

***Conservation and Land Grabbing:
Part of the Problem or Part of the Solution?***

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Workshop Report

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Background, rationale and objectives

This document summarises the presentations and outputs of a two day symposium held in March 2013 on the subject of conservation, local land rights and the global “land rush” that is being witnessed in many parts of the world.

The pace and scale of global land acquisitions has dramatically increased recently due to changes in commodity markets, agricultural investment strategies, land prices, and a range of other policy and market forces. This surge in so-called ‘land grabbing’ (see Box) is widespread, but particularly pronounced in a) countries with relatively weak governance and protection of customary land rights; b) in the global ‘commons’ i.e. lands which are customarily used collectively at the local scale, including forests, rangelands, and wetlands. These landscapes support the livelihoods of up to two billion people around the world, most of who are among the rural poor. These lands are also central to global conservation objectives, housing a large proportion of world’s biodiversity. ‘Land grabbing’ therefore presents a threat not just to local livelihoods and human rights (as has been the primary focus thus far within the debate), but also to conservation objectives.

‘Land grabbing’ – a definition

‘Land grabbing’, as defined by the international Land Coalition’s Tirana Declaration is: acquisitions or concessions that are one or more of the following:

- *in violation of human rights, particularly the equal rights of women;*
- *not based on free, prior and informed consent of the affected land-users;*
- *not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered;*
- *not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and;*
- *not based on effective democratic planning, independent oversight and meaningful participation.*

<http://www.landcoalition.org/about-us/aom2011/tirana-declaration>

At the same time, some commentators point out that conservation can be part of the land grabbing problem. A growing body of research has drawn attention to the phenomenon of ‘green grabbing’¹, which constitutes ‘land grabs’ which are linked to either conservation pursuits, or markets related to ‘green’ enterprises such as forestry (for timber, carbon offsetting, or other products), biofuels, and ecotourism.

The relationship between ‘land grabbing’ and conservation is therefore a multi-faceted and evolving one which merits further exploration. On the one hand, green markets or conservation targets may be a driver of ‘land grabs’. For example, the ‘Aichi Targets’, agreed under the Convention on Biological Diversity include a target for 17% of global land area to be under protected area coverage by 2020. This could potentially act as an incentive for greater appropriation of local communities’ lands in the name of conservation, as has frequently occurred throughout the history of conservation efforts around the world. At the same time, though, the growing pace of land acquisition for commercial agriculture and

¹ See for example: James Fairhead, Melissa Leach & Ian Scoones (2012): Green Grabbing: A new appropriation of nature? Journal of Peasant Studies, 39:2, 237-261

other activities can dramatically transform ecosystems and native biodiversity, in ways that undermine both local livelihoods and conservation objectives. Many conservation efforts around the world, from indigenous lands in Latin America, to pastoralist rangelands in East Africa, to indigenous communities in Australia and Canada, are already working to secure local land tenure as a foundation for sustainable use of natural resources.

Going forward, and in light of current global market trends and enduring challenges to the recognition of local land rights in many parts of the world, it is therefore an important time to examine the complex and varied interactions between conservation efforts and land acquisition, and community land rights more broadly, and to ask if conservation is part of the problem or part of the solution. This symposium sought to explore these multi-faceted interactions between conservation efforts, land acquisition, and community land rights, and to examine opportunities for greater convergence and synergy between conservation and community land rights movements.

The overall objectives of the symposium were to:

- 1) examine the varied interactions between conservation and land rights/'land grabbing' in a variety of global contexts; and
- 2) encourage more strategic engagement by the conservation movement in land rights and tenure concerns, highlighting different models that can be used to secure or strengthen local land rights, and the potential role of conservation in combatting 'land grabbing' thus benefitting both conservation and development.

The symposium had four key themes, which were used to structure the various panel sessions and presentations:

1. **Key trends in land acquisition in general, and specifically 'green grabbing' and land acquisitions for conservation since 2000** - including variations between countries and regions. What forms do they take? What are the key drivers? Is this a new phenomenon or a continuation of an historical process? Is it escalating? Who owns the land and who is acquiring it and for what purpose?
2. **Conservation as a driver of land grabs or conservation being negatively impacted by land grabs?** Conservation may be one of the drivers of land grabs - to increase protected area coverage, to exploit valuable tourism or hunting opportunities etc. At the same time, in some locations, land previously set aside for conservation is being converted to other uses – agriculture, biofuels, etc.
3. **Conservation strategies for securing community land rights-** what models exist for securing or strengthening local land rights that can serve the interests of both conservation and local livelihoods? What are the opportunities for a) scaling these up and b) integrating them within wider efforts to address land acquisition, landscape transformations, and community land rights.
4. **Towards greater safeguards and synergies** - are there underexploited opportunities for conservation interests e.g. under the CBD, and efforts to address 'land grabbing' e.g. through the FAO Voluntary Guidelines, to better link up through shared concerns and common interventions?

The symposium was attended by over 80 international participants, drawn from different sectors including both conservation as well as development organisations, researchers and government staff. Presentations were given from the perspective of individual country contexts (in Asia, Africa and Latin America), as well from global or thematic angles. This report summarises the presentations, discussions and outcomes of this two day symposium.

Summary of key messages

Growing demands for food, fuel, fibres and minerals are transforming landscapes and ecosystems all over the world, and in particular in the tropics. This global 'land rush' is alienating poor and vulnerable households from community lands and ecosystems, on which they depend for their livelihoods, attracting the attention and engagement of civil society organisations at national and international levels concerned with land rights. Until very recently, conservation groups have been largely silent on this subject, and in some cases may have exacerbated the problem by promoting the growing phenomenon of 'green grabbing' - where land is acquired for the exclusive purpose of biodiversity conservation.

Over the past two decades, conservation practice has been transformed. Supporting indigenous people and local communities to secure land rights is increasingly been seen as a way to secure conservation outcomes, while simultaneously promoting local resilience and sustainable livelihoods. Examples presented in this symposium (such as WWF's work in promoting conservancies in Namibia, FFI's work with supporting collaborative forest management in Indonesia and Forest Peoples Programme's work in supporting indigenous land rights in Guyana) all point to this growing trend. Evidence from Namibia illustrates how supporting community-owned and managed wildlife conservancies can result in increased wildlife numbers as well as raised rural incomes from sustainable utilisation. Over 35% of the country is now covered in protected areas, with conservancies now accounting for around half of this figure. Indigenous and Community Conserved Areas (ICCAs), although often not formally or legally recognised are widely practiced in natural landscapes across the tropics, further contributing to achieving conservation outcomes. By supporting rural communities to secure and scale-up land rights as well as strengthening local level management, the risk of land grabs can be reduced and opportunities for realising conservation developed. At the same time conservation organisations are recognising that investing in community land rights alone is not sufficient to ensure conservation outcomes. It is a first step - and additional work is then needed to clarify and address management issues, incentives and governance arrangements. New alliances between conservation and land-rights organisations offer a new and promising means to achieve these shared goals.

What opportunities exist for conservation organisations to address land rights more directly in their work?

- **The Africa Biodiversity Collaborative Group (ABCG)** is an informal partnership of 6 international NGOs working in biodiversity conservation across Africa, and hosted by the World Resources Institute. The network promotes dialogue and exchange between member institutions. 8 "work streams" are being explored at the moment, of which two are of direct relevance to the issue of land rights, namely: governance & land tenure, and large-scale land acquisitions
- **Commodity and private sector round tables and safeguard mechanisms** are of growing importance for land-based agricultural investments, including forestry and palm oil. Opportunities exist for promoting local level land rights in ways that advance conservation objectives
- **International finance safeguard mechanisms** are attracting growing attention, particularly on issues related to REDD+, forest trade and law enforcement. Furthermore, REDD+ is increasingly making the link between reducing deforestation and securing land and natural resource tenure at state, provincial and national levels. To date, however, conservation organisations have had relatively limited involvement in this debate, and only from the perspective of environmental safeguards.
- The **Voluntary Guidelines (VGs) on the Responsible Governance of Tenure of Land, Fisheries and Forests** in the Context of National Food Security, developed by FAO provide opportunities for in-country players to begin to lobby national governments for strengthening of land rights, as well as

promoting greater transparency and disclosure with regard to large scale land deals. While they are non-binding in nature, they have been exposed to widespread consultation and review by both state, and non-state actors alike. The involvement of conservation organisations to date, however, has been very limited.

One perceived barrier to the promotion of land rights by conservation organisations is the complexity and multi-dimensionality of questions relating to land in many country contexts. Land conflicts are often deeply rooted in governance failures – an area that is both unfamiliar and uncomfortable territory for many conservation organisations. Furthermore, ‘land grabbing’ is essentially about rights - the core business of many development organisations but traditionally of less concern for conservation organisations. Few conservation organisations have the capacity to undertake this kind of work alone and will need to enter into new partnerships with human rights based NGOs. ‘Land grabbing’ and land rights could potentially be a key issue that encourages better and stronger collaboration between environment and development organisations.

Day 1 – Tuesday 26th March, 2013

Session I: Setting the scene: Global and regional trends in land acquisitions

Lorenzo Cotula, International Institute for Environment and Development: *Overview of global trends in land acquisitions*

The acquisition of rural land in the developing world is not a new phenomenon – it has been going on since colonial times. What is different today is the increasing frequency and scale of this process since the mid 2000s, driven by growing global demands in agricultural and mining commodities. Much of the literature on ‘land-grabs’ points to international investments (much of it originating from China). However, evidence on the ground does not back this up – in many countries (such as Africa and Latin America) land is being acquired by local business interests, often in partnership with western commercial interests. Accurate data regarding the pace and origins of land acquisitions are hard to find. Furthermore, there is a widespread narrative around the concept of “empty”, “vacant” or “unused” land. This myth needs dispelling as almost all land is being used for some purposes – although this may not involve the establishment of permanent settlements or agricultural production.

Many land acquisitions are taking place along water courses or in other areas where water is available, and land deals often are made together with agreements on the use of water. This may further displace local livelihoods who depend on access to water for small-scale irrigation or pastoralism.

Biodiversity conservation efforts have been affected by the global land rush. Countries such as Uganda, Indonesia, the Democratic Republic of Congo (DRC), Cambodia and Laos have all lost areas of high biodiversity to commercial agriculture (sugar, oil palm, rubber etc) – including from protected areas. At the same time, in some places land is still being acquired for conservation although such acquisitions tend to be poorly reported within the Land Matrix and other global databases, which seek to monitor the land rush. For example, the Land Matrix has only recorded around 5,000 square km being taken for conservation or tourism purposes. In many cases, this is because the size of areas acquired is relatively small compared to some commercial acquisitions. Nevertheless conflicts between conservation and land rights are deeply rooted and pre-date independence. For example, historical conflicts between pastoralists and conservation in Northern Tanzania continue up until today. As well as for conservation purposes, “green investments” such as forestry, biofuels (“green” energy), and carbon forestry (such as REDD+ schemes) are also having a growing impact. Although relatively recent in nature, the social and environmental impacts of these initiatives are somewhat mixed.

Underlying these trends are concerns over participation, governance and decision-making. Laws often provide weak protection to local residents, who remain vulnerable to dispossession in the face of external investment, often politically supported from the highest levels. Often, land and natural resources are owned by government, local land rights are weak and informal with no documentation and prevailing legislation is weak on social and environmental safeguards. There is very limited transparency and public disclosure / participation in the process of developing land deals.

Fiona Flintan and Jabier Ruiz Mirazo, International Land Coalition: *Overview of changes, trends, drivers and threats to land rights in the rangelands*.

Rangelands exhibit a unique level of interconnectedness between people, livestock and ecology. They are also subject to extreme variability in climate – ranging from floods to droughts. As such, any attempt to intervene in these areas must be driven by an integrated approach that links social and ecological

resilience. Governance systems often operate at higher levels of scale than in agricultural societies. Traditional rangeland management systems may operate at multiple levels – from a landscape level down to clan, or village level, down to intensive management at the local level for resources such as wells, forests or wetlands. As such, a nested management system should be supported.

Rangelands are often rich in wildlife and as such are targeted by conservation agencies (government or NGOs) for protection, which creates conflicts with local users when conservation measures involve restrictions on local use, management, or tenure rights. At the same time they are receiving increasing attention by commercial investors as they are often seen as under-populated, under-utilised and marginal and therefore suitable for external investment. Due to poor planning, as well as a limited appreciation of the role and benefits of rangeland production systems, many land-based investments are unsuitable and creating conflicts with local residents. Many land-based investments are linked to securing water rights – often along seasonal or permanent watercourses. However, these areas are extremely important to herders and other dryland users and their displacement can create a range of problems (both social and environmental) elsewhere in the ecosystem. Reducing mobility of pastoralists (through fencing and exclusion), restricting access to water and dry season grazing can result in growing levels of conflict between pastoralist groups as competition over resources is increased. This may result in an increase in reliance on food and development aid for many. As such rangelands require special attention in discussion over land grabbing.

The Land Matrix² is the result of collaboration between a number of research and development organisations designed to document land acquisition worldwide. Data collected to date indicates that while the land rush has slowed in recent years, there have been over 83 million hectares of agricultural deals reported since 2000, of which 50% are in shrub-lands, grasslands and bare areas which are very likely grazed. Much work needs to be done to increase the accuracy and utility of the land matrix as many reports are not yet verified at the local level, but come from media reports, and in numerous cases the reported deals may not have been fully implemented. Furthermore, many other deals are not being reported and as a result are being missed in the matrix. This is the case of “conservation deals”, with only 6 cases in the database. The majority of land deals in rangelands recorded in the Land Matrix are for agrofuel, followed closely by food production investments.

The Land Observatory is a more intensive approach to understanding and geo-referencing land deals in the Land Matrix database, based on a participatory crowd-sourced data approach. In its first phase, it operates in five countries (Laos, Cambodia, Tanzania, Madagascar and Peru), and has a global thematic focus on rangelands. The Rangelands Observatory will be launched in June. The Land Observatory is interactive and provides opportunities for local partners to enter data, review results and discuss outcomes.

Session 1: Discussion Points

- It is difficult to separate ‘land grabbing’ from other forms of resource grabbing – such as water. Water is in shorter supply than land in many areas – and may actually be a driver of ‘land grabbing’. In some cases, land deals are linked to infrastructural investments such as hydro-dams. In Mali, for example, a big dam is being built on the Niger river and is linked to irrigation of agricultural land. However, it will alienate many farmers and herders who use the riverine areas for watering livestock, and small-scale irrigation.

² <http://landportal.info/landmatrix/get-the-picture>

- One potential area of engagement for NGOs and researchers might be in reviewing where national governments have identified areas of land as being available for investment in order to be able to predict and highlight potential negative impacts on local people. All too often we engage after land deals have been done, and negative impacts realised. However, if we were to identify future areas of investment (where investors are being directed), future impacts might be avoided. This might also be of benefit to investors as often land identified for investment is subject to customary tenure claims which, if unrecognised, may result in conflict and consequently be a potential risk for investors and a source of increased costs.
- While the Land Matrix is an important tool, much work needs to be done to make it accurate and more usable. Aggregate information on tenure and claims is not well documented and merits more attention.

Session II : Conservation as a driver of land-grabs?

Neil Burgess, UNEP World Conservation Monitoring Centre: *Global implementation of the Convention of Biodiversity global protected area targets*

The Convention for Biological Diversity's (CBD) Strategic Plan for Biodiversity 2011 – 2020 includes a set of targets (the so-called 'Aichi Targets') that were agreed at the CBD meeting in Japan in 2010. These Aichi targets include Target 11 which reads: "By 2020, at least 17 per cent of terrestrial and inland water areas, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes."

One element of the previous CBD '2010 Biodiversity Target' of 10% of land area to be under protection by 2010 was achieved and exceeded - 12.7% land area was under protection, globally, by 2010 (this was the only part of the CBD 2010 Biodiversity Target that was achieved). At a national level, however, the picture is very variable. Some countries have already exceeded the 17% protected area coverage specified in Aichi Biodiversity Target 11 (e.g. Tanzania) while others are far from this figure (e.g. Somalia). Furthermore, there is a big difference in the quality and effectiveness of protected area management and hence the outcomes for biodiversity (and potentially for people). Globally, only about ¼ of protected areas are considered to be "well managed" (against a variety of criteria established through an IUCN framework for protected area management effectiveness).

How equitable is the management of these protected areas? While the UN World Database on Protected Areas (WDPA) is starting to track management effectiveness, it does not (yet) track "equity" even though this is included in the Aichi Biodiversity Target 11. Indeed, as yet, there is no equity indicator by which achievement of Target 11 can be assessed. Although there are an increasing number of community conserved areas, and government reserves that allow sustainable use, and share benefits with surrounding communities, strictly protected areas (IUCN management categories I and II) are increasing in number / area at approximately the same pace. However, this may be partially a reflection of the data that has been reported to the WDPA rather than necessarily reflecting reality on the ground as there are time lags in declaration and reporting, often of several years. Practical experience from a conservation NGO working in Tanzania, for example, shows that there is growing emphasis on supporting communities to protect, manage and conserve areas of high biodiversity – through Village Land Forest Reserves and Wildlife Management Areas. Some have described the encouragement by conservation NGOs to put community land / water into community-based conservation as 'land grabbing' or 'green / blue grabbing', but is this a fair criticism?

The Aichi Biodiversity Targets represents a massive, global conservation plan. The manner in which different countries decide to meet this target could determine whether we see more "green/blue-grabbing" or more local empowerment and greater benefits and land security at the community level, especially when considered against some of the alternative allocations of land to multinational companies by the central government that are also prevalent currently.

Case Study 1: Guy Kounga, Centre for International Sustainable Development Law, Cameroon.

There are four principle laws governing conservation of biodiversity and forest management in Cameroon. However, customary law continues to govern many areas even if it is not recognised in the legal framework (written laws). Cameroon has developed a 2035 "Growth Strategy" which has

important implications regarding conservation and sustainable natural resource management. The Forest laws distinguishes between the permanent forest estate (which includes forest reserves and protected areas) and non-permanent forest estate, which includes community forest areas and those areas that could be converted to other uses (agriculture). The Forest law has an objective that at least 30% of land should be placed under conservation, and this is being realised through an upward trend in the establishment of protected areas. Creation of protected areas and community forests does have important positive impacts (through job creation, community empowerment, local benefits from forest use and protection of local cultural values). However when strict protected areas are created, it leads to loss of access to forest resources that can impact on local livelihoods as well as a growth in human wildlife conflicts.

Case Study 2: Chris Bakuneeta, Makerere University: Land Use Trends in Uganda.

There has been a strong population growth in Uganda in recent decades and as a result, increased competition between agricultural and nature conservation objectives. In Uganda, unlike in other African countries, land is being lost to smaller scale, local investments, rather than large-scale, international investments. Approximately 120,000 hectares of land has been transferred from forest reserves or national parks administered by central government, to local agricultural uses. Recently, commercial forestry has also been increasingly prominent – and in 2011, the New Forest Company was granted the rights to grow pine in a government forest reserve, that had been encroached by local residents. As a result, over 20,000 people were displaced, stoking significant conflicts over land use and attracting the attention of the international media, and development organisations such as Oxfam.

The legal process used by the government to de-gazette forest areas does not conform with government procedures. There is presidential support for foreign investment, and conservation or environment is often seen as getting in the way of progress and development. There is little or no working relationship between Uganda Investment Centre and the National Forest Agency.

Case Study 3: George Holmes, Leeds University: Land Grabbing and Conservation in Southern Chile.

Chile has high levels of species endemism, in large part due to its geography. The main threats to biodiversity are from mining and commercial forestry (which tends to consist of monoculture pine plantations). Since the early 1990s Chile has been a model of neo-liberal politics. Very strong private property rights exist, with almost no opportunity for communal property rights. Environmental regulations are generally about enabling markets rather than regulating markets. Consequently, the last ten years has seen the emergence of private protected areas (PPAs). These can be up to 300,000 hectares in size, although there are many smaller areas. In total, 1.6 million ha of land is managed as PPAs, covering 2.1 % of Chile's total land area. 19% of the land area is already covered by state protected areas, but this tends to be mountain landscapes, covered by rock and ice whereas the PPAs are on higher conservation value land.

One example of an individual land purchase, is that made by Doug Tompkins (owner of North Face) who created a 275,000 ha private PA which runs right across the country, nearly cutting it half. In 1997 he had to sign an agreement not to buy and more land despite Chile's strong private property rights regime. Since 2007 it has become increasingly fashionable for rich Chileans to buy land – either for recreation or speculation. Indigenous communities are also buying land (with support of NGOs such as WWF) as a way of getting government to grant them territory – declaring the land as a private area has strengthened their legal case. The Nature Conservancy has supported the introduction of a conservation easement law that allows land to be held under covenant in perpetuity for conservation.

It is not currently possible to determine the impact of PPAs on land rights. It seems that PPAs are no worse or better than state protected areas or other forms of land use / ownership. Low population densities and previous land use (un-used grazing areas for sheep farmers) has meant that there is limited displacement of people, as many PPAs were not previously settled.

Session II - Discussion:

The expansion of protected areas in Cameroon may be seen as a 'land grab' owing to the lack of community consultation or consent, but these areas are themselves subject to extreme pressures for conversion to oil palm and mineral extraction. Natural resource permits for different land uses are often conflicting or overlapping, as different government agencies are responsible and do not co-ordinate. Underlying this trend is the government's wish to transform Cameroon into an emerging economy by 2035. Protected areas do not contribute to this goal per se as there are few real economic benefits associated with them, hence the willingness of the government to allow conversion to other uses.

Session III: The impact of land grabs on conservation outcomes

Roopa Krithivasan, WWF-US: Global trends in protected area downgrading, downsizing and degazettement (PADDD)

While considerable attention has been paid to the expansion of the global protected area network, recent research from WWF suggests that protected areas (PAs) are not as permanent as is often assumed. Since 2009, WWF has been recording occurrences of PA downgrading, downsizing, and degazettement (PADDD). Downgrading is defined as a decrease in legal restrictions on the number, magnitude, or extent of activities permitted within the PA. Downsizing is decrease in size of a PA through a legal boundary change, and degazettement is the loss of legal status for a PA.

Preliminary analyses based on ongoing data collection suggest that since 1900, over 1200 instances of PADDD have affected over 1.2 million km² in at least 64 countries. Preliminary findings also suggest around 2000 proposals for PADDD have affected 24 countries, which, if enacted, could affect nearly 1 million km². Though in theory PADDD can advance conservation goals through improved allocation of conservation resources, evidence suggests that PADDD tends to be driven by economic and political factors that ultimately undermine conservation.

An example of PADDD includes land concessions within PAs, which have been granted by the Cambodian government since 1993. Over 21,000 km² have been leased to private entities. Many of these concessions are for logging and mining activities, and are in, or overlap with, PAs where such activities were previously prohibited. Reports for Cambodian human rights NGOs indicate that concessions have also resulted in the displacement of at least 400,000 people. This suggests that PADDD can play an important role in our ability (or inability) to achieve conservation and development goals. More research is necessary to better understand the implications of PADDD for biodiversity and human wellbeing.

Case Study 4: Tom Evans, WCS: *Land acquisitions in Cambodia for agri-business*

Cambodian law in regard to forest and wildlife conservation respects and upholds community and individual customary land rights. As a result, there is relatively little conflict between local people and protected areas. Since 2005, large-scale commercial land acquisitions have increased rapidly particularly following a logging ban in 2000/2001 and the subsequent re-concessioning of previous logging areas as agricultural investment land.

In Snoul wildlife sanctuary for example, there has been a dramatic conversion of forested land to rubber plantations in last two years, as well as the upgrade of a road running right through the middle of the sanctuary. Tonle Sap wetlands is another example where previously open access common land (much of it flooded forest around the lake) has seen rapid conversion to commercial irrigation schemes, backed by national investors. Land acquisitions in Cambodia tend to be small individual areas compared to some other countries, but the cumulative impact is large. Recently, however, a vigorous and growing backlash from civil society organisations and human rights NGOs has resulted in some responses from government, including a national moratorium on new concessions and a national land titling programme in forest areas.

Case Study 5: Rob Small, Flora & Fauna International: *The impact of oil palm plantations on conservation in Liberia*

Worldwide, the land area under palm oil production has more than quadrupled since 1961. It has increased from 3.5 M ha in 1975 to 13.1 M ha in 2005. Liberia has had plantations since the 1920s

particularly for rubber. Oil palm was introduced in the 1970s. Currently there are four international companies with oil palm investments in Liberia with a combined access to over 600,000 ha. However, the government has recently announced that no more land will be concessioned for plantation agriculture or agribusiness.

The environmental and social impacts of oil palm production include:

- **Primary Conversion:** concession development - conversion of critical ecosystems and corridors to oil palm by concessionaire
- **Resettlement:** concession development - resettlement/relocation of populations living on land to be planted with oil palm into critical ecosystems - deforestation /degradation of critical ecosystems to meet local agricultural demand
- **Forest Products Demand:** concession development - increases in incomes (in local area including and surrounding the concession) - increased demand for forest products - deforestation, degradation and loss of ecological complexity of critical ecosystems to meet demand
- **Extensification:** concession development - increased support for smallholder oil palm or rubber outside concession area - conversion of critical ecosystems to oil palm by smallholders.

Case Study 6: Dorothy Nyngi, National Museums of Kenya: *The Scramble for the Delta: The Tana River Delta, Kenya*

The biodiversity-rich and productive Tana Delta, part of the Swahili realm in the Western Indian Ocean, has been coveted by various ethnic groups and cultures for centuries. Most recently it has been in the news because of clashes between farmers and livestock keepers with over 150 people killed since August 2012. These clashes are just a symptom of much deeper lying processes that are depriving the most vulnerable groups in the delta from their access to land and water. The Tana River delta is a mosaic of habitats, including floodplain, wetlands, mangroves and riverine forests. This diverse ecosystem supports a range of local livelihoods – small-scale agriculture, fishermen, livestock keeping and forest users. At the national and international level, the Tana Delta is an important biodiversity area and has attracted the attention of many conservation organisations.

Large areas of the delta have been allocated to production of biofuels and sugarcane. One example is Bedford Biofuels, which has secured 75,000 hectares to grow *Jatropha*. The company offers extremely low salaries and appears to have little regard for corporate social responsibility. For example, the environmental impact assessment that was conducted (and approved by the National Environmental Management Authority) fell well below any internationally acceptable standard. The *Jatropha* plantation requires irrigation and thus places large demands on water resources as well as taking large areas of traditional grazing land out of production. Nevertheless, the area was declared a RAMSAR site in 2012, although this is also facing stiff opposition from local people, who have yet to be fully consulted. Questions remain about how the management plan will be prepared and how inclusive it will be.

Case Study 7: Cherie Enawgaw Beyene, Endeavours towards Reconciling Conservation and Investment in the Gambella-Omo Landscape , Ethiopia.

Protected areas cover 14% of the land area of Ethiopia, but many sites have been heavily impacted and encroached by people and livestock. The Gambella-Omo complex covers a large area of land and contains high levels of biodiversity – much of it yet to be properly recorded and studied. Approximately 1 million White Eared Cob migrate from this area into southern Sudan, putting it on par with the great

migration seen in Serengeti and Masai Mara. The complex includes 3 national parks and 1 wildlife reserve, but the entire complex is not formally gazetted. Recently, key wildlife areas within the Gambella-Omo complex were allocated to large scale farming, but following series of discussions and meetings with all stakeholders the government decided to set aside 35,000 hectares of land for conservation objectives (to protect key wildlife sites, create a wildlife corridor to maintain ecological connectivity). Though the main reasons for EWCA carrying out these discussions and meetings was mainly for conservation outcomes, the conclusion also has benefits for local livelihoods and pave the way for integrated and holistic wildlife management in the Gambella-Omo landscape.

Session III - Discussion

- The land-grabbing problem as such is not agribusiness, land acquisitions or conservation – but how these initiatives are implemented, and how local people are consulted, engaged and involved. Was there a process of FPIC (free prior and informed consent) when planning new investments? Were there joint ventures with shared ownership and equity with local people bringing development locally as well as nationally? Can conservation be implemented in ways that allow people to retain land rights, rather than them being alienated?
- One major challenge in the context of large-scale land acquisitions is the process used to plan and allocate concessions. There is rarely any transparency regarding how land deals are brokered or agreed. There is an urgent need to open these discussions up, and allow affected people access to and participation in decisions on land from an early stage. With regard to conservation organisations, there is a need to adopt a “do no harm” approach to ensure that any conservation initiative does not generate negative local impacts on livelihoods. The Conservation Initiative on Human Rights is a good starting point.
- Securing local land rights is an important aspect of helping achieve both conservation and development objectives. While it is necessary – it may not be sufficient to ensure conservation outcomes. There is still a need to go beyond land rights to ensure environmental sustainability in the process.

Wrap up and summary session from Day I

- Much of the rhetoric around land-grabbing concerns agro-industrial uses. Much less is known or published on the issue of green grabs, or even ‘blue’ grabs – despite the critical importance of water access and use rights. The presentations on the first day present a mixed picture of conservation both contributing to, and being impacted by the global land rush. One participant suggested that setting a target of 17% of land to be under protected area coverage in just a few years (by 2020) was almost asking for land grabbing! While there is undoubtedly a growth in global protected area coverage – possibly stimulated by international targets - it is important to recognise that this growth includes very different types of protected areas: indigenous and community conserved areas (ICCAs) on one end of the spectrum and strictly protected areas on the other. Tanzania and Namibia seem to be meeting their CBD targets largely through an expansion of ICCAs rather than setting land aside - and away from community use - but in both cases this may be due to rather unique legal reforms that allows for strengthening of land rights and community based management of natural resources. Furthermore, as the presentation from WWF highlighted, protected areas are not necessarily permanent institutions and are often in a state of flux.
- It is also important to be clear what we mean by ‘land grabbing’. If land is being allocated to conservation, is it always necessarily a ‘grab’? There is a huge diversity of contexts – large and small, driven by international interests or local ones. Is ‘land grabbing’ where procedural and substantive rights have been infringed or is it more than this? In most presentations, land

concessions appear to be about exclusive rights (or leases) that extinguished existing land rights. Are there hybrid models where communities can retain rights to land and/or share power?

Furthermore, does strengthening land rights always help the poorest? If poor people rent rather than own land, reinforcement of rights may actually squeeze and disempower them further. One key issue is that decisions regarding land deals are rarely driven by strategic planning, or any public process that could determine areas suited to investment. The process is often opaque and inaccessible to those most affected by these decisions.

- To date, much of the debate on 'land grabbing' has been driven by NGOs focusing on human rights and social justice with seemingly little input from conservation organisations. Yet there could be an important role for them to play in trying to persuade national governments to behave more openly and responsibly with regard to land deals. Conservation organisations could also be much more strategic about engaging with the private sector and markets to ensure such engagements leverage greater support for community land rights in ways that also advance conservation objectives.
- One perceived barrier is the complexity and multi-dimensionality of the land grabs issue. It is deeply rooted in governance failure, which is unfamiliar or uncomfortable territory for many conservation organisations. Furthermore, 'land grabbing' is essentially about rights - the core business of many development organisations but less so of conservation organisations. Few conservation organisations have the capacity to undertake this kind of work alone and will need to enter into new partnerships with human rights based NGOs. 'Land grabbing' and land rights could potentially be a key issue that really encourages much better and stronger collaboration between environment and development organisations.
- Another opportunity lies in working with the private sector – especially where the case can be made that there may be some reputational risk in their engagement with some land deals. There is potentially a lot to learn in this context with experience from forest governance and illegal logging. Emerging experience with “pro-poor” REDD+ also provides opportunities for learning lessons on dealing with issues of governance, participation and equity.

Day II – Wednesday, 27th March 2013

Session IV: Securing conservation outcomes through strengthening of land rights: tools that work – and some that don't

Harry Jonas, Natural Justice: *Legal and institutional aspects of recognizing and supporting conservation by indigenous peoples and local communities*

The law is not a neutral force – it is the result of deeply political processes that perpetuate politics. Law can be a “culpable handmaiden or enabler of policies”³. Natural Justice recently undertook an international review to explore how different laws support or undermine community conservation. On the positive side, there is a growing body of international law with which to support local community action, and growing national legal and non-legal support for indigenous and community conserved areas (ICCAs). However, laws continue to undermine local resilience and in particular often undermines community abilities to counteract the negative effects of both conservation and development. The wording of Aichi Biodiversity Target 11 also includes “other area based conservation measures” in addition to Protected Areas. This clause is what could stop the expansion of protected land becoming a ‘land grab’ and help to reinforce local land rights.

There are three key problems:

- **The Legal System:** Many communities lack knowledge of the official legal and judicial system. It is difficult for them to challenge infringements of their rights and they lack the financial and technical ability to do so. The legal system is a barrier to local people and achieving justice
- **The nature of law:** Not all laws are created equally. Legislation that supports indigenous and local communities can often be overridden by other laws. Legislation and the way in which laws are written “divides landscapes. The landscape is an integrated living and holistic entity, whereas laws are very specific and deal with only very specific elements of it.
- **The laws themselves:** Written laws do not recognise customary law and rights – and tend to give fewer rights to sub-soil (mineral) resources. Laws around biodiversity conservation and protected areas in particular lag behind international norms

What can be done?

- Mainstream human rights standards across all other legal frameworks (including collective or community)
- Improve implementation of legislation by harmonizing laws and undertaking institutional reform
- Improve access to justice and uphold the rule of law
- Support legal empowerment and capacity building initiatives

Law is a critical but diffuse determinant: legal reform does not mean addressing one law. Land and conservation law are important but deeper changes in the structure of law are needed.

Case Study 8: Emily Polack, IIED: *Legal tools for citizen empowerment and securing local land rights*

³ Alden Wily, L., 2011. “The Law is to Blame”: The Vulnerable Status of Common Property Rights in Sub-Saharan Africa”. *Development and Change* 42(3). 733-757

Despite the fact that the law works in the interests of some (but not others), it remains an important tool for strengthening local land rights. The pace of change of land acquisitions is fast across many countries and evidence suggests that marginalised groups are most likely to lose out. Legal empowerment is about using the law to tackle power asymmetries – particularly to help those who are weaker and more vulnerable. Currently, despite some improvements on protecting human rights, law tends to work in favour of investors, in the name of “development”, rather than in protecting the rights of small scale producers. A key element of legal empowerment is about providing direct support to communities to promote their entitlements (under prevailing legal frameworks) rather than simply waiting for reforms to take place.

IIED’s legal empowerment programme comprises two complementary strands of work:

- **Scrutinising the law and contracts.** Contracts are vastly different in terms of length and legal validity. Decisions are often dictated by who owns the land and resources; what incentives are offered to investors and what rights are traded away; what tools are used to ensure participation (such as FPIC) - and safeguards eg EIA; who has the power to negotiate and how can they be more steered towards investments in the public interest. There is no standard tool such as EIA to allow for scrutiny of contracts to ensure they are in the public interest.
- **Building capacity:** A critical aspect of legal empowerment is the bottom-up element, that enables citizens, and affected or threatened communities in particular, to gain a better understanding of the law and develop their own strategies for action

Case Study 9: Jan van der Ploeg, University of Leiden: *Swallowed by a Cayman – Conservation, tenure and legal surrealism*

Strengthening local land rights does not always work in favour of conservation. An example is provided by the case study of the critically endangered Philippine Crocodile – Crocodiles in Philippines are associated with corruption, nepotism and land grabbing, so it is difficult to get support for their conservation in the wild. The crocodile survives in a few densely populated agricultural areas. In some Indigenous people see crocodiles as a reincarnation of their ancestors. Community conservation therefore offers some potential for the crocodiles.

The Mabuwaya Foundation was set up to support the conservation of the Philippine Crocodile. The foundation facilitated the application for formal land rights in the hope that this would lead to enhanced crocodile conservation. The law in the Philippines provides a wealth of different legal instruments to support legal tenure rights. However, in practice it turns out to be extremely complex. The Mabuwaya Foundation therefore offered to help secure land rights in return for support with crocodile conservation. The reality on the ground was that the law was so complicated and convoluted that any resolution of local conflicts and claims proved impossible. Despite managing to have the informal land claims recognised, this did not strengthen land rights in practice – it simply resulted in the generation of another piece of legal documentation. Securing land rights on paper does not guarantee protection against politically-connected land-grabbing and hence generates weak returns for conservation. This raises an important issue for conservation organisations: is investing in local land rights a good use of limited conservation funds, or should the limited resources have been invested in activities more directly linked to conservation?

Case Study 10: Maurizio Ferrari, Forest Peoples Programme: *Indigenous community mapping, land demarcation and territorial management –some cases relevant to conservation*

Mapping local use by Indigenous Peoples can be an effective way of countering the perception that forest-lands are “empty” (as is often implied by remote sensing exercises). Forest People Programme (FPP) has used mapping as a tool in many countries as a means to establish claims over land as well as different types of use. It has trained communities in GPS/GIS – used hand held computers to map their resource uses within protected areas. Maps can be used as a tool to explain customary use and rights to companies, as well as in negotiations and dialogues with governments and private companies about resource rights and access. More recently, maps have been used for establishing community monitoring of natural resource condition and biodiversity. Although maps don't have legal basis per se, they can be used to support legal claims. For example, in Suriname indigenous groups have been able to champion their land rights case through the Inter America Court on Human Rights, supported by community maps.

In Thailand, the Karen community produced maps of their territory, revealing a close correlation between forest conservation and Karen settlements. The maps were later used to successfully negotiate for the co-management of protected areas, despite the fact that the law does not allow for this. Similarly in South Guyana, the Wapichan mapped their territory to address external pressures, such as mining development and made a claim for collective title. The mapping process helped support their application and also their resource management plans

Case study 11: Helen Schneider and Zoë Cullen, Fauna & Flora International: *Resources, rights and responsibilities: Approaches to strengthening natural resource governance in Indonesia*

FFI's work in Indonesia highlights a couple of examples where strengthening local resource rights is being used as part of a process to secure improved conservation outcomes. In the first case, Siawan Belida is a lake system in West Kalimantan, Indonesia with high levels of biodiversity. Local people are highly reliant on natural resources (fisheries, rice, rubber, NTFPs), which are managed through a pluralistic system of governance. The area delivers hydrological services for more than half a million downstream users. Above ground biomass and deep peat provide an opportunity to contribute to reducing CO2 emissions while providing financing for conservation management and support to sustainable livelihoods through REDD+. However, the project site is surrounded by concessions for oil palm and is in imminent danger of conversion despite the opposition of most local people.

FFI have been working to secure an Ecosystem Restoration Concession (ERC) licence that could confer tenure security for up to 95 years. ERCs provide more opportunities for communities to be involved in sustainable use than other forest protection designations. ERCs can only be held by a registered (national) company, so may be perceived as another form of 'land-grabbing.' To avoid this, FFI and local partners have been undertaking an FPIC process, using PRA and anthropological methods to better understand natural resource use governance systems, with the aim of facilitating a collaborative management model with local communities and other stakeholders.

The second case study is Merangin district in Jambi Province, Sumatra. This is an area of high biodiversity and important ecosystem functions and provides habitat for the rare Sumatran tiger. Planned oil palm and pulp and paper concessions are threatening the area. However, by working with local people to legally establish Village Forests (*Hutan Desa*) on state land (for 35 years), local land rights have been strengthened and the risk of forest conversion to other land uses has been reduced.

The lessons from these case studies are that synergies between conservation and land/use rights are more likely when local people have strong incentives and capacity to manage natural resources sustainably, when conservationists are able to accept and support sustainable use and when land rights proponents are willing to work with conservationists to find practical ways to achieve synergies.

Session IV: Discussion

- Granting land rights is a necessary but insufficient factor in securing conservation outcomes. More needs to be done above and beyond strengthening local tenure. Must be linked to some element of sustainable use.
- Much work has been done in Asia and Latin America in supporting indigenous people and local communities in securing large areas of customary lands – but less progress has been made in Africa.
- What happens when customary laws and norms contradict basic human rights such as gender issues? FPP’s experience suggests that very sensitive issues need to be dealt with slowly and diplomatically without imposing external views. Many traditional institutions aren’t gender equitable but working with such institutions provides an opportunity to start to address gender issues. It takes time.
- We should not forget that many Indigenous Peoples continue to be marginalised by PAs. Conservation organisations and host governments need to implement the Programme of Work for Protected Areas (under the CBD) that includes elements on governance, participation and benefit sharing. Another opportunity is provided by the “Whakatane Mechanism” – a process established to explore the implementation of IUCN resolutions relating to indigenous people in different protected areas around the world and, where people are negatively affected, to propose and implement solutions.

Session V: Securing conservation outcomes through strengthening of land rights in the rangelands

Case Study 12: Hijaba Ykhanbai: Conservation and pasture land use rights in Mongolia

Currently 17% of land in Mongolia is under state-managed protected areas. The country is aiming for a target of 30% of land area under protected areas (agreed at UNCED, Rio+20). Common pasturelands cover around 70% of the country's land area. Pastureland cannot be held privately. Between 2000-2010, 6 million hectares of pastureland was transferred to conservation objectives as state protected areas, and as a result, pastureland is increasingly under threat from conservation. Another threat comes in the form of mining. This is one of the fastest growing economic sectors in the country with almost 13.5% land area under license for either mining exploration or exploitation, by the end of 2012. Many of the areas leased out for mining overlap pasturelands. Clearly, pastoralists are under increasing pressure regarding access to grazing lands. To address this, possible options currently being explored include strengthening pastoralist land rights; creating economic incentives (PES) for pasture conservation; co-management of grazing areas for multiple benefits and working with investors to ensure socially and environmentally responsible outcomes.

Case Study 13: Stephen Moiko: Secure Land Rights: The Missing Nexus Between Conservation and Sustainable Rangeland Management in Kenya

The drylands in Kenya support the livelihoods of 10 million people representing about 34% of the population, about 75% of the wildlife and account for around 80% of tourist revenue. Geographically, there is a correlation between high levels of poverty and abundant wildlife populations. Clearly there is an opportunity for wildlife conservation to contribute to poverty alleviation – although this has yet to happen on any meaningful scale.

The new constitution re-categorises land and offers a range of opportunities for support to local management of natural resources. Public Land is collectively owned and managed on behalf of the people by the National Land Commission. This includes state protected areas and wildlife reserves. Community Land is a new category of land (replacing Trust Lands and Group Ranches) and exciting opportunities exist for CBNRM in these areas. Community Land will also include ancestral lands and lands traditionally occupied by hunter – gatherer communities.

Wildlife conservancies offer an interesting model for achieving conservation and development. A conservancy involves the allocation of communal or individually-owned land for wildlife conservation and wildlife tourism to generate financial and non-financial benefits directly or indirectly to landowners. These benefits can be provided by commercial tourist companies, conservation NGOs, and the wildlife and protected area agencies.

Case study 14: Serah Munguti (Nature Kenya): Integrating Planning and Strategic Environmental Assessment Processes in Kenya – A New Approach to conflict resolution

The Tana River delta is one of Africa's most valuable wetlands. However, growing and conflicting demands over this area is resulting in an escalating conflict over resources and rights. A growing population of subsistence farmers who occupy riverine areas in the delta are increasingly coming into conflict with pastoralists searching for watering points for their cattle and livestock. The situation is exacerbated by growing demands for irrigated land. Two sugar projects, which will transform over 200,000 ha into a sugar monoculture, producing industrial and table sugar as well as ethanol are

currently being planned. Another project would see the leasing of a large tract of land to the Qatari government. In response to growing conflicts, the Kenyan government (through the Office of the Prime Minister) developed a collaborative initiative with Nature Kenya – a national conservation NGO - and the Netherlands Commission for Environmental Assessment. The Deltas Initiative combined land use planning and strategic environmental assessment (SEA) in order to better address environmental conflicts and land grabs.

The land use planning process has three stages:

- A **baseline phase** leading to the definition of alternative strategies and development opportunities,
- An **evaluation phase** to determine the relative strengths and weaknesses of the alternative strategies through public engagement
- A **plan preparation phase** to produce a preferred strategy and spatial plan

At each of these three stages, the SEA is used to assess options, potential impacts (positive and negative) of different options and recommend measures to mitigate impacts. The new plan is due to be published at the end of 2013 but already one positive outcome has been the establishment of an inter-ministerial committee charged with the development of SEAs, linked to land use plans in all Kenya's deltas.

Session VI: Looking forward: Safeguards and Synergies

Peter Veit, World Resources Institute: *Strategic opportunities for bridging the gap between land rights and conservation*

The conservation community has come a long way since Mac Chapin's "A challenge to conservationists"⁴ article in 2004 which accused conservation organisations of disregarding indigenous peoples' rights. Land and property rights are now becoming increasingly mainstreamed within the programmes of conservation organisations. While the economist Hernando de Soto helped put the question of property rights on the development agenda, he did so in the context of privately held land – and not communally held land. Much of the planet's wildlife and biodiversity can be found on land held in common.

There is no such thing as "vacant or idle land" and so no such thing as an action that is neutral to property rights. It is helpful to think of land rights as a "bundle of rights" that includes rights of access, rights to use, rights to sell, rights to exclude and so on. Governments can grant and extinguish the entire bundle or just a single stick within the bundle. In many contexts, land rights refer to the land surface, but not what is below it, or even growing on it. Mineral and in some cases, tree rights are considered separately from land rights, and are controlled by the state in the "national interest".

The Africa Biodiversity Collaborative Group (ABCG) is a collective group of US-based international conservation NGOs that seeks to develop collaborative work. The group has secured USAID funding for 8 streams of work including one on governance and land use and a new stream of work on large-scale land acquisitions. 4 organisations lead this stream: African Wildlife Foundation (AWF), World Resources Institute (WRI), Jane Goodall Institute and The Nature Conservancy. One example of how this work has evolved can be seen in Kenya where AWF has been leading work on the development of new tools with which to strengthen land rights as well as promote conservation outcomes. This includes tools such as environmental easements leases and land trusts – all of which have been tested around the Nairobi National Park on privately and communally held land.

WRI has tended to focus efforts on reviewing regulations that restrict privately held land – what rules exist that govern land rights. WRI also focuses work on reviewing overlapping land and resource rights. This generally reveals a hierarchy of rights regimes with minerals trumping all other privately held rights. Clearly there is a need to review how to balance the need for the states to restrict property rights for genuine public interests (including for environmental purposes) with the need to protect property rights to create incentives for investments.

What else can conservationists do?

Property Rights

- Lobby and advocate to broaden the legal bundle of land rights of community-level managers to include a wider range of natural resource rights
- Document customary tenure arrangements

Governance

⁴ Worldwatch magazine, October/November 2004.

- Disclosure and transparency in land transactions. Few countries have comprehensive access to information laws (particularly in Africa and middle East).
- Strengthen “counter-veiling powers”. There is an urgent need to work with MPs and parliaments (and not the executive as we do so often) to address power issues.

Conservation

- Prioritize voluntary and incentive-based approaches as a balance to regulation and enforcement-based approaches
- Democratize procedures for restricting or extinguishing property rights

Ruth Kelly, Oxfam: *FAO Voluntary Guidelines on Land and Forest Tenure*

Customary law is an “oral legal system” and by definition, is not fixed. It demonstrates how political the law is, since it is about who has control over what. As we move towards titling and registration of land rights the discussion has opened up about how to deal with customary law, and what alternatives exist. One approach has been “roundtables”, as with the Roundtable for Sustainable Palm Oil that has been used in Indonesia. However, for many companies, the added value of conforming to principles is questionable as it attracts higher costs, but with no real price increment. Auditing and dispute resolution appears not to have worked.

As a result of these shortcomings, a new approach has been developed – the Voluntary Guidelines (VGs) on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, developed by FAO. The guidelines have been well received by many within civil society because of the strong language on local level rights – which includes (and even goes beyond) FPIC. It well reflects human rights law. However, the chapter on investment and investment law is very weak – and the participation of the private sector in the process of developing the guidelines was rather limited. Investment law is a much more amenable tool to use to hold companies to account than human rights law, so it is rather a lost opportunity.

How can the guidelines be implemented? Clearly this is a challenge, given their non-legally binding nature. However, the VGs do offer a hook on which national-level civil society can begin to engage with the government and private sector on law reform. It creates opportunity for opening a dialogue.

If implementation is to happen, it would need some legal reforms to provide a legislative framework for implementation. This should be facilitated through the establishment of a multi stakeholder platform (including conservation /environmental and social organisations to lead the process. The platform would have a role of reviewing the degree to which national laws support the implementation of the guidelines, and where gaps exist. Some countries appear open to this. Conservation is only mentioned once in the guidelines, but there are entry points for a broader discussion around sustainable use and local livelihoods.

Panel reflections and concluding remarks

Dorothy Nyingi: It is important to frame land grabs in the historical perspective – as land grabs are not a recent phenomenon. In Kenya the state has used a historical legacy of using land as a political tool to buy allegiance and influence political processes. With the new constitution, this becomes harder. We need to work to support the implementation of the constitution to hold government accountable. A key part of this will be to work with local organisations, and help to build their capacity to provide legal support services, to access information and to advocate for change.

Helen Schneider: Reflecting on relevant developments in FFI over the last decade, a process of intensive consultation and discussion within the organisation initially led to an essentially ‘do no harm’ position statement. However, more recent engagement with the Conservation Initiative on Human Rights and with REDD+ has enabled us to strengthen this position to be more explicit about rights and governance. REDD+ in particular has provided an organisational incentive to do so, both through associated financing and through the need to manage reputational risk and to fulfil international voluntary social standards.

Tom Evans: At a minimum, conservation organisations should agree to “do no harm”. But at the same time, we should not lose focus on our core business - conservation. It is an agenda that overlaps with poverty and human rights but is not the same. Community tenure does not guarantee conservation outcomes. There are three major stakeholder groups with an interest in large scale land acquisitions - affected communities, private sector and government agencies. There are plenty of tools for strengthening communities as well as a growing body of work in supporting governments – but the glaring gap is the private sector. We need to look at how we can engage with and influence the private sector, through consumer channels, parent companies (often in the west) shareholders, CSR, regulation and other means.

Maurizio Ferrari: We need to appreciate that we are dealing with very complex issues – and there is no single “silver bullet” solution. We need to think about a multi-pronged approach. At local level need strong communities on the ground. It takes time to build capacity but it is critical. FPP has worked a lot on voluntary standards but this needs to be coupled with legal reform to give it “teeth.” We need to be able to link more effectively with international law, as a point of engagement for in-country civil society. The Conservation Initiative on Human Rights is a positive development, but it needs more commitment, regular interaction and a concrete plan of action, which links more closely with human rights organisations. The Whatakane mechanism is one method for implementing progressive IUCN resolutions at the local level. With regard to agribusiness – this is a clear common concern shared by conservation and HR organisations. Perhaps what is needed, is to start with commodity, such as palm oil where we could develop some collaborative action. Could also consider consumer awareness campaigns in consumer countries (such as the UK). Is this something that Oxfam could take forward?

Harry Jonas: The issue of land grabs issue is actually more about a failure of justice at the local level that negatively impacts communities and the environment. There is a need to improve local justice in order to avoid this damage. FPIC for all is not a high standard but a baseline from which we can build more socially just outcomes. With regard to the Conservation Initiative for Human Rights, the next phase of work should involve a more open discussion on practical methodologies that work to build relationships (as well as to address those that have broken down such as Whatakane). Much work remains to be done within the context of protected areas. Far too many retain the exclusionary approach where local conservation efforts are ignored or over-ridden. We need much more work on how traditional or customary conservation efforts can be legally recognised / formalised, in ways that do not restrict community action, but provide them with additional and securer rights.

Plenary Discussion:

- There are opportunities for further engagement on this subject: World Parks Congress, The REDD Forum and the REDD Partnership. The ABCG may also be a potential avenue to influence conservation organisations. ABCG is organizing an event in Nairobi on large-scale land acquisitions and biodiversity conservation (through the AWF office) later in 2013 which will provide a useful follow-up to this symposium. Dedicated initiatives such as the Rangelands Observatory offer an opportunity to pay particular attention to high-risk areas.
- We cannot influence the ever-growing demand for land, fuelled by rising commodities/food prices. Instead, we need to focus less on stopping it – but more of influencing it to deliver more responsible outcomes. One option is biodiversity offsets – getting companies to commit to protecting / managing an equal area of natural habitat to that which is impacted by development. We need to address the demand side too (which we all contribute to).
- There are existing mechanisms which we could potentially support – such as the RSPO, the Voluntary Guidelines. Is there room for specific collaboration to add value to these processes? Engaging with large scale buyers may be one option. For example, Unilever buys around 1 million tonnes of palm oil a year (following their decision to stop growing it themselves). Getting them to revise their procurement process (and criteria) may have a huge upstream impact. Working in value chains at the level of the market may represent a much more cost-effective means to leverage change than by working at the local level.
- We need to consider how, as an investor, you would be interested in land rights and broader social / environmental issues. Consider the issue of “investment risk” (for more on this, see the recent report by the Rights and Resources Initiative⁵). Failure to consider such issues may result in increased investment cost. Oxfam has launched a campaign called “Right to Know, Right to Decide”. The campaign challenges international oil, gas, and mining companies to respect a community’s right to decide if or how they want oil, gas, and mining development to take place in their community, and their right to know about the impacts and benefits of these projects. This level of public scrutiny has not been applied to agri-business, and there is now a need to turn the spotlight on them.

⁵ http://www.rightsandresources.org/publication_details.php?publicationID=5715

Next steps

The symposium concluded with identification of follow-up activities that the participants felt would be important to keep this debate alive and productive. These ranged from immediate activities including dissemination of workshop outputs to longer-term engagement between conservation and land rights communities. Specific activities included:

Dissemination of workshop outputs

- All presentations to be made available online. This has already been achieved via the Poverty and Conservation Learning Group website: <http://povertyandconservation.info/node/8235>
- A workshop synthesis and summary to be shared. This report acts as the workshop synthesis and summary and will also be made available on the PCLG website.
- Explore opportunities to write up some of the symposium presentations as journal articles or within an edited book. Different options are currently being explored. Other communications products aimed at different audiences (policy briefs, articles, news items). A short article has already been prepared for the IUCN Commission on Environmental Economic and Social Policy (CEESP) newsletter. Briefing papers summarising the workshop findings will be prepared and published in both IIED and ILC briefing paper series.

Additional resources that participants would like to see developed/disseminated

- Develop a check list of tools that could be used to avoid or undo 'land grabs', which could be supported by a workshop for interested parties
- Develop a typology of land grabs – what, where, how, why, who
- Develop a bibliography of literature and references on land grabs
- Document examples of good practice in the field of large-scale land investments, that generate positive outcomes for local communities as well as conservation. This could include rangeland areas (with the support of ILC).
- Develop and document national level case studies of failed 'land grabs' to illustrate the business case for responsible, transparent land deals
- Database for sharing case studies – whats worked and what hasn't

Many of these tools and case studies would need further resourcing. The workshop partners will explore funding opportunities and/or collaborations that will facilitate this and welcome feedback from participants and others on how these resources could best be developed and shared.

Follow up meetings, forums and policy processes

- The African Biodiversity Consultative Group (ABCG) is planning an event in Nairobi in mid-2013. Further details will be available from WRI and AWF in due course.
- The upcoming IUCN World Parks Congress to be held in October 2014 in Australia provides a good opportunity to promote a resolution to:
 - Avoid land grabs in future PAs declarations
 - Correct 'land grabs' deficient PAs declarations made in the past
- On-going communications within the group and pulling in others: The participants expressed interest in continued interaction with each other and with the wider conservation and development community. The workshop partners will explore different opportunities for facilitating an ongoing discussion - (perhaps using media such as twitter, an online forum or a

website as well as follow up meetings). A huge diversity of issues were identified as meriting further discussion as highlighted below.

Issues needing further discussion/investigation

Understanding the bigger picture of power, politics and population

- How is land grabbing today different to land grabbing 10, 20, 50 or 100 years ago? What can be learnt from this history?
- The role of migration + population expansion: how do we think about land grabbing and conservation in a world with an increased rural-urban migration?
- A lot of the problem relates to power and a major problem is that some multinational companies have almost as much power as states but with less accountability and are not necessarily complying with voluntary standards, such as the Roundtable on Sustainable Palm Oil. How to engage companies and hold them accountable is a key question. Also need to consider how to achieve this without leading to 'green washing'?
- When we have the tools (tenure rights, mapping, etc.) how do we 'play the game'? How do we build the power vis-a-vis the corporate interests and the dominating neo-liberal policies?
- Large scale concessions are part of the supply and demand chain. Consumption is increasing so what is the answer?
- Where does REDD, PES and carbon rights fit in? What can we learn from these approaches to help tackle land grabs and where might they further contribute to green grabbing?

Communities, Land and Conservation – what works?

- Traditional land tenure systems have been complicated – is there room to simplify them?
- Should the sustainability of (traditional or not) practices by local communities be assessed before engaging in or supporting the securing of their rights to land or rather should land tenure should firstly be secured for local communities with customary rights for the sake of 'fairness and justice', and then work with the communities to support and promote sustainable use of natural resources?
- Resolution of genuine conflicts between species conservation and community livelihoods is needed urgently
- Assumption that communities are homogenous! What about power within the communities, tensions between 'original' and inward migrants, gender. Etc.?
- Community conservation in Africa: is it working? If not, why?
- Does the form of land ownership really matter to conservation (i.e. meet biodiversity goals)? Does it make a difference to poverty alleviation or neutral or worse? Do communities manage land less well/better than state/ NGOs?
- Secure tenure is just the beginning of ensuring sustainable governance: how do we sustain support to communities? What is the exit strategy?
- Gender and customary systems: are there opportunities to achieve harmony between the two?

Tools and approaches that might help

- Mechanisms for addressing power and politics associated with land grabbing: win-win is rarely accessible and the law is often no more than a tool to reinforce power
- What potential for human rights bodies to help in seeking redress?

- At community level link to innovative work on the development of resilience against external shocks (think of resilience to land grabs in the same terms)
- Surely we need a combination of voluntary and statutory mechanisms that work, plus private/market mechanisms that compliment. Voluntary alone are not enough!
- Economic valuation mechanisms can be useful here too if applied appropriately (e.g. in decisions about new infrastructure investment and where to put it)
- What are central governments doing? What approaches and tools are working vis-a-vis large land acquisitions? (E.g. is the Government of Tanzania's approach one to learn from?)
- How is national planning at landscape and national level taking legal issues into account? Are there positive examples of local land rights being enacted as a first step?
- Financing options: Addressing social safeguards in conservation projects following best practice methodologies such as the World Bank's operational Procedures 4.12 is very expensive. Historically these costs have not been built into project budgets resulting in later problems. Educating donors and project implementers about these costs is essential if progress is to be made to ensure social safeguards and human rights are to be respected/ this needs to be done with new resources rather than unrealistically expect conservation to happen while diverting existing funding to this important issue.
- Development of models with the private sector: Private companies are the only organisations with the resources and long term vision to ensure protection or environment and social issues.
- What role for consumer campaigns, especially concerning palm oil?

Annex 1: List of Participants

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