

(Trans)national Land Transactions and the International “Code of Conduct” Initiative for Land-Grabbing

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Overview of presentation

- Introduction
- The new narrative on land-grabbing
- Highlights of proposed international CoC
- Problems, doubts and concerns
- Towards an alternative approach
- Concluding remarks

Introduction

- Past decades seen emergence of “CSR” agenda re: social & environmental impact of TNCs in developing countries
 - One version: WB’s “good governance” advocacy in land issues
 - Most recent incarnation: International CoC for transnational land deals
- More recently, new global land rush in context of convergence of global crises (fin, enviro, energy, food)
 - New motivation: long-term control of large land holdings beyond one’s own national borders to supply food+energy needed to sustain own population and society into the future
 - Various estimates: 20-30 million hectares changed hands between 2005 and mid-2009 (Sources: GRAIN; IFPRI; UN +)
 - TNC and/or GO driven; often GO facilitated; public-private partnerships
- But today the “storyline” of global land grab is changing
 - From alarm over “global land grab”, to interest in seizing “opportunities” of ongoing land deals for rural development
 - New emphasis: gathering “multiple stakeholders” to institute “CoC” as step toward crafting “win-win” development outcomes

“Making virtue out of necessity”: the new narrative on land-grabbing

- Starting point: particular vision of successful national capitalist economic development
 - Not a land problem, but an investment problem (reflected in the title of the most recent articulation of CoC in the 2010 joint proposal by FAO, IFAD, UNCTAD & WB Group -- “principles for responsible agricultural investment”)
 - More, large-scale investments as the solution to (rural) poverty
 - Purported benefits: farm/off-farm job creation, boost smallholder incomes, technology transfers, increase food production, build up rural infrastructure, improve access to basic services, open up export opportunities
- Key elements of the pro-CoC argument:
 - Old belief in need for a particular kind of “better land management”
 - New revelations of existence of “reserve agricultural land”
 - New insistence on need to recognize potentially harmful social and environmental impacts of new large-scale investments
 - View of negative impacts as “side-effects” of an essentially beneficial cure
 - New two-pronged regulatory framework of “risk management”

Two-pronged approach to big land deals

- First -- *Create an encouraging policy environment*
 - Well-defined land rights & authorities
 - Emphasis on private property rights system
 - Clear ID of land available & clear mechanisms for transfer of public land rights
 - Better investment climate through rule of law & contract security
 - Evidence-based agri policies in relation to incentives, markets, technologies, & rural infra
 - Facilitation of contract-growing & out-grower schemes
 - Enhanced market info systems
 - Improved knowledge & extension services (incl. rural banking)
 - Decentralised (community-based) negotiations
- Second -- *Create mechanism to facilitate responsible investment*
 - International Code of Conduct (CoC)
 - Multiple stakeholders have complementary interests
 - Everyone sits down at the table on equal footing
 - Negotiate clear terms of partnerships
 - In order achieve win-win outcomes

Highlights of CoC proposal (example: IFPRI 2009)

- Transparency in negotiations = “FPIC standard”
- “Respect” for existing rights = “Those who lose lands should be compensated and rehabilitated to an equivalent livelihood.”
- Sharing of benefits = preference for leases over outright sales; contract farming/out-grower schemes; explicit enforcement measures “if agreed upon investment or compensation is not forthcoming”
- Environmental sustainability = conducting environmental impact assessment and monitoring of agri production practices for soil and water, biodiversity, GHG emissions etc
- Adherence to national trade policies = “When national food security is at risk (for instance, in case of an acute drought), domestic supplies should have priority. Foreign investors should not have the right to export during an acute national food crisis.”

Summary of CoC argument

- Two-pronged approach
 - Favorable policy environment for foreign investments in agriculture
 - International CoC to manage the possible “risks” of big land deals
- For proponents, this approach offers the best chance for big land deals to lead to “win-win” outcomes for all concerned
 - “resource-poor” countries need secure supplies of food/fuel to sustain current patterns of food/energy consumption & production
 - “resource-rich” countries need new investments in agriculture to create jobs, support small farmers & bolster exports
 - Investors need clear & stable investment climate (esp. Prop. Rts.)
 - Poor people need enhanced incomes & livelihood opportunities
- In this light, CoC appears relevant, beneficial, or at least would not do any further harm than the illicit land grabs themselves
- And then there is the inevitability thesis -- e.g., some argue that these kinds of land grabs will continue anyway and so then wouldn't it be better to try to regulate them?

Problems, Doubts and Concerns

1. CoC purpose in terms of kind of development model

- CoC operates within and seeks to sustain & extend even further the existing global industrial agro-food and energy complex;
- CoC assumes that current TNC-controlled patterns of food/energy production and consumption are acceptable;
- CoC does not address *as serious and fundamental* the problems associated with the extractive mining of land & water resources in the global south to meet the food/energy needs of industrialised countries and to sustain corporate profits;
- CoC ignores the possibility that the food/energy investments brought about by mega land deals will not solve the food/energy crisis and might even worsen this crisis.
- CoC dismisses the possibility of other development pathway options, and ignores the clamor and initiatives of those who believe that other pathway options are possible and better.

2. CoC framing of land issues

- CoC view: Land is simply a “thing”, e.g. -- “has” physical properties + “usable” as economic asset
 - X: But in fact, land is much more than this -- land is a complex fabric of social relations, weaving together heterogeneous interests and concerns, identities and aspirations, linking together pasts, presents and futures
- CoC view: Land is either “tapped” (unavailable) or “untapped” (available), e.g. -- technical mapping of “reserve agricultural land” + images of “marginal”, “degraded”, “idle” “wasteland” that can/must be “developed” (rehabilitated & reinvigorated) by being brought inside an agri-industrial system
 - X: But in fact, satellite imagery & official census data for technical land-mapping leaves out crucial info & is notoriously unreliable
 - X: Additionally, “development” is in the eye of the (be)holder --> existing (and envisioned) local land-based social relations & practices are diverse, distinct & may not fit into the dominant development paradigm; development may still be the answer to poverty, but what kind of development remains contested
 - X: The alternative kinds are still worth taking seriously enough to protect, support, explore & advance into the future

- CoC view: Land can/must be “measured” & “delineated” scientifically to be usable, e.g. -- a priori definition of clear (private) property rights determines rights-holders & facilitates economic investments
 - X: But “clear” property rights alone have never guaranteed that poor people’s land rights +land-based interests, concerns and identities will be protected & advanced -- e.g., dispossession still often results
 - X: In fact, formal property rights are contested on power-differentiated terrain & they recalibrate the arena of struggle
 - X: In fact, formal-legal land rights are still interpreted and implemented by numerous state & non-state actors with their own interests who are embedded in power structures
- Underlying dilemma that the CoC ignores:
 - Delineating rights requires answering a complex & contested question: Who has (or ought to have) what rights to which land for how long and for what purposes?
 - AND ... who gets to decide??
- CoC skirts the real issue: having rights and making them real is not simply a matter of technical measurement/delineation; it’s first and foremost a political process and difficult struggle

3. The politics of land deals

- CoC sees regulation of land deal-making as merely a procedural challenge -- e.g., emphasis is on “transparency” in negotiations among “multiple stakeholders”
 - X: Transparency is not accountability; no matter how transparent, outcomes will not be accountable to the rural poor if the land-based interests, concerns & aspirations of the poor are not the main priority.
 - X: Lots of room for more powerful, better organised interests to prevail in negotiations; especially in “decentralised/localised” negotiations
- CoC sees regulation of land deals as a moment for “ethical capitalism” to rise to the occasion -- e.g., emphasis on voluntary agreements and voluntary enforcement
 - X: But violators difficult to pin down; enforcement is likewise a power struggle rather than mere technical issue; lots of bad experiences
- CoC sees equal-footing “partnerships” as the vehicle for “multi-stakeholder” land deals to result in “win-win” outcomes
 - X: But experience shows many negative outcomes of contract growing.
 - X: Imagining “equal footing” & complementary interests where there are none is dangerous for the rural poor.

Towards an Alternative Approach

- Our objection to the proposed CoC is not that its insufficiently pro-poor; but that is not *essentially* pro-poor -- e.g., proceeding from social-justice driven analysis (SJDA) of the causes of rural poverty; is more likely to facilitate than block land grabbing.
 - SJDA would link the causes of rural poverty to the TNC-controlled global system of food/feed/fuel production, distribution, and consumption.
 - SJDA would ground the search for solutions in the fundamental aim of protecting and advancing the land access & property interests of working poor people.
- Land grabbing is not inevitable; it can be prevented and concerted efforts are needed to stop it.
 - Requires an appropriate (re)alignment of political forces at all levels & mobilised within a *human rights framework* that truly prioritises working poor people's land access & property interests.
 - Need a “*sandwich strategy*” that recognises diverse and contending currents within categories of state and non-state actors and can identify and link allies within and across these.

Concluding Remarks

- What is the alternative to CoC?
- Possible elements:
- Support the international call for a stop to (trans)national land grabbing (e.g., LVC, GRAIN, FIAN, LRAM)
- Push for truly pro-poor national land policies that:
 - *redistribute* land-based wealth and power where land is concentrated; and
 - *recognise and reinforce* “socially legitimate land occupation and use rights as currently held and practiced” where exist
- Stand in solidarity with groups and organisations that are struggling to achieve and consolidate such changes on the ground
- Others?