CUSTODIANS OF THE LAND, DEFENDERS OF OUR FUTURE

A new era of the global land rush

Land Rights Now

OXFAM

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LAND RIGHTS IGNORED

Since 2009, Oxfam and others have been raising the alarm about a great global land rush. Millions of hectares of land have been acquired by investors to meet rising demand for food and biofuels, or for speculation. This often happens at the expense of those who need the land most and are best placed to protect it: farmers, pastoralists, forest-dependent people, fisherfolk, and indigenous peoples.

The most comprehensive analysis of land deals - to be published next month - shows that we are now entering an era of implementation as contracts are increasingly signed and work on their intended projects started. This means we will see their full implications in the years to come. Up to 59 percent of these deals cover communal lands claimed by Indigenous Peoples and small communities, meaning that millions are affected. Yet only a small fraction of deals have involved any real dialogue with local communities. The potential for escalating conflict is huge.

Oxfam's latest land rights campaign focuses on cases typical of the escalation we can expect. Women left behind. Rights ignored. Entire communities evicted from their homes. We are in the midst of the single biggest attack in the world today on people's identity, rights, livelihoods and security, as well as our environment. They cannot afford to lose this fight, nor can we.

A Garífuna girl in the streets of the community of Vallecito, Honduras. These lands have belonged to her people for centuries, but are now under threat from palm oil plantations.

This briefing is dedicated to Berta Cáceres and other land rights defenders who have been killed for their cause. It sets out the struggle as epitomized by Miranda, the Garífuna people she represents, and the thousands of other indigenous and community groups fighting for their land rights around the world.

Miriam Miranda (above) leads a group defending the lands of Afro-Honduran communities against theft and exploitation, called the 'Fraternal Organization of Black People of Honduras' (OFRANEH). More than 100 land rights defenders have been murdered in Honduras in the past six years—including Miranda's close friend, Berta Cáceres. At the World Bank Group's 2015 Spring Meetings, Oxfam proudly hosted Miranda so that she could lobby against the World Bank's support for the palm oil plantations affecting the lands of her people. That same year, OFRANEH won the US Food Sovereignty Prize for its struggle to reclaim control of their food systems.

'Without our lands, we cease to be people,' Miranda told an interviewer. 'For us, the struggle for our territories, our commons and our natural resources is of primary importance to preserve ourselves as a people.'

She added, 'I want to talk about the role of women in defending life, culture, and territories, opposing a model of death that grows stronger each day. We are at the front of the avalanche of attacks. Everywhere throughout Honduras, like in all of Latin America, Africa, Asia, women are at the forefront of the struggles for our rights, against racial discrimination, for the defence of our commons and for our survival. We're at the front not only with our bodies but also with our force, our ideas, our proposals. We don't only birth children, but ideas and actions as well.'

'If the problem is global, we have to have a global response.'[1]

Governments and powerful business interests are marginalizing up to 2.5 billion women and men from their lands.[2] It is the single biggest attack in the world today on people's identity, rights, livelihoods and security, as well as our environment.

A diverse campaign of terror and displacement is taking place across many countries, driven by greed and impunity. People are being beaten, forcibly evicted, intimidated, disenfranchised, criminalized, tricked, discriminated against, and denied their rights.

Experts from Global Witness track the assassination of land and environmental defenders. In 2015, more than two land or environmental defenders were killed each week, almost half of whom were from indigenous communities.[3]

The attacks on the custodians of common lands are helped by weak and pitiless governments, and dodgy lending. Big businesses are reaping the profits—from mining and logging companies, to agribusinesses and speculators.

The prize is land – and the resources that lie above and below it: forests, minerals, water and the very soil itself.

For every win in their existential struggle for recognition and safety, indigenous peoples and other groups who depend upon common lands suffer crushing

losses each day. This all combines to add a new chapter to the centuries of abuse against land and people that began with the first colonialization.

Half of the world's landmass is home to indigenous peoples and local communities that are its traditional owners. But they have no formally recognized ownership to 80% of this land. The rest is therefore often considered fair game for plunder, typically under the guise of 'economic development'. Ninety percent of rural land in Africa is 'undocumented'. In Peru, an area five times the size of Switzerland lacks recognition. Globally, the amount of land held or governed collectively is immense– twice the size of Brazil and Russia combined.[4]

There is a long list of benefits to securing people's rights to these lands. It would protect more than 5,000 human cultures, and 4,000 different languages, as well as 80 percent of the planet's biodiversity.[5] Research by the World Resource Institute shows that the rate of deforestation on indigenous lands in the Amazon is less than one tenth than rest of the region.[6] Such stewardship is crucial in the battle against climate change. Forests held by indigenous peoples and local communities store 37.7bn tons of carbon[7], which is equivalent to the world's entire annual emissions of C02 due to fossil fuel combustion. It is hard to believe that the world can bring emissions down sufficiently if we don't tackle the massive changes affecting these forests, and give secure rights to those who have defended them.

This is a battle between people in an unequal world, where lands and resources that are not yet protected are mercilessly consumed.

The International Work Group for Indigenous Affairs (IWGIA), in their report 'The Indigenous World 2016'[8] notes that indigenous peoples around the world have shown 'few signs of [socio-economic] progress' and are, in some cases, even moving backwards. It further claims that 'the root cause of many indigenous people's...poverty is their precarious situation when it comes to land'.[9]

The IWGIA places particular blame upon large agri-business, extractive industries and infrastructure developers. Governments are so eager to attract them, the IWGIA says, that they will change local laws 'in a more corporate-friendly way which threatens to undermine indigenous peoples' rights'. Oxfam adds mega-projects for tourism or energy, land speculation and carbon projects to the list of offenders.

In many cases, governments simply don't act in the interests of indigenous peoples and local communities. Documentation and registration of the land rights of indigenous peoples and local communities are ignored by politicians. Mapping is often opposed. Administrative procedures are long and cumbersome. Despite customary land rights having been enshrined in international law, they are too often and too easily trampled on in practice.

'Undocumented' land has become treated as a euphemism for vacant land. Therefore, pastoralists, forest peoples and herders have often come to be considered squatters and trespassers. Traditional agriculture is treated as backwards and unproductive rather than as an effective method of land management.

Because indigenous peoples and local communities often live outside mainstream capitalistic market structures they are 'poor' in cash terms. They are therefore largely powerless within mainstream political economies. The absence of land titles is equated erroneously with an absence of productivity and of rights, and eventually, of existence.

Indigenous peoples and local communities are hugely resilient and courageous, but they are too often left facing overwhelming odds. Oxfam works with partners and representatives of their struggles around the world. The fight is not only happening in developing countries, but rich ones too: the United States, Australia, Norway, Canada, New Zealand, Japan, India and Brazil are all home to indigenous peoples' struggles.

The Land Rights Now campaign,[10] which Oxfam helped launch alongside hundreds of other organizations, is drawing attention to the crisis faced by traditional lands. It says: 'Because we all benefit, we should all protect and defend those peoples and customary institutions that have preserved these ecosystems for centuries'.[11]
The campaign calls for a doubling of the area of land recognized as owned or controlled by indigenous peoples and local communities by 2020 'as a start'. But it would be a game-changing start that would make a huge difference in the lives of millions.

According to forthcoming data from the Land Matrix Initiative, up to half of the documented cases of major deals since 2000 involved land claimed by communities and indigenous peoples. These deals are quickly moving to full implementation with operations starting on the ground, meaning the fight for community land will be increasingly brutal in the coming years. The cases Oxfam is highlighting in this brief are typical of the escalation of conflict we can expect. It is time we saw the threats to these communities as threats to all of us.

"We're entering a new and even more dangerous stage of the global land rush. The frenzied trade in millions of hectares of forests, coastlines and farmlands has led to murder, eviction and ethnocide. Land contracts are being signed and projects are breaking ground without the full consent of the communities living there. Conditions are ripe for increasing conflict in the years ahead if land rights are not better protected now"

Winnie Byanyima, Oxfam International Executive Director

BOX 1 AN UPDATE ON THE GLOBAL LAND RUSH: IMPLEMENTATION AND ESCALATING CONFLICT

Next month, the Land Matrix Initiative—the most comprehensive database of large-scale land deals sought and concluded since 2000—will publish its second assessment report. Two findings stand out. Firstly, the vast majority (over 75 percent) of the more than 1500 deals recorded in the database are deals under contract. This is around three times as many deals under contract as in the first assessment report in 2012. In 2016, approximately twice as many such deals are now found to be 'in operation' as in 2013. This clearly demonstrates that the rush for land is increasingly becoming a reality on the ground.

Secondly, between 32 and 59 percent of the area acquired is attributed to communities, including indigenous people – which implies the potential displacement of millions of people.[12] This includes grassland and forested areas. A process to obtain the Free Prior and Informed Consent (FPIC) of communities was conducted in just 14 percent of cases explored, with 43 percent of cases having only a limited form of consultation.[13] Without doubt, the conditions are in place for a major escalation in conflict over land ownership in the years ahead.

Thankfully, some progress has been made since Oxfam and others started to sound the alarm about this crisis. Some milestones include:

- The UN Voluntary Guidelines on Governance of Tenure were adopted by governments, business organizations, farmers' organizations and NGOs in 2012, establishing the first global norms on land tenure.[14]
- There is a growing debate on how to ensure that the Voluntary Guidelines are implemented,[15] with governments including France,[16] Germany, Vietnam and the US[17] starting to look more closely at how to regulate companies across borders.
- Development finance institutions, including the World Bank and its private sector lending arm, the International Finance Corporation (IFC), have come under increasing pressure from civil society campaigns regarding its investments in projects. The Bank has adopted a new standard on the principle of free, prior and informed consent for indigenous peoples applicable when land is affected. The IFC has started to address the loopholes in its blind lending through financial intermediaries, although Oxfam and others are still pushing hard for further progress.[18] Meanwhile, due to pressure from civil society, the new Asian Infrastructure Investment Bank has already set safeguards on land that are, in some respects, stronger than those of the World Bank.
- After significant campaigning efforts, several investors, such as some Dutch[19] and Australian[20] banks, have committed to stricter policies on land. Implementation, however, remains a major challenge.
- Efforts have been made to convince companies that they will lose business if their customers see them involved in land disputes or disrespecting the rights of local communities and indigenous peoples.[21] Some of those companies have listened and are becoming more transparent. For example, Oxfam helped persuade Coca Cola, Pepsi, Nestle, and Unilever to require their suppliers to address land issues through its 'Behind the Brands' campaign.[22]
- The UN Forum on Business and Human Rights has made the impact of business activities on the rights of indigenous peoples a priority, releasing a report on indigenous peoples' rights in 2012.[23] A forthcoming report looks at the impact of food and beverage supply chains in particular.
- There is increasing recognition of the links between land rights and wider sustainable development objectives. The Sustainable Development Goals agreed in 2015 include several targets related to land rights, including for women. The 2015 Paris Agreement on climate change recognizes the importance of indigenous knowledge and human rights. New alliances are being formed between those fighting for land rights and the climate change movement, as evidenced in the ongoing stand-off over an oil pipeline in North Dakota in the United States.[24]

Around seven years after the global land rush began in earnest, land rights are more prominent in policy circles and political discourse in many areas. But implementation of these policy reforms remains a major challenge, and as the new data from the Land Matrix Initiative and the cases described in this report show, the struggle for land rights is entering a new and potentially even more dangerous and violent phase. Political leadership is needed now more than ever.[25]

BOX 2 INDIGENOUS AND COMMUNITY LAND RIGHTS AND INEQUALITY

The lack of formal recognition for billions of hectares of indigenous and community lands is the other side of the world's inequality. These are the lands where those in power plunder resources. These are the forests, soils, and rivers that are exploited by an economic model that starts with our choices as consumers and that is not sustainable. No fight against inequality can be successful unless the rights over these lands are formally recognized and protected.

Inequality of power over lands affects people's lives on daily basis. Indigenous peoples' and community lands are a fundamental component of wellbeing that is not captured by simple income indicators. Land affects identity and life balance; social relationships; subjective wellbeing; the enjoyment of cultural heritage, practices and beliefs; and a healthy environment.[26]

A study of Inuit communities in Canada identified land, culture and community as key protective factors for mental health and wellbeing among Inuit youth, while reduced access to land undermined this.[27] Land loss and degradation has led to reduced well-being for Australian Aboriginal communities.[28] The destruction or dispossession of these lands is often tantamount to ethnocide. Addressing inequality and discrimination for these communities therefore needs a significant shift in development programs to tackle the issue of insecure land rights as one underlying structural cause.

Such inequality and discrimination also translate into a lack of opportunities and services, particularly for mobile people or those living in remote areas. Income statistics show a disparity between indigenous and non-indigenous people[29] while several studies show that indigenous people have less access to healthcare than non-indigenous populations.[30] The rates of depression in many indigenous communities have been linked to rapid cultural changes and marginalization, with the most pronounced effect being among young people.

HONDURAS

"Communities are being displaced, and cultures are being lost, because of the development of tourism"

Miriam Miranda, leader of the Fraternal Organization of Black People

In Honduras, Garifuna people are being killed in the name of profit. Their communities' lands on the Honduran coast are being taken over by big business.

Miranda braves intimidation and death threats while defending the territorial rights of her people.

Garifuna land is suitable for palm tree plantations. These trees produce palm oil, a valuable commodity found in everything from chocolate bars to soap, which end up in our homes.

To clear the way for palm oil plantations, industrial growers often clear entire forests, or use fields that were previously used to produce food.

The Caribbean coast is also highly sought after by Honduras's growing tourism industry; the country's pristine beaches are perfect for resorts.

On average, every three days a land rights defender is killed in the world.

Recently, the Garifuna started campaigning against a government programme creating several 'charter cities' on their land. These would be governed by private companies with their own laws, which would likely focus on making money. The Garifuna fear that this would put profits before people.

In 2003, Miriam and her people petitioned the Inter-American Commission on Human Rights. Ten years later, the Commission referred the case to the Inter-America Court of Human Rights. In 2015, the Court ruled that the Honduran authorities were 'responsible for the violation of collective ownership rights and the lack of judicial protection'.[32]

The Court ordered the Honduran government to investigate the murders of Garifuna rights activists and to protect the community from further harm. The government has yet to move on the ruling.

Honduras has seen awful crimes against land rights defenders The government must change this.

WHAT'S THE SOLUTION?

There are laws stuck in the Legislative Assembly that would allow indigenous peoples and local communities to reject or approve projects that have an impact on their lands. This principle is consistent with the international norms that the Government of Honduras has signed up to but has never implemented. These laws must be approved and implemented.

PERU

"This land was inherited from our fathers. Now it is our time, and soon it will be the next generation's time. But we live with the knowledge that the government might again license our territory out to oil companies at any time."

Teddy Guerra, Quechua community leader, Nuevo Andoas

2,000km south of Honduras, deep in the Peruvian Amazon, the Quechua people are waging a lengthy legal battle with their government over the title to their land.

Peru has a population of 28.2 million. Around 14 percent—some 4 million women and men—belong to 55 different indigenous peoples. Of these, 83 percent are Quechua. Many of them, alongside non-indigenous communities, protect their lands collectively. It is estimated that 20 million hectares are still eligible for formal recognition by the government.

Peru is one of the world's five largest tropical forest areas, with 68m hectares of forests (covering 70 percent of its land). This means that its forests are key in the global fight against climate change. Indeed, Germany and Norway recently invested millions of dollars to reduce deforestation in Peru for this very reason.[33]

However, in 2012, nearly 75 percent of the Peruvian Amazon was covered by oil and gas concessions.

In the 1970s, the authorities rushed to exploit the considerable oil wealth in the rainforest region of Loreto, granting corporations full rights to indigenous lands, with little or no regard for the thousands of people who lived there.

Decades of barely regulated oil drilling have caused a huge toll. Quechua lands and rivers have been polluted by spills and toxic wastewater from the oil fields.

These environmental disasters have wrecked their sources of income by killing wild game and fish, as well as rendering vast swaths of farmland worthless. Even worse, exposure to toxic chemicals has caused health problems for many Quechuas.

In 2015, after decades of protests and hard-fought negotiations with the authorities, indigenous leaders got the federal government to commit to defining and enforcing communal land claims.

But the resulting Lima Act hasn't delivered everything that was promised. Its implementation has been delayed and, critically, the regional Loreto authorities refuse to grant the Quechuas titles to the lands that had been given to oil companies.

Without titles to these lands, the Quechuas have been given a worthless outcome. The indigenous communities recognize this, and have filed further legal action to get back all of their lands.

WHAT'S THE SOLUTION?

The Peruvian government should wholly and unconditionally guarantee the Quechuas and other communities that their lands will be returned to them, and that they'll be repaid for the severe health and financial damage they've suffered.

Peru has a land mass of 1.3m km^2, about 8 percent of which is in the Amazon region. Of that, nearly 75 percent is now divided up into oil and gas concessions. [34]

AUSTRALIA

"Governments in Australia seem scared to give Aboriginal people full rights to make decisions about their lands. We are a threat because we are vocal and demand our rights be respected."

Cissy Gore-Birch, traditional owner, Balanggarra country

In Australia, Aboriginal and Torres Strait Islander people have fought long and hard to get a legal pathway to have their ancestral lands recognized.

While the 1993 Native Title law was a groundbreaking step, the process for protecting Aboriginal lands is complex and expensive.

If that wasn't enough, several government officials have attempted to weaken Aboriginal land rights protections.

Right now, there's a push from the government of Western Australia to grant one of their departments the unilateral power to declare what is and is not a sacred Aboriginal site. This proposal would remove any chance for appeals by Aboriginal people.

Over 70 percent of Australia's Kimberley region has been claimed by Aboriginal people under the 'Native Title' law.

In essence, this would open the door for a single person in the government to revoke the protected status of many places with deep spiritual meaning.

Mining corporations support this change. Unsurprisingly, this would allow corporations to expand into Aboriginal lands much more easily.

As if the destruction of their sacred sites wasn't enough, Western Australia's premier has also announced plans to close over half of the remote Aboriginal communities by withdrawing government services.

No communities were consulted or previously informed about these plans.

The displacement of Aboriginal communities is a painful subject in Australian history. It is a story about colonialism and discrimination, and ongoing trauma is still felt today.

Land justice can be a long road. Australia is an example of a rich country that has violated and undermined the rights of its indigenous peoples.

The Kimberly Land Council, an organization of Aboriginal people of the Kimberley region of Western Australia, is leading the opposition to these policies. Early next year, Western Australia will hold state-level elections, making this a critical time to push for change.

WHAT'S THE SOLUTION?

The government of Western Australia should protect the land rights of Aboriginal people by bringing essential services and opportunities to their lands, and by passing new cultural heritage legislation that gives authority to them. The national government should recognize the full land rights of Aboriginal people and not just native titles.

SRI LANKA

"We have to win this fight, not only to get justice for ourselves, but for our children"

Rathnamali Kariyawasam, land rights defender

"They came at night. Masked, armed men torched homes and fields in the Shasthrawela and Ragamwela coastal villages of Paanama, Sri Lanka, and now more than three hundred families are displaced."[35]

This was in 2010. Six years later, families are still displaced. Some, like Rathnamali Kariyawasam, have ended up employed on other farms. However, their meagre wages are hardly enough to provide enough food, let alone education, for their families.

The stunning beauty of their lands attracted trouble. With the end of the Sri Lankan civil war in 2009, tourism skyrocketed—especially from Europe, and the United Kingdom and Germany in particular.

Much of this development was handled by the military. After the raid on the Paanama lands, they put up electrified fences around the villages. A luxury hotel and a conference centre were built.

More than 5,000 distinct cultures around the world depend on indigenous and community lands.

The women led the exiled villagers in filing court cases, petitioning Sri Lanka's Human Rights Commission, and organizing protests. Rathnamali was one of them.

In 2015, they sealed a major victory. A newly elected government ordered the return of 340 acres of land to the community. However, nothing has been done to implement this decision.

The Paanama villagers are at a tipping point. If they get their land back, other rural Sri Lankan communities in danger of eviction could demand the same. This would also pause the seemingly unstoppable environmental destruction along Sri Lanka's coast.

Tourism is a growing driver for land grabs. This is a particular issue in coastal areas around the world that are rapidly being eaten up by tourism ventures, where fishing communities are evicted and their cultures lost. While tourism can be a major source of livelihoods for millions if done sustainably, it can be a devastating force for communities and the environment if driven purely by the search for profits.

WHAT'S THE SOLUTION?

Sri Lankan authorities must immediately carry out the Cabinet's decision from February 11, 2015, and return 340 acres of land back to the Paanama villagers. Tourists cannot be accomplices to these crimes. The government of Sri Lanka should make a firm choice and promote just sustainable tourism.

INDIA

"Land is our life."

Kandana Jani, community member,
Kutia Kand Adivasi, Odisha

In India, the 2006 Forest Rights Act was supposed to protect the rights of millions of communities like the Kutia Kand Adivasi in Odisha, in the east of the country.

Kandana Jani, a 62-year-old father of five, followed the law and fought to have the rights of his family and 50 others in his community recognized through the Forest Rights Act.

But local authorities, under the guise of 'forestation' projects, have started bringing in profitable teak tree plantations onto land that Kandana and his community have rights to.

Around half of India's rural households derive resources needed for their livelihoods from indigenous and community lands.

The high global demand for teakwood furniture, floors and other commercial home goods has made this a profitable industry. However, expanding teak plantations comes at the expense of the Kutia. Where before they planted a variety of crops, and managed biodiversity in the forests, now they are fighting against the spread of these tree plantations.

Without the forests, the community is now in danger of disappearing. However, Kandana and others are not sitting the fight out, but are instead petitioning the government to enforce their own laws.

In 2006, with the Forest Rights Act, India recognized in law, rights of forest dependent communities, and proved to be a world leader on this matter. But competing interests have reduced that ambition. India needs to be a forests champion once again.

WHAT'S THE SOLUTION?

The Indian government must stop claiming community lands for industrial farming, mining or badly planned conservation projects. Instead, it should recognize the rights of tribal groups and local communities over their lands, and properly implement the 2006 Forest Rights Act. If this is realized on the ground, more than 150 million women and men, along with half of the country's forests, will benefit.

MOZAMBIQUE

"I do not feel secure where I live now because the land is only borrowed. Our community needs a place to live"

Namonaro Koneliwa, farmer, Gurue district

Sometimes, corporations and governments claim to have the approval of local communities on the sale or construction of a project on their lands.

In the case of the Wacua community in Mozambique, events unfolded very differently.

One farmer, Namonaro Koneliwa, used to grow corn, beans, bananas and mangos on her land. This allowed her to provide for her two children and herself.

In 2012, representatives from an industrial farming corporation approached the leader of her community. Within a month, Namonaro and the rest of her community lost everything.

Namonaro, who cannot read, was forced to sign documents approving the sale of her land. No-one explained the situation to her, and she was hurt by her community leader approving the sale in such a way. She had no piece of paper confirming that this was her land.

For her ten hectares, the company gave her $400, which she says doesn't even cover what she spent building her house.

She was one of 200 people evicted from her home and forced to leave. She's now been loaned two hectares of swampy, infertile land to farm in a different part of the country. With her meagre compensation, she built a small house and has tried to prepare her new plot of land.

Mozambique recognizes community land rights. The issue is—as in several other African states—that obtaining a certificate or title can be long and difficult, and communities are not well supported, including on strengthening intra-community mechanisms that hold leaders to account.

90 percent of Africa's rural land, which is largely governed by communities, is undocumented. This is directly linked with high poverty rates.[36]

WHAT'S THE SOLUTION?

Local authorities and the government should help grant displaced communities ownership of new lands to make up for what was taken from them in coerced sales. The government of Mozambique should secure community land rights, and ensure intra-community mechanisms to hold leaders to account.

Petronila Sandi has spent her entire life in Nuovo Andoas, Peru. She advocates for the land rights of her people.

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Land rights don't just mean someone owning a plot of land. Land rights mean a mother or a father is able to harvest enough crops to feed their family and sell at market. Lands rights mean communities can practice their ancestral traditions and worship at sacred sites. Land rights mean protecting forests, rivers, coastlines and more from unaccountable governments and greedy businesses. Land rights mean handing nature on to the next generation.

Land rights are human rights. Let's protect them and protect our planet.

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