up excluding a lot. More detailed mapping of patterns of land use change is needed. Mapping should take stock of variations in: the terms of rural working people's insertion into the emerging food-biofuel agro-industrial complex; the broader context of food regimes (McMichael 2009); and the manner and effects of livelihood displacement, expulsion, and dispossession — whether driven by TNCs and foreign governments, and whether geared for export or not. Class analysis and a critical political economy framework are essential.

This will require unpacking such stock phrases as 'civil society', 'local community' or 'local people'. In many places 'local community' or 'local people' include *kulaks*, *cacique*, chiefs, landlords, traders, lumpen elements, and moneylenders — all of whom may favour a shift to industrial food-fuel production and commercial exchange, or to other related extractive activities; — in contrast to others in the community, including many small-scale producers and landless labourers. Local communities are differentiated by social class, ethnicity, and gender, among other fault-lines, and have variable access to, control over, and use of land and water resources. (In this paper, we use the term 'rural working peoples', loosely following the formulation on 'classes of labour' by Bernstein (2010); we are aware of the populist connotation of the term 'people' and the problems that come with it.). Changes in land use and land property relations brought about by the renewed interest in land will have differentiated social, economic and political impacts. Understanding what is going on at the local level requires answering four key agrarian political economy questions, as explained by Bernstein (2010): Who owns what? Who does what? Who gets what? And what do they do with the surplus created?

The role of the State

In many instances, central states are engaged in systematic policy and administrative initiatives around the notion of 'available marginal lands'. Their role in facilitating a certain kind of investment in these spaces includes: (i) invention/justification, (ii) definition, reclassification, quantification, (iii) identification, (iv) acquisition/ appropriation and (v) re-allocation/ disposition of land. The basic aim is to transform 'scarce' land and associated resources

— regardless of its actual ecological status or social character, and most of which fall formally under central state political-legal-military control — into productive factors of economic production.

Stepping back, three distinct but interlinked dimensions of state action can be seen configuring contemporary land grabs. These are: (i) simplification of land-based social relations, (ii) the assertion of sovereignty and authority over territory, (iii) and the use of state-sanctioned armed force to ensure compliance, extend territorialisation, and broker for private capital accumulation (Scott 1998).

In order to administer and govern, states first engage in simplification techniques that render complex social processes more 'legible' to state field agents and bureaucrats. Cadastres (comprehensive land registries), land records and titles are mechanisms to simplify land-based social relations that are otherwise too messy for state administration (Scott 1998). This is crucial in the construction of an official (e.g., authorized) land and land relations record. It is a key issue underlying today's narrative of so-called available marginal or empty land and all too often involves, in effect, erasing (e.g., rendering 'invisible') evidence that societies and nature co-exist in these spaces.. The trend in state discourse around land grabs is: if the land is not formally privatized, then it is state-owned; if official census did not show significant formal settlements, then these are empty lands; if the same official census did not show significant farm production activities, then these are unused lands. Second, beyond the economic benefits of land investment, land deals are also viewed as an essential component of state-building processes where sovereignty and authority are extended to previously 'non-state spaces' (Scott 1998). Third, coercion and violence are often used by state police and (para)military forces to enforce compliance with the state simplification project, especially where people have refused to be erased by this "simplification" process.

These three dimensions of state involvement in land deals are carried out to a large extent on behalf of the dominant classes of capital, foreign or domestic. However, state support for capital accumulation processes is constrained to some extent by the need to maintain at least a minimum degree of political legitimacy. Capital accumulation and political legitimation are inherently linked and contradictory, tension-filled, uneven and contested, across space and time (Fox 1993). This contradiction renders attempts at international governance of land grabbing a complicated undertaking, especially when it is the state that is grabbing land from the people. And yet, at the same time, under certain conditions, the contradiction makes possible some reformist concessions in favour of alternative (counter) claim-making 'from below'.

Therefore instead of reproducing the neat and simplified presentation of land use by the state, it is crucial to understand the actual complexity and 'messiness' of existing land-based social relations and make that the starting point of an alternative analysis and political action. A willingness to embrace complexity will allow us to engage with actual existing land-based social relations and therefore allow a better grasp of the political dynamics associated with the nature, direction, pace, and extent of land property relations change as a result of big (trans)national land deals.

Looking back: limitations of demands for land reform

Land reform is an important rallying call by many organised movements of rural working peoples today. And this is critical. Ultimately, land grabbing – even if we assume that Oxfam's high estimate of 227 million hectares of land is correct – constitutes a relatively small portion of the world's agricultural land and agricultural population. Pre-existing land concentration outside the sites of current land grabbing has to be addressed with the same urgency. Here, redistributive land policies such as land reform remain the most potent policy option.

But whether land reform is the appropriate 'umbrella demand' in global land struggles, is quite another matter. In our view, certain old and new realities have weakened the potential impact and effectiveness of demands for land reform. For instance, contemporary land grabbing activities are being carried out, or planned, in many places where land reforms have already been carried out in the past, including Brazil, Mozambique, Philippines and India. Conventional land reform alone cannot therefore be the solution to land grabbing in these situations. Conventional land reform is taken to mean what Griffin et al (2002, 279–80) have defined as: redistributing "land ownership from large private landowners to small peasant farmers and landless agricultural workers," emphasising that it is "concerned with a redistribution of wealth." The bias is towards redistribution of formally privatised large tracts of land, such as Latin America's *latifundia*. This is the strength of land reform, but also its weakness. Most agricultural land in the world has non-private (state, public, communal, common, and so on) institutional property arrangements. Much of the land targeted by land grabbing are non-private and therefore outside the limits of conventional land reform. In this specific context, the conventional land reform demand lacks analytical and political power.

Moreover, the problem of land grabbing and land concentration is not confined to the South where the demand for land reform is a partly reasonable master frame

for campaigns. The problem of land grabbing and land concentration is just as creeping and complex in the North. But framing a campaign demand around land reform in the Northern context is a non-starter: a 'land reform' campaign in 21st century Europe and North America may be a conceptually defensible idea, but it is politically problematic as the broader public is unlikely to comprehend its logic.

In addition, many of the sites of contemporary land grabs are in the territories of indigenous communities where social relations of property and concept of property rights are significantly different from the non-indigenous communities. Land reform is generally understood as framing land as a resource, an economic factor of production that needs to be distributed more fairly. Yet indigenous peoples do not view land simply as a resource that can be valued monetarily and can be exploited purely for production and/or extraction – but as a territory for their reproduction as peoples, which is one reason why historically there have been some tensions between land reform movements and indigenous communities.

In many ways, the conventional land reform framework internalises the problems of state land policy, avoiding complex land-based social relations and relying on standard measures of land property relations. As a result it misses a lot of land concentration not captured in official records, but which should be the object of redistributive reform. This limitation becomes even more deeply problematic in today's conjuncture, especially because the non-private ('public lands') have become the principal target of enclosure.

Some of the points above have been recognised by social movements. Some groups use the term 'land reform' implicitly to mean more than just large private landholdings (e.g., to include state/ public land) and more than just having one's physical possession recognized as legitimate (e.g., to include recognising as legitimate one's power to decide how the land will be used). For example, Via Campesina (2008: 10) explained:

"We will fight for a comprehensive genuine agrarian reform that upholds the rights of women, indigenous peoples, peasants, fisherfolk, workers, pastoralists, migrants and future generations and enables the coexistence of different communities in their territories. Customary rights to territory must be recognized but must be adapted if they discriminate against women or marginalized communities. Agrarian reform must ensure priority in the use of land, water, seeds and livestock breeds, etc. for food production and other local needs rather than production for export" (Via Campesina, 2008: 10).

But the ambiguity remains, potentially obscuring what is meant and possibly blunting campaign and lobby work. Apart from the lack of consensus on what land reform means, there are also problems inherent to land reform in the conventional sense. One such problem is, as pointed out earlier, the state's compulsion to always simplify—'make legible'—complex and dynamic land-based social relations, as part of the logic of modern state-building. Conventional land policy processes are more attuned to 'things' (e.g., papers, title deeds), even when these do not conform to the realities actually existing on the ground (Tsing 2002). To conclude, therefore, while it is relevant and important in certain situations, the limitations of conventional land reform hinder its ability to serve as the counter-policy framework unambiguously capable of prioritising and promoting the land rights of the rural working poor classes across the North-South hemispheres.

Limitations to demands for 'land security'

Another response to today's cycle of land grabbing has been a growing call by many groups for greater land tenure security. It is based on a simple assumption: people are dispossessed because they do not have formal property rights over their land; and so, the policy response should be to provide land tenure security to these people.

At first glance this more recent call appears to be quite appropriate to present-day conditions. Yet here too a critical historical perspective on land issues and land policy frameworks is needed. In the land policy literature 'security' means providing, promoting and/or protecting the property rights of the exclusive owners and/or users of land; it usually means individual and private rights including the right to alienate. It means the commodification of land, and transforming it into something marketable. Titles are the chief expression of this so-called security. These interpretations reinforce the conservative view of land as a 'thing' with only economic use-value. But an even deeper problem with the notion of 'security' is that it can mean anything – whether legitimate or not, whether truly pro-poor or not.

Land tenure security can mean the property security of big landlords living in the capital city and relying on tenants or farm workers to make the land productive. It can also mean the property security of corrupt government officials, who may have made claims over vast tracts of far-flung public land through anomalous deals and for speculative purposes. Security in land property can also mean security of the banks that are selling capital for profit, and need collateral in case of payment default. In the current context of global land grabbing 'security' can, and in fact does always also, refer to the security of (trans)national capital invested in land, for example, secure property rights to allow for a secure 99 year lease or

indeed an outright sale. In fact, in the mainstream economic discourse security around land property almost always means the security of elite owners or elite claimants, most of whom are absentee and using the land for purposes that have nothing to do with the broader social well-being of the rural working poor majority. It may not be an exaggeration to say that the term 'land tenure security' has been captured to such a degree by elite state and social forces and institutions, that it has largely lost any previous pro-poor connotation.

Land sovereignty

In light of these problems, but without giving up the positive core ideals found in the concepts of land reform and land tenure security, we propose a shift in framework from 'land reform' and 'land tenure security', to 'land sovereignty'. Taking seriously the historic demands for land by the various strata of working peoples, what is needed is an alternative frame that better expresses a truly pro-working poor class bias in land issues – especially the core idea of the rural working classes being able to exercise full and effective control over the land where they live and work. While every term including 'land sovereignty' will have its limitations, we believe 'land sovereignty' can perhaps best capture the essence of the demand for land by rural working peoples.

The term connotes a sense of 'belongingness': the land belongs to the people who work it, care for it and live on it, and, the people belong to a particular land as a people. It also should remind us that individual and collective plots of land are part of larger socially constructed landscapes and waterscapes, which in turn reflect the kind of relationship between human societies and the environment that has emerged over time in a given place, and should push us to always strive for an ecologically healthy relationship with our environment. The issues of space, ecology, territory, identity, and belongingness—key dimensions of a truly pro-poor and sustainable conception of and demand for land that can be prioritized and promoted into the future—can be better captured in the notion of land sovereignty.

For us, *land sovereignty is the right of working peoples to have effective access to, use of, and control over land and the benefits of its use and occupation, where land is understood as resource, territory, and landscape*. Simply put, land sovereignty is the realisation of the working peoples' human right to land. The use of the term 'sovereignty' perhaps sounds awkward. But we go with it here provisionally for lack of a better term in order to try to capture the essence of 'working peoples' effective access, control and use' as well as a phrase that could naturally be linked to an emerging broader alternative development framework, namely, 'food sovereignty' (Martinez-Torres and Rosset, 2010).

As we use it here, 'sovereignty' has a dual meaning. On the one hand, it is a call to action to bring the state back in and hold it accountable to citizens amidst a renewed corporate and transnational global assault on the agrarian front in the form of (trans)national enclosures. This approach must of course address the problems of a state-centric land policy framework. On the other hand, it is a support to working peoples and their human right to control over land as resources, territory and landscapes. It is in part a response to the recent popular calls to preserve and protect the commons. Similarly this approach must address the problems in commons-oriented and community-centric (populist) frameworks that tend to de-emphasise intra-community class and group differentiation, among others. By building on the strengths of both state-centric and community-oriented perspectives, it may be possible to address some of the key weaknesses of each.

There are five reasons why land sovereignty is a useful normative framework. First, in terms of systems of property rights, it accepts that these can be plural – encompassing communal, community, state, and/or private property rights. Land sovereignty does not privilege western private property rights, but it also does not reject them. It gives premium to preserving and protecting the remaining commons, but also does not romanticise this, especially since these are also sites of intra-community exploitation. It recognises the importance of state property as an alternative to full-scale individualised and privatised property rights, but is also cognisant of the contradictory role of the state in terms of contestations around control over land resources and their use, and the dangers of its simplification processes.

Second, in terms of public policy options, land sovereignty builds on, and so privileges redistributive land reform, but then goes beyond it too. It looks at land reform as a key policy demand and instrument in places where a western property rights regime has been entrenched resulting in land concentration. But it is conscious of the limits of land reform. Therefore, land sovereignty brings into play other equally important redistributive land policies, including land restitution especially in places where people were displaced and dispossessed by earlier and current waves of land grabbing. The redistributive character and content of a land policy is not automatically defined and delivered by the particular type or form of a policy: there are redistributive land reforms, but there are conservative pro-elite land reforms (think of market-assisted land reform), and so on; the content and character are partly shaped by state-society political contestations. So we can also include a variety of other land policies whose redistributive content can be shaped and secured through mass struggles: e.g. forest land reallocation policies, community-based forest management, tenure reform, leasehold reform.

Third, land sovereignty necessary takes on board the land-as-a-resource focus of land reform, builds on it, and then goes beyond it to include two other master narratives: land as territory and as landscapes. By doing so, land sovereignty is a framework that does not back away from existing tensions between competing narratives, but actually confronts them. Indigenous peoples communities and movements worldwide seldom and rarely use 'land reform' as their framework of struggle, as they aspire to control their 'territory'. Moreover, land reform was and is a divisive policy frame in particular settings, especially where there are large numbers of rural labourers working either for smallholders themselves or for large farms. A land reform framework for a land campaign necessarily alienates many of these labourers, many of whom would not even want to become peasants. But they may have a place-based land issue – where land is cast as a territory or landscape; labourers may demand not farm plots but house lots, for example. Finally, there are small family farmers who already have their plots of land and so would not see a call for land reform as an issue for them. And yet, they may have persistent land issues as well, which become more visible when land is cast broadly as territory and landscapes. Land sovereignty can thus be a common platform between peasants, labourers and indigenous peoples.

Fourth, in terms of positioning mass struggles from below, land sovereignty can provide a more inclusive, global master frame than land reform does. Cast broadly, as explained above, land sovereignty can serve as an overarching narrative that can bring together – as fellow claim-makers – social movements from the South and North, from rural and urban settings. This may resolve the problem inherent in an international land reform campaign that is too South- and rural-centred. Resolving these divides perceptible in the Via Campesina-led global campaign for agrarian reform can unleash a massive global political force worldwide: South-North, rural-urban. Imagine a shared land campaign demand that brings together peasants from Mali, forest dwellers from Indonesia, peasants from Guatemala, part-time small family farm in France, and an urban gardener in Detroit. This is a broad coalition that is inconceivable within a land reform master frame.

Fifth, an inclusive global land struggle can be effective only when cast not as a stand-alone issue and campaign, but one that is able to connect, and connect well, with broader working peoples' campaigns and political projects. Land alone does not constitute an alternative model of development; it is a necessary component of the latter. The current alternative narrative that has inspired tens of thousands of working peoples, middle classes, intellectuals and activists worldwide, both urban- and rural-based, young and old, is food sovereignty. Food sovereignty needs a land pillar, but land reform

cannot be this pillar; conversely, land sovereignty needs a broader master frame. In this context, land sovereignty will be able to connect well with food sovereignty – allowing for a mutually reinforcing, synergistic interaction between these two frameworks and the social movements therein. But this means too that land sovereignty is necessarily a cross-class alliance and political project – in the same manner as food sovereignty; thereby internalising both synergy and tension in these kind of alliances and political projects.

Land sovereignty: defending against elite and corporate enclosure

There is an ongoing worldwide corporate-led, state-brokered enclosure process, occurring in the South and North, rural and urban. It is being resisted – albeit weakly and unevenly – in these various sites of struggle. These enclosures affect in a variety of ways multiple social classes and groups. A cross-class, peoples' counter-enclosure campaign has become urgent and necessary, and has been underway despite lacking an overarching master frame.

A people's counter-enclosure campaign is one where the working peoples resist political processes that maintain inequitable status quo or even further (re)concentrate land ownership and control. In the specific current international context, it is a campaign where people struggle to resist (trans)national landgrabbers.

Campaign against non-redistributive land policies

The defining character of non-redistributive land policy is the maintenance of the status quo, usually marked by land-based inequity and exclusion, such as the existence of *latifundia* in Latin America, or state monopoly in land as in Indonesia. Here, the most typical land policy is 'no land policy'. In settings where there are vast land-based inequities and exclusion, a 'no land policy, policy' effectively advocates for non-redistribution of land-based wealth and power. In other settings, a similar effect is created by having a land policy, even a redistributive land reform policy, but then keeping this dormant. The existence of this type of land policy favours and facilitates (trans)national land grabbing. However, there are also active land policies that are categorically non-(re) distributive.

Formalisation of inequality occurs in agrarian societies marked by socio-economic inequality and lopsided power relations between various groups and classes in society, where a technical 'formalisation' of land rights is carried out. Formalising land rights of legal claimants in settings marked by a high degree of inequality is likely to formalise

land claims by elite claimants, or indeed, by the state. In such cases, formalisation policies have only formalised inequality and institutionalised historical injustice. Many earlier private land-titling programs, carried out by former colonial powers, dispossessed the local population and facilitated land grabbing by colonisers. Formal land rights do not guarantee protection of land rights for the rural poor. The Land Law of 1997 in Mozambique guarantees land rights of local communities; yet the same law was used by transnational large-scale land investors to secure large chunks of lands for their investments, displacing, and even dispossessing many of the local population in the process.

Restitution without redistribution happens when large scale land-based wealth and power transfers are carried out in the name of the poor, who in reality have no significant effective access to, or control over land resources that are transferred. Examples of this include post-conflict situations where land restitutions were carried out through large chunks of land being awarded to communities or the state, without any process of democratising access to and control over these land resource. Many civil wars were partly caused by struggles to control land resources or territories. Therefore, many peace settlements have included land policies. However, redistributive reforms in land seldom figure in peace settlements, partly because on many occasions forces opposed to any redistributive perspective in land policies are located in the warring factions. In cases where democratisation of land was attempted in the peace settlement process, the kinds of land policies adopted were too market-friendly, as in Central America in the mid-1990s, and the 1980 Zimbabwe peace settlement. As a result, policies benefited the elite and the central state more than working peoples.

Campaign against (re)concentration

The defining character of (re)concentration is when land-based wealth and power transfers do occur, yet access to and control over the land resource actually gets (re) concentrated in the hands of the economically and politically dominant social classes and groups: landed classes, capitalists, corporate entities, state or other dominant community groups such as village chiefs. This kind of change can occur in private or public lands. The organisation of control over land resources can be through individual, corporate, state, or community group institutional arrangements in property rights. The transfer may involve full land ownership or not. Different variations are possible, but the bottom line is the same: the recipients of land-based wealth and power transfers are the economically and politically dominant social classes and groups, as well as state officials and bureaucrats.

There are at least three broad trajectories within the (re) concentration category. *Reverse redistribution* is where redistributed land-based wealth and power (from the landed classes or the state to the working poor) was later redistributed back to the landed classes, other elites or the state. In the current context of global land grabbing, an example is the 30,000 hectares of Procana sugarcane plantation in the Gaza province of Mozambique where the local population, beneficiaries of previous land reform, were displaced to pave the way for the plantation. *Perverse redistribution* is a trajectory where land-based wealth and power are transferred from the working poor people to the economically and politically dominant classes and groups, as well as state officials and bureaucrats. This can happen under a variety of policies, including notionally pro-poor policies such as land reform and forest land allocation or management devolution, and via formalisation and privatisation of land rights, a variety of land-based joint venture agreements, and land lease arrangements, and so on. Examples of this are plenty in the current context of global land grabbing: in Cambodia previously farmed and occupied lands were suddenly appropriated by the state for reallocation to domestic and transnational investors. *Lopsided distribution* is where land-based wealth and power are transferred from the state or community, directly or indirectly, by policy or through the open market, to a handful of private or state entities, with the net effect of excluding others while benefiting a few. The way state lands are being reallocated by the Indonesian state to private corporations represents a good example of this type which has been done in order to facilitate the rapid expansion of oil palm in that country.

These latter two types of land policies—non-(re)distribution and (re)concentration—undermine the livelihood of working peoples in a variety of ways. In many cases, these policies lead to dispossession of the rural poor, in others these lead to working people's adverse incorporation into enclaves of corporate-controlled plantations. These policies are being opposed, in various ways and extents—by rural working peoples: from organised to unorganised, overt to covert, legal to extralegal, and from local to transnational arenas of political contestations. The working peoples' counter-enclosure campaign is a defensive struggle. It is a critical component of land sovereignty campaign, but represents only half the picture on the agrarian battle front today; the other half is a more pro-active campaign, the people's enclosure campaign.

Land sovereignty: fighting for people's enclosure campaign

A pro-active peoples' campaign is just as important as a defensive struggle. A people's counter-enclosure campaign is necessary but not sufficient; a peoples' enclosure campaign is necessary.

A peoples' enclosure campaign is one where working peoples pro-actively assert their political control over their remaining lands against potential and actual threats of corporate or state enclosure. It is one that can be done either independently from the central state via community-based enclosure of the commons or in direct engagement with the state. Here, we will focus on the latter type. There are two types of land policy institutional contexts within which peoples' enclosure campaign can, and should, take place namely, redistributive and distributive land policies.

The defining principle for *redistributive* land policy is that the land-based wealth and power are transferred from the monopoly control of either private landed classes, or the state to landless and near-landless working peoples. It changes the relative shares of social classes and groups in society. It is a 'zero-sum' reform process. The conventional notion of redistributive land reform, applied only to large private lands, is the most commonly understood example of land-based redistributive reform. However, we argue that there are a variety of policy expressions, beyond the conventional notion, that can result in changing the relative shares of social classes and groups in society. These include redistributive land reform, land restitution, share tenancy or land tenure reform, land stewardship, indigenous land rights recognition, and labour reform. This is regardless of whether a policy is applied to a private or public land. The key is to be able to establish the degree of redistributed wealth and power, and to which direction.

The basic defining character of *distributive* land policy reform is that the landless and near-landless working peoples are the recipients of land-based wealth and power. However, the original source of wealth and power can either be the state or community, or a private entity that has been fully compensated by the state. In many settings, this type of reform would mean affirming and protecting pre-existing land access and occupancy by poor peasants, whose tenure is insecure. It is a 'positive sum' reform process. It does not take resources from one social class or group in society to redistribute to another. In fact, often such a policy is passed precisely to avoid having to resort to redistributive policies (Fox 1993: 10). For example, a piece of land that is officially categorised as public or state forest is actually an agroforest land tended and tilled by poor peasants or forest dwellers. A long-term forest land use rights allocation was issued to the poor peasants and forest dwellers in order to make their pre-existing access to the forest land more formal and secure. This is a distributive reform.

A peoples' enclosure campaign advocating for redistributive and distributive land policies can be carried out through at least three broad strategies, namely, state-centric, social movement or community-led, and state/community-driven. It is not about the mere presence or absence of either the state

or community entity that defines these types of strategies. Rather, it is the character and the extent to which each actor plays a key role that is important.

State-centric. Historically, the most sweeping (re) distributive land reforms were state-driven. As the examples show, successful and significant land reforms were carried out by the central state not only in the context of socialist transitions, but also in non-socialist contexts. The central state has played a key and leading role in these sweeping social justice redistributive land reforms. It does not mean to say that other non-state actors were absent or did not play any significant role. They did; but the role of the central state was the key. State-centric (re)distributive land policies occurred not only in the form of conventional land reforms, but also in other redistributive land policies, such as forest land (re)allocation policies. A variety of land restitution experiences have also been carried out through time, although with limited success. One of the lessons here is that wherever possible and appropriate, state-driven redistributive land reforms should be seriously considered and implemented—and should never be dismissed *a priori*. It remains one of the most important policy options for redistributive land policies today, because the central state has the power to make authoritative decisions in society on some important laws and programs. It has the coercive apparatus that can be deployed in pursuit of 'working peoples' interests.

Social movement or community-led. These two subtypes are very similar, and yet significantly different too. The more mainstream version of them is the community-led strategy. In fact the same term is used to clothe a straightforward market-led land policy. What we mean here by community-led are those pushing for a truly redistributive land policy—land reform, land restitution, community-based forest management, and so on—where community organisations in their variety of forms such as production cooperatives, neighbourhood associations, village committees, and so on, have taken the lead role in pushing for a redistributive land policy process and outcome. This remains a viable and desirable option especially in settings where there are no highly organized rural social movements. However, it is critical to always disaggregate 'communities', analytically and politically, based on the multiple fault-lines that exist within these communities: class, gender, and ethnicity, among others. Meanwhile, the more popular and dramatic version of this type is the social movement-led strategy. Here, we refer to highly organized rural social movements that are engaged in contentious politics with the state for redistributive land reform. We see this either at a national scale or at a local scale. At the national scale, perhaps the best known social movement-led strategy for redistributive land reform is

in Brazil. There, the Movimento dos Trabalhadores Sem Terra (MST) and other militant agrarian movements, both within and outside La Via Campesina-Brazil—have used the strategy of land occupation to interpret and implement the state land reform law. Over time, these movements were able to resettle hundreds of thousands of landless households. However, such a model is rare, t. It is also not easily replicable or quickly exportable. The more widespread type within this category are subnational social movements. By disaggregating the concept of social movement-led strategies for redistributive land policies, we avoid dismissing the relevance and importance of many other existing subnational movements that have carried out, or have attempted to carry out, redistributive land policies with varying degrees and extent of success that are just as politically profound as the more dramatic national cases. Contemporary examples include land occupation initiatives in Indonesia where peasants have mobilized around the Basic Agrarian Law of 1960 to seize and occupy lands in different parts of the country, the Chiapas struggle for land in Mexico, and the 'village land banks' initiative by peasants and indigenous communities in northeast Thailand. The social movement/community-led redistributive land policy strategies are just one of the three broad types of redistributive alternatives, but tend to receive the most attention from the broad community of academics and activists, perhaps largely because of its more dramatic forms of actions. But as we have pointed out, the latter is just one of the many redistributive alternatives, and also the rarest, and most difficult to replicate in the current political economic context.

State/social movements, state/community-driven.

The least popular and least understood type of redistributive alternatives are the state/community- or state/social movement-driven strategies for redistributive land policies. There are important lessons and experiences in the past, and currently that show how and when a state/community or state/social movement-driven process resulted in desirable pro-poor outcomes. This category is somewhat a combination of the first two types described above: both state and non-state actors have played more or less equally significant roles in a symbiotic way. There are two sub-types: state/community and state/social movement-driven; the difference between the two is similar to the earlier discussion on community and movement-led land policies. When mobilisations from below are met by actions from above, more radical state land reform laws can be carried out. This was what happened in the Philippines during the limited period from 1992 to 2000, more or less what transpired during the Sandinista land reform in the 1980s, during the Allende reforms in the early 1970s in Chile, as well as in Kerala in the 19760s-1970s. This was the same process in West Bengal's share

tenancy reform in the 1970s and onwards. There are also several cases of successful subnational, localized state/community-driven community forest land reallocation and management, community mapping, and land restitution in various parts of the world. The state/community and state/social movement-driven strategy is an important alternative for realising redistributive land policy changes especially in places where the state on its own is unable to overcome structural and institutional obstacles to reform, or in settings where powerful national social movements do not exist. Combining the limited forces of state and societal actors becomes central to any redistributive alternative.

Concluding remarks

Our main intention in this discussion paper has been to help raise critical questions about the strengths and limitations of current analytical and political frameworks that inform current land reform campaigns by agrarian movements and their allies. We do not offer any firm answers to many of the questions, but we put forward some propositions, cast in a normative way, for discussion on how to frame and mount cross-class peoples' campaigns against land dispossession and for (re)possession – both defensive and pro-active mass struggles.

We offer an initial and ipreliminary discussion about the concept of land sovereignty: why we need to transition people's demands from 'land reform' and 'land tenure security' to land sovereignty. In our concept, land sovereignty

is anchored on two inseparable pillars of sovereignty: state and people. We also explain why and how land sovereignty is an alternative analytical framework that can help us understand better the complexity of land issues in the current context and that can serve as an alternative political platform to help us confront more inclusively and effectively the challenges confronting us on the global land and agrarian fronts today. Land sovereignty as a campaign thus represents two politically intertwined struggles of rural working people: their defensive struggle—the *peoples' counter-enclosure campaign* and their pro-active struggle—the *peoples' enclosure campaign*.

In a way land sovereignty is inspired by the relative success of food sovereignty as a framework for an alternative model for food production and consumption, a campaign and a movement. Food sovereignty has become a global framework for all those who are confronted by a 'food question', whether they are in rural or urban areas, in the South or North. It is a concept that is flexibly interpreted and carried out depending on one's structural and institutional location and has become a truly cross class alliance political project.

What we urgently need now is a framework for our global land campaign that has a similar impact, i.e. a framework with which all those who are confronted by a land question, whether they are in urban or rural areas, or in the South or North can identify with; a framework that can be flexibly interpreted across structural and institutional settings. It in this context that we put forward the concept of 'land sovereignty' as a possible agenda for discussion.

References

- Bernstein, Henry (2010). *Class Dynamics of Agrarian Change*. Halifax: Fernwood; MA: Kumarian.
- Borras, Saturnino Jr. and Jennifer C. Franco (2010a). 'From threat to opportunity?: Problems with the idea of a 'code of conduct' for land grabbing'. *Yale Humans Rights and Development Law Journal*, vol. 13, no. 1.
- Borras, Saturnino Jr. and Jennifer C. Franco (2010b). *Towards a Broader View of the Politics of Global Land Grab: Rethinking Land Issues, Reframing Resistance*. ICAS Working Paper Series 001, co-published by the Land Deal Politics Initiative (LDPI) and the Transnational Institute (TNI) in Amsterdam.
- Borras, Saturnino Jr. and Jennifer C. Franco (2010c). 'Contemporary Discourses in and Contestations around Pro-Poor Land Policies and Land Governance'. *Journal of Agrarian Change* 10(1).
- Deininger, Klaus (2011). 'Forum on global land grabbing: Challenges posed by the new wave of farmland investment'. *Journal of Peasant Studies*, 38(2): 217-247.
- Fox, Jonathan (1993) *The Politics of Food in Mexico: State Power and Social Mobilization*. Ithaca: Cornell University Press.
- GRAIN (2008). 'Seized: The 2008 Land Grab for Food and Financial Security'. Barcelona: GRAIN.
- Griffin, Keith, Azizur Rahman Khan and Amy Ickowitz (2002) 'Poverty and Distribution of Land', *Journal of Agrarian Change*, 2(3): 279-330.
- IFPRI (2009). 'Food scare sparks Third World land rush', as reported by Reuters, <http://uk.reuters.com/article/idUKTRE53S97420090429?pageNumber=2&virtualBrandChannel=0&sp=true>
- McMichael, Philip (2009). 'A Food Regime Genealogy'. *Journal of Peasant Studies*, 36(1): 171-196.
- Mehta, Lyla, Veldwisch, Gert Jan, and Jennifer Franco (2012). 'Introduction to the special issue: Water Grabbing? Focus on the (re) appropriation of finite water resources'. *Water Alternatives*, 5(2): 193-207.
- Martinez-Torres, Maria Elena and Peter Rosset (2010). 'La Vía Campesina: the birth and evolution of a transnational social movement'. *Journal of Peasant Studies*, 37(1).
- Ribot, Jesse and Nancy Peluso (2003). 'A Theory of Access'. *Rural Sociology*, 68(2): 153-181.
- Scott, James (1998) *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* New Haven: Yale University Press.
- Tsing, Anna. 2002. 'Land as Law: Negotiating the Meaning of Property in Indonesia'. In *Land, Property, and the Environment*, ed. F. Richards, 94-137. Oakland: Institute for Contemporary Studies.
- Via Campesina (2008). 'Food Sovereignty for Africa: A Challenge at Fingertips'. Maputo: Via Campesina
- World Bank (2010). *Rising global interest in farmland: Can it yield sustainable and equitable benefits?* Washington DC: The World Bank.

AGRARIAN JUSTICE PROGRAMME

In recent years, various actors, from big foreign and domestic corporate business and finance to governments, have initiated a large-scale worldwide enclosure of agricultural lands, mostly in the Global South but also elsewhere. This is done for large-scale industrial and industrial agriculture ventures and often packaged as large-scale investment for rural development. But rather than being investment that is going to benefit the majority of rural people, especially the poorest and most vulnerable, this process constitutes a new wave of land and water 'grabbing'. It is a global phenomenon whereby the access, use and right to land and other closely associated natural resources is being taken over - on a large-scale and/or by large-scale capital - resulting in a cascade of negative impacts on rural livelihoods and ecologies, human rights, and local food security.

In this context TNI aims to contribute to strengthening the campaigns by agrarian social movements in order to make them more effective in resisting land and water grabbing; and in developing and advancing alternatives such as land/food/water sovereignty and agro-ecological farming systems.



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tni@tni.org