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LAND POLICY AND ENVIRONMENTAL JUSTICE: THE CASE OF PUBLICLY OWNED PROPERTIES IN LEBANON

INTRODUCTION

Some of the most radical urban struggles we have witnessed in Lebanon arose in the face of urban projects or buildings that had not yet been implemented. These struggles were informed by people's knowledge of these projects' devastating environmental, social, economic and psychological consequences. It is not surprising that a lot of discussion and movements are built around future constructions and that objections to these projects and attempts to prevent them become

* **Public Works Studio** is a research-based organization made up of urbanists, architects, designers, researchers and legal experts critically engaged in public and urban issues. By taking a right-to-the-city approach, their work addresses spatial inequality and social exclusion in Lebanon as these affect residents whose livelihoods, housing and surrounding environment are being destroyed by neoliberal urbanization and real estate speculation. www.publicworksstudio.com

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aggressive, since all those involved – protesters, residents, politicians and real estate developers – are well aware of what is at stake. We have supported, followed and participated in campaigns, obstructive movements and interventions and even direct confrontations with security forces to stop real estate projects that were approved by the Lebanese authorities. This started with opposition to the Solidere project¹ in the 1990s and has recently included protests against the construction of the Bisri Dam, the privatization of the Dalieh area of Raouche, the construction of the Eden Bay resort in Ramlet al-Baida and the Fouad Boutros highway in Rmeil, the planned construction over the Anfeh salt evaporation ponds and the destruction of the fishermen's port in Adloun.

Hence, the struggle over land includes what exists as well as what does not yet exist; it is a struggle to preserve the land as we use it today and a fight against what is planned for tomorrow. The pace of construction and its price affect everything, from housing to agriculture, to the environment, to transportation and beyond.

An increasing number of people in Lebanon are being displaced from their lands and homes in order to make room for huge projects. The destruction of agricultural land by real estate speculation has led to local food inequality, which in turn has contributed to increased displacement from rural to urban areas and the impoverishment of marginal areas. Measures taken in land administration and regulation are also contrary to the interests of the people and their environment, health and mobility, especially for those who depend on land as a means of subsistence, survival and the preservation of their human rights.

Indeed – as highlighted by the United Nations' *Land and Human Rights* report – 'growing global concerns about food security, climate change, rapid urbanization and the unsustainable use of natural resources have all contributed to renewed attention to how land is being used, controlled and managed' (Office of the United Nations High Commissioner 2015). These questions have thus become essential in discussions around environmental justice, simply because land is not a commodity but rather a comprehensive issue that directly

1. Solidere is a private real estate company that was handed the reconstruction of Beirut's downtown in 1994. It was founded by the late prime minister Rafic Hariri.

affects a number of basic rights. Land is also specified by its content and connotations; it is the source of life and a place that is lived in. One particular question in this discussion is the future of public land.

In Lebanon, the state owns a substantial part of the territory, estimated to range between 20 and 25 per cent of the country's total surface area. These publicly owned properties – the unbuilt ones – constitute our natural and ecological environment. They are a national asset directly linked to our ways of life and diverse livelihoods across Lebanese regions. Yet these public properties are the newest target of privatization through multiple government plans. Faced with these risks, Public Works Studio embarked on an in-depth research project to answer the following questions: What kind of land is owned by the Lebanese state? Where is it located? What social value does it hold? And what do we stand to lose if the state concedes this land? (Public Works Studio 2022). By answering these questions, this paper advocates for the need to preserve public land as a right for future generations and makes a case for why the oligarchic plans to privatize state lands must be resisted – in Lebanon and elsewhere. We further argue that the public ownership of land has played a detrimental role in safeguarding its environmental and social value against neoliberal urbanization and real estate construction projects.

PRIVATIZATION: A TOOL FOR THE OLIGARCHY

In light of the ongoing financial and economic collapse of Lebanon, recent mainstream public discourse in the country has focused on the privatization of public assets as a means to save the state from imminent bankruptcy. It began on March 10, 2020, when Mohammad al-Mashnouk, then Minister of the Environment, presented the prime minister with what he marketed as 'a solution to the crisis of fears about the fate of bank deposits' (Sayegh 2021). Al-Mashnouk's 'solution' was practically a carbon copy of the plan that the Association of Banks in Lebanon (ABL) would release two months later under the title 'Contribution to the Lebanese Government's Financial Recovery Plan' (Association of Banks in Lebanon 2020).

Though they are packaged differently, both plans call for the establishment of a fund – to be called either 'the Sovereign Fund for the Management of State Property' or 'the Fund for Government Debt

Relief’ – that would allow private banks to seize various assets held by the Lebanese state, including real estate. The ABL plan even specifies that the state assets in question must be valued at approximately USD 40 billion – allegedly to match the amount owed by the state to the central bank – and that they must include ‘some or a combination of shares in state-owned enterprises (e.g. telecommunications), public lands and other public real estate assets, and/or exploitation rights/concessions (e.g., Lebanon’s waterfront)’ (Association of Banks in Lebanon 2020).

By July 2020, other dangerous ideas to privatize state land had made their way into Parliament in the form of several bills. One such bill, sponsored by the Loyalty to the Resistance Bloc in September 2020, sought to legally reclassify a type of state land that has traditionally allowed for communal use (known as *amiri* land) and consequently privatize it (Public Works Studio 2021). Although very different from the Sovereign Fund, this bill exemplifies the clientelist nature of policymaking in Lebanon, whereby parliamentarians – under the pretext of meeting the needs of their constituencies – transform land rights into circumstantial services provided by these representatives, in this case at the expense of public assets.

Through these moves, land that belongs to the Lebanese state is the newest target of the privatization that has proved so exclusionary and detrimental to Lebanon’s most impoverished populations. Contrary to what advocates for privatization claim, the sale of state land is unlikely to generate the profits needed to pay off the state’s debt or compensate for the losses caused by this crisis (Kostanian 2021). What is likely, however, is that such sales would further constrain the Lebanese state’s capacity.

The current threat of privatization also follows a history of national policies that systematically commodified land and threatened the public realm. For the past decades, land policies in Lebanon have emerged as a tool for consolidating the real estate rentier economy and as an opportunity to accumulate wealth, rather than as a means of achieving social justice and managing resources. In fact, the services sector accounts for about 77 per cent of the total Lebanese economy (Dewailly 2019) and an abundance of research has demonstrated that most revenues are generated by land and housing development for

the benefit of a group of traders or speculators in real estate prices. This has put the social function of land under severe strain and has destroyed productive economies tightly linked to natural resources.

Long-standing policies in Lebanon have also robbed and neglected the public domain. One such policy is the use of legal loopholes to reclassify state lands, thereby removing restrictions on their use. The Lebanese state owns two categories of property: public state property and private state property (Lebanon's Real Estate Property Law, Resolution no. 3339 of 1930). These categories are consequential because they determine what the state can and cannot do with its properties. When it comes to its 'private' property, the state – under conditions that differ according to land type – can sell, cede or lease this type of property in accordance with relevant law.

In contrast, the state's 'public' property – legally known as 'reserved protected land' – can never be sold. It includes any property meant to be used in the public interest, such as riverbeds, riverbanks, seashores, waterfalls, lakes, irrigation canals, roads, paths, sidewalks and storm drains, among others. This type of property is 'protected' because the state cannot sell it or dispose of it, nor can ownership over it be acquired over time, unless it is first redesignated as 'private' to remove these restrictions – which is precisely what has happened over the years.

We collected and analysed data from the Official Gazette on reclassifications of public state property as private state property between 1922 and 2022. We found many cases where public state property was redesignated under the pretext of 'serving the public interest', a loose concept that seems to correspond to the individual economic and political interests of the day's decision makers (Abou Rouphaël 2022). This legal loophole has been used to facilitate investments that should have never been allowed to occur and to encroach on integral elements of our natural and built environments. Only in a few cases could the request to redesignate property be justified on the basis of serving the public interest. For example, the Ministry of Education requested a reclassification of a plot in order to build a public school on it; the property became 'private state property' and ownership reverted to the ministry. Yet, only in 7 per cent of cases was a request to reclassify property initiated by an official entity (a ministry, agency or municipality). In contrast, 83 per cent of requests

to reclassify property were initiated by private parties, such as individuals, companies, an endowment, a syndicate, an association etc. Requests were often made by owners of neighbouring real estate.

Another type of loophole used to remove the ‘public’ designation from state property appears in the context of infrastructural renovations of protected properties, such as roads, channels or canals. Because old infrastructure can no longer serve the public interest – according to decision makers – they can be reclassified. We found this pattern in 26 per cent of cases. And when we dug into specifics, we found that these redesignations were used to buy political loyalties in clientelist networks.

The history of state land reclassifications showcases how Lebanon’s politicians engage with protected lands as mere commodities that can be turned into financial profit and political capital. Under legal cover, the public domain has been offered to those in power on a silver platter.

THE LAND WE STAND TO LOSE TO THE SOVEREIGN FUND

The public domain of the state includes maritime properties, such as beaches, sands and seawater as well as riverbeds, shores, waterfalls, natural lakes and ponds, to name a few. Lebanon has already lost a portion of this natural environment through decades of legalizing the illegal redesignation of these lands for the sake of economic and personal interests. Yet with the possible establishment of the Sovereign Fund, the losses are far larger than what we have witnessed for the past decades.

The private domain of the state accounts for about 57,201 properties. It is made up of Republic and Treasury properties (54 per cent), the Commons (8 per cent)² and properties belonging to various ministries, the Council for Development and Reconstruction (2.5 per cent), Banque du Liban (2 per cent), various municipalities all over Lebanon and other administrations, such as the Litani River Authority and housing institutions (T. Alaeddine 2022).

2. We use ‘Commons’ here to refer to all properties where the name of the owner is ‘the general population/residents/property holders’ of a named locale and to *musha*, *mar’a* and *baydar*.

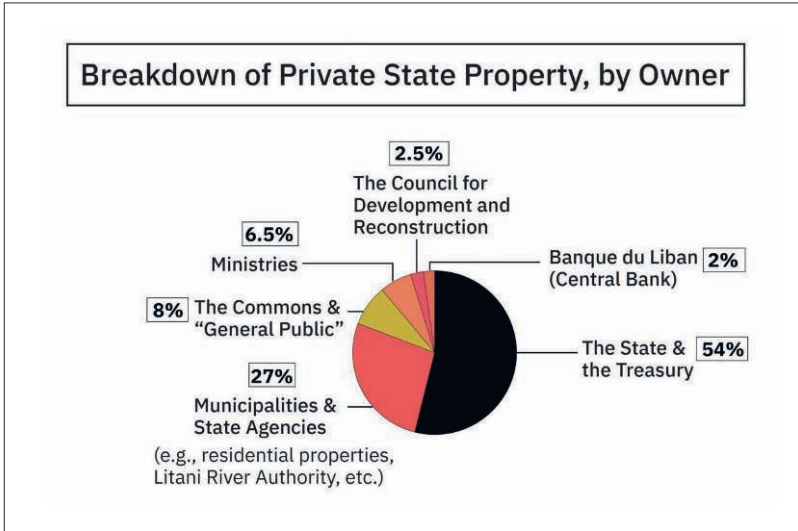


Figure 1. Breakdown of private state property, by owner type. Source: Diagram produced by Public Works in 2021 after compiling 2015's data from Ministry of Finance records.

Departing from these numbers, the losses are numerous. Looking closely at the records of the Ministry of Finance, 2,773 properties are listed under the name *musha'* (communal), 408 are designated as *mar'a* (pasture) and 125 as *baydar* (threshing floor). In 1,253 cases, the proprietor is 'the general population/residents/property holders' of a named locale. These lands are distributed unevenly across Lebanon.

The mere existence of these various concepts is in itself evidence of a long-standing, organic relationship between people and land, one grounded in collective, public use rather than individual ownership. Their respective meanings also capture the diverse practices and uses of land in Lebanon, beyond our dominant modern framework that tends to associate the public domain only with gardens or parks. *Musha'* refers to land shared by the general public, equally, without exception and with no individual owner. *Baydar* is flat land used for threshing wheat and barley (i.e. separating the grain from the chaff after the harvest). *Mar'a* is pasture: wild, uncultivated land with vegetation suitable for grazing on which herds of livestock can subsist.

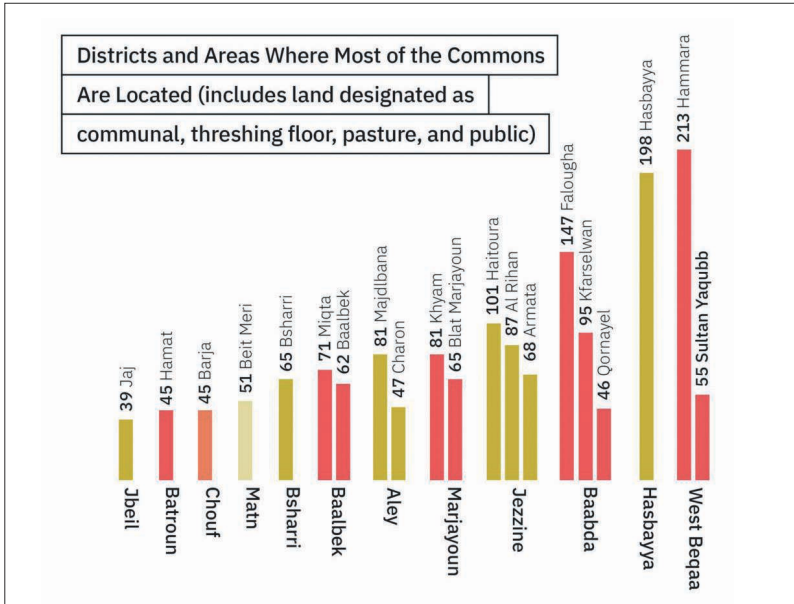


Figure 2. Top twenty Lebanese locales with the highest number of Commons. Source: Diagram produced by Public Works in 2021 after compiling 2015’s data from Ministry of Finance records.

The fourth designation, ‘general population/residents/property holders of X town’, refers to specific localities.³ In some instances, the lands are meant for the use of all those whose civil status (*nufus*) is tied to that town; in others, it is for all registered residents of the town, even if their civil status is tied to a different locale and even if they are not Lebanese nationals. And in some cases, use of the land is limited to all holders of property in the town, even if they are neither residents nor civil status holders.

Some attribute this fourth designation to the mid-nineteenth century social revolution, in which peasants took control of the lands they were working under feudal lords (Milan 2016). When the Ottoman Empire began to enumerate lands with the intention of imposing taxes

3. In Arabic: عموم المالكيين في بلدة ما / سكان بلدة ما أهالي / عموم أهالي.

on the population, these peasants claimed that the areas belonged to the ‘general population’ in order to evade taxation.

Across their different names, these lands refer to locations that have always been reserved for the public benefit, with equal access to the land and its resources, far from conceptualizations of private property as paramount. Today there is a growing concern with protecting them as living practices of the organic relationship between people and the land at the local level and as expressions of the diverse lifestyles, traditions and socio-cultural practices of communities.

Another element worth protecting, or rather resurrecting, is the housing component of state property. The Lebanese state owns thousands of properties designated for housing (R. Alaeddine 2022) and registered under the name of several ministries, departments or directorates concerned with housing, such as the National Authority for Reconstruction, the Ministry of Housing and Cooperatives, Public Housing or the Housing Authority. None of these institutions exist today, as all have been subsumed under the Public Corporation for Housing (PCH).

The state’s direct intervention in the housing sector can be traced to the mid-1950s, with the construction of the first public housing projects. These projects were conceived not to service populations in social and economic need but rather as a response to waves of displacement caused by natural disasters. In 1956, in the aftermath of a devastating earthquake in the Chouf Mountains and the south of the country, the National Authority for Reconstruction was established. The agency acquired real estate in sixty-seven affected areas, constructed homes and buildings for those affected and sold real estate to others so they could build their own homes.⁴ An identical process was followed when the Abu Ali River in Tripoli flooded multiple times that same year. The agency was short-lived, as it was abolished only a year later.

Proposals for social housing projects soon followed, but most did not see the light. Yet, under pressure from unions, and considering that one of the main obstacles to building affordable housing was the

4. According to Rony Lahoud, current PCH Director. This statement was shared during the groundbreaking ceremony of the municipal building in Anan back in 2019.

scarcity and high cost of property, Parliament passed legislation in 1965 to enable the government to acquire land and resell it to parties wishing to build (Sadik 1996). The Ministry of Public Works and Social Affairs was supposed to facilitate the construction of 4,000 housing units, half of which would be reserved for low-income families. Three projects were started: 192 units in Tripoli, 96 in Tyre and 400 in a suburb of Zgharta. Not all were completed, for different reasons, and the programme was eventually dropped.

This was the closest Lebanon came to building social housing projects. Since the end of the civil war, practically the only work that the PCH has done in this domain is facilitating loans for home ownership.

It is imperative to preserve state properties designated for housing in official records, for they can be key to a national housing strategy that is affordable and inclusive, coupled with environmentally sustainable practices. In the current context of exclusionary policymaking, access to shared space is restricted and planning practices produce poor housing and worsening health for residents.

THE ATTACK ON AMIRI LANDS

Privatization plans were not restricted to the government proposal to establish a sovereign fund but also occurred in Parliament, where Lebanese politicians recently tried to intervene to transform a specific type of private state property, *amiri*, into another type of private property, *mulk*.

There are four types of private state property in Lebanon: *mulk*, *amiri*, *matruk* and *mewat*.⁵ Each comes with a specific bundle of rights. *Amiri* lands – a legacy of Ottoman rule, as their name implies – are properties officially owned by the state, but non-state actors can acquire the right to use and benefit from them (usufruct rights). Any individual or group who utilizes an *amiri* property (or sections of it) in a regular, public, uncontested manner continuously for ten years can acquire rights to it. These rights mainly include planting, harvesting, excavating (at any depth), extracting materials from the excavations,

5. *Mewat* is a type of *amiri* that is unusable due to the nature of the topography or ground.

disposing of this material and renting out the land or lending it to others. These rights are forfeited if the land is not used for five consecutive years, in which case they revert to the state. Holders of these rights can also transfer them to others or bequeath them to their descendants, with equality between women and men. However, the state always reserves the right to sell *amiri* lands, transfer ownership or turn them into an endowment.

This particular category of land is extremely significant; it is really ingrained into the understanding of the social value of land, because the right to use it ‘forces’ its use. Additionally, the rights associated with *amiri* lands make them accessible to marginalized communities. For one, the use of *amiri* lands is free of any payments to the state, making them an option for those without the economic means to purchase or rent property; a person does not need to own land in order to cultivate it, live on it or use it. The use of *amiri* lands is also not conditional on having the Lebanese nationality, which makes it accessible to Palestinian, Syrian and other foreign nationals. Perhaps most notably, the fact that the right to use *amiri* lands can be inherited equally, regardless of gender, expands access for women, especially for those whose inheritance of other types of property is governed by Islamic sharia, which grants them half the share of men. Moreover, the fact that a single *amiri* property can be used by many individuals encourages communal and collective management of the land – a rare exception in a landscape that sanctifies private property.

Amiri lands constitute the majority (52 per cent) of all real estate belonging to the Lebanese state, or 31,907 different properties. They consist primarily of agricultural lands, with 78 per cent located in the Bekaa region, where three quarters of residents live off agricultural work. Given that the Bekaa is responsible for a large percentage of the country’s total agricultural production, another benefit of the *amiri* designation is that it protects the agricultural sector from market speculation.

On July 15, 2020, Ghazi Zaiter and Hussein Hajj Hassan, two MPs from Baalbek-Hermel representing the Loyalty to the Resistance Bloc, presented a bill in Parliament to turn *amiri* properties into *mulk*, which would revert all rights of use to the owner (Public Works Studio 2021). To defend their proposal, they argued that *amiri* lands violate the ‘constitutionally enshrined free market system that guarantees private

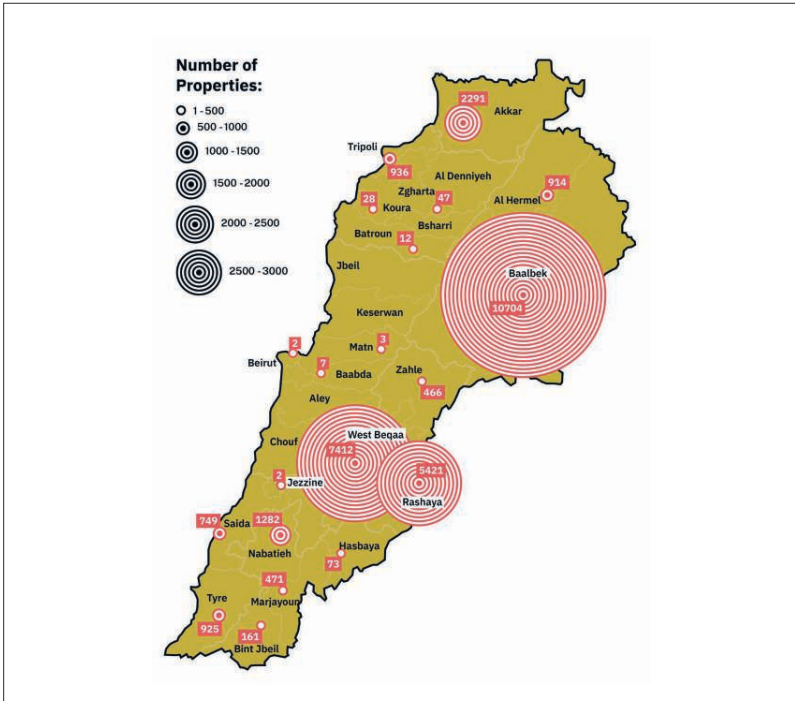


Figure 3. Geographical distribution of *amiri* state property. Source: Map produced by Public Works in 2021 after compiling 2015’s data from Ministry of Finance records.

property’ and create inequality between regions (Zaiter and Hajj Hassan 2020). Running through their proposal is a narrow, problematic understanding of development and growth that measures only total profit, regardless of how it is distributed. It is indifferent to the creation of sustainable employment opportunities for the broader community.

If their proposal comes to pass, given the overall context of land policies in Lebanon, *amiri* lands will be reclassified from private state properties into private properties and fall into the hands of a powerful few, which will eventually open the floodgates to speculation over the sale of agricultural lands. Equality between women and men in inheritance will also be abolished, and residents who do not hold Lebanese nationality will be negatively affected – especially Palestinians, whose ability to use *amiri* lands and benefit from agriculture is a rare reprieve



Figure 4. Fertile agricultural fields on *amiri* state land surround the Palestinian refugee camp of Rashidiya in southern Lebanon, 2021. Source: Photo courtesy of Public Works Studio.

in a system that severely limits their right to work and bans them from landownership (Law no. 296 of 2001).

The city of Tyre in the south Lebanon is an example that truly demonstrates these risks. *Amiri* public lands constitute 62 per cent of Tyre's area, while state-owned lands of all types amount to 70–75 per cent of the city. The current uses of these lands are diverse, but most are used for agriculture, supporting Palestinian and Lebanese families. More than 123 Palestinian farmer families from Rashidiya camp use the nearby *amiri* lands. They have reclaimed and cultivated the land without interruption since they arrived in Lebanon after the 1948 Nakba. These cultivated *amiri* lands kept the residents of Rashidiya camp steadfast during the siege of the camps in years 1985–1986.⁶

If the proposed law is passed, the losses will not befall Palestinian families only but will affect the entire city and everyone who visits or works in it. These are not only economic losses but also social, agricultural and ecological losses related to the inherited cultural uses of the

6. According to interviews with Palestinian farmers conducted in Rashidiya camp in southern Lebanon, 2021.

land by those who first started using it without the obstacle of ‘private property’; that is, without attempting to transform land and nature into a commodity.

RE-EMPHASIZING THE BUNDLE OF RIGHTS EMBEDDED IN LAND

Amid the Lebanese state’s collapse, it is imperative that it does not cede lands that are currently sustaining the livelihoods of many communities through shared access to resources. These lands also hold the key to more sustainable and equitable responses to social needs, from access to housing to a fair distribution of the losses of the current crisis.

Holding a fire sale of state properties now or allowing private entities to manage them prioritizes private over public interest, robs future generations of their public domain and further erodes the state capacity needed to pursue social justice. What we need now is precisely the opposite of privatization: to re-emphasize the value of the public domain as a shared environment and of the state’s role in managing it as a source of livelihoods, production and ecology.

The case of publicly owned land in Lebanon brings questions of who owns the land, who has access to it, who controls it and how it can be used to the forefront of the climate change debate. Indeed, the *Special Report on Climate Change and Land* (United Nations Intergovernmental Panel on Climate Change 2019) provides a comprehensive view of the entire land-climate system and illustrates how climate change is tightly linked to issues of land degradation, land management and natural resources. From this perspective, the fight against land privatization sheds light on the importance of discussing the multiple social, economic, cultural and environmental rights embedded in land, which are the rights of future generations.

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