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Land Grabbing and Water Grabbing

Drivers, consequences and legal framework

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No siempre lo legal es justo, y no siempre lo justo es legal.

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ABSTRACT

I fenomeni di *land grabbing* e *water grabbing* suscitano sempre più interesse e preoccupazione nella società contemporanea. Tradotti generalmente come “accaparramento di terreno” e “accaparramento di risorse idriche”, si riferiscono a un’acquisizione delle stesse in senso negativo per modalità, trasparenza, intenti ed impatti a danno di popolazioni ed ambiente. Questi fenomeni non sono nuovi, ma hanno subito un aumento considerevole a partire dalla crisi economica internazionale dell’anno 2008, a causa della quale le preoccupazioni delle nazioni in termini di sicurezza alimentare ed energetica si sono intensificate, implicando misure economico-strategiche atte ad arginare le perdite e ad assicurarsi il maggior numero di risorse possibili. Terreni e acqua, gli elementi primordiali del nostro pianeta, sono diventati il target primario di queste acquisizioni. Ma a quale prezzo per la vita delle persone?

L’obiettivo di questo lavoro è di fornire un’analisi dettagliata di *land grabbing* e *water grabbing*, esponendone prima di tutto le definizioni le quali, data la recente emergenza dell’argomento e la sua continua evoluzione, risultano ancora avere un diverso significato in base agli attori considerati. È fondamentale considerare poi i principali fattori scatenanti ovvero rispettivamente il settore agricolo e quello energetico. I nuovi *flex crops*, le colture intelligenti e convertibili a diversi usi possono significare davvero una svolta per la sicurezza alimentare? Sicuramente costituiscono un grande progresso nella ricerca, ma il loro esponenziale utilizzo nelle scelte di politiche agricole nazionali e private, pur non avendo tuttora ottenuto un vero riscontro positivo sia in termini di sicurezza alimentare che di “sicurezza umana”, contribuisce ad ampliare il raggio di *land grabbing* e *water grabbing*. Verrà rivolta particolare attenzione anche al ruolo giocato dall’energia, in termini di ricerca di nuove fonti a scopo di sostenibilità ma anche di sicurezza energetica, focalizzandosi sui biocarburanti e sull’energia idroelettrica, e sulla relazione che ne deriva con i fenomeni di *land grabbing* e *water grabbing*, in quanto i primi sono responsabili di acquisizioni di immense porzioni di territorio e la seconda di importanti risorse idriche. Fino a che punto ci si può spingere in nome di una presunta sostenibilità energetica?

Una tra le molte caratteristiche allarmanti correlate a questa tematica risiede nella sua estensione a livello geografico, caratteristica fondamentale in fase di approccio alla materia. Si tratta di un'estensione che ha ormai raggiunto una portata globale e che non è più limitata, come in passato, ai paesi in via di sviluppo e, più generalmente, ai paesi del cosiddetto "sud del mondo" (principalmente quelli del continente africano e del Sud America). La conquista di risorse idriche e terreni ha ampliato di molto il proprio raggio, colpendo anche l'Europa orientale, gli Stati Uniti ed il Sud-est Asiatico, arrivando quindi a coprire tutto il pianeta, ragione per la quale di seguito alla descrizione dei fattori scatenanti si riportano alcuni degli esempi più significativi relativi a diverse aree geografiche.

La scelta relativa ai casi avrebbe potuto essere molteplice, considerato il fatto che potenzialmente in quasi ogni nazione del mondo è possibile trovare un esempio di questi fenomeni. L'analisi si è quindi concentrata su paesi che abbiano vissuto o stiano vivendo una delle diverse sfaccettature di tali accaparramenti. Per l'Europa si vedrà come nella Federazione Russa la base del *land grabbing* si sia costruita proprio sul tipo di legislatura nazionale creatasi nel periodo immediatamente successivo alla dissoluzione dell'Unione Sovietica e il suo legame con lo stimolo lanciato dal governo stesso a favore di una ripresa delle attività agricole, incentivandone la ripresa non solo dall'interno ma anche dall'esterno. Nell'ambito energetico, soprattutto quello riguardante la ricerca di nuove e alternative fonti di energia, si descrivono gli impatti della tecnica della cosiddetta fratturazione idraulica, e il suo legame con il *land grabbing* e il deterioramento di risorse naturali, portando come esempi due casi avvenuti rispettivamente nel Regno Unito e negli Stati Uniti. Continuando sul filone relativo alle fonti energetiche alternative si vedrà come in Tanzania i tentativi di insediamento di colture dedicate ai biocarburanti abbiano di fatto costituito un'azione di *land grabbing* vera e propria su larga scala, senza comportare nessun beneficio per gli abitanti della zona. Come riportato in precedenza, l'estensione del fenomeno è globale e capillare allo stesso tempo, e i casi da riportare risultano essere innumerevoli; a questo proposito l'America Latina ha offerto molteplici spunti di riflessione. Dopo un'analisi dettagliata, la scelta del

caso relativo a questa regione è ricaduta sulla Patagonia, sia per l'impatto concettuale che ha nell'immaginario collettivo, essendo uno dei patrimoni naturalistici più famosi del nostro pianeta, sia perché la regione è purtroppo vittima della sfaccettatura forse più subdola dei cosiddetti *grabs*: il *green grabbing*, ovvero quella categoria di acquisizioni e appropriazioni condotte ufficialmente a scopo di conservazione e protezione dell'ambiente, ma che in realtà rivelano un intento puramente economico che, sfortunatamente, colpisce duramente gli abitanti originari della zona.

La corsa sfrenata alle terre e alle risorse idriche è compiuta da soggetti appartenenti sia alla sfera pubblica, come i governi nazionali, che a quella privata, come le multinazionali. Si esamina nella seconda sezione del primo capitolo proprio come si presentano in questo senso i governi nazionali, l'impatto negativo che hanno favorendo *land grabbing* e *water grabbing* attraverso la creazione di politiche agricole, idriche e relative ai terreni, al loro utilizzo e alla loro acquisizione. Si considera poi il ruolo degli attori internazionali, analizzando in particolare come le multinazionali, a tal proposito, siano tra i maggiori responsabili di queste acquisizioni. Si prendono in considerazione anche gli aspetti dei cosiddetti codici di condotta e responsabilità sociale d'impresa, strumenti non vincolanti per questa categoria di attori, bensì volontari: sebbene il concetto di gestire i problemi legati alle questioni etiche nel contesto di una visione strategica d'impresa contenga in sé un valore positivo, nell'ambito di *land* e *water grabbing* esso possiede solo un valore di facciata o può diventare uno strumento effettivo di contrasto ai due fenomeni? Si passa poi alla terza tipologia degli attori coinvolti in questo ambito, stavolta in senso positivo: le organizzazioni non governative (ONG). Vengono considerate in questo senso come attori-difensori di terre, risorse idriche e popolazioni contro i *grabs*, e a tal proposito gran parte del materiale presente sull'argomento esiste grazie al lavoro di queste organizzazioni. Riguardo alle ONG inoltre si analizza il concetto del cosiddetto "consenso libero, preventivo ed informato" (meglio conosciuto in inglese come *Free, prior and informed consent* o con l'acronimo *FPIC*), diritto riconosciuto specificatamente alle popolazioni indigene all'interno della Dichiarazione dei diritti dei popoli indigeni delle Nazioni Unite (UNDRIP), e che in generale permette

alle popolazioni in oggetto di dare o ritirare il proprio consenso riguardo a progetti di diversa natura che potrebbero implicare degli effetti negativi su loro stessi e i propri territori. Questo diritto purtroppo viene raramente considerato e/o rispettato, sia perché molte popolazioni indigene (soprattutto quelle residenti in zone più remote rispetto a quelle più vicine alle grandi città o comunque integrate con il resto della popolazione) non ne sono a conoscenza, sia perché quelle che lo conoscono e vi si appellano riscontrano una moltitudine di ostacoli a livello burocratico e legale. L'idea che sta dietro a questo concetto è senza dubbio positiva: perché non implementare questo diritto per farlo diventare non solo un metodo di riparazione ad accaparramento concluso ma anche un deterrente preventivo?

Lo scopo di questa tesi, oltre all'analisi prettamente descrittiva dei fenomeni, sviluppata in questa prima parte, è di esaminare le conseguenze dirette causate da questi sulla vita quotidiana delle persone. Gli impatti in termini di sottrazione di risorse alimentari e trasferimenti forzati sono di per sé sufficienti per dimostrare la gravità del fenomeno. Ecco perché il secondo capitolo è dedicato agli impatti in termini di diritti umani che hanno queste pratiche, in questo senso le tre aree esaminate maggiormente impattate dai *grabs* riguardano le sfere di alimentazione, acqua e abitazione. Per meglio visualizzare queste implicazioni a livello pratico, si riporta il caso relativo allo sviluppo idroelettrico nella regione del fiume Mekong, un'area importante che fornisce risorse essenziali in termini di sicurezza alimentare, minacciata dalle scelte nazionali degli stati rivieraschi in termini di politica idrica ed energetica.

Infine, per capire ulteriormente perché *land grabbing* e *water grabbing* prendano piede così velocemente, è importante esaminare il contesto giuridico e di governance internazionale relativi alle risorse idriche e ai terreni, al fine di comprenderne le limitazioni e cercare nuove prospettive per un miglioramento atto a contrastare questi fenomeni, sia in termini di implementazione degli strumenti già esistenti in materia come summenzionato, sia attuando nuove prospettive di gestione delle risorse specifiche per ogni realtà locale. Alcuni segnali, come quello dato dalla Corte Penale Internazionale sull'eventualità di considerare il *land grabbing* come crimine contro l'umanità fanno sicuramente

ben sperare che l'emergenza intorno a questo tema stia iniziando a fare sempre più breccia nella coscienza comune, stimolando di conseguenza la ricerca di soluzioni innovative a livello non solo concettuale e pratico, ma anche giuridico. Dall'altro lato ci si trova comunque di fronte a un periodo di convergenza di diverse crisi gravi (alimentare, idrica e climatica) le quali, nonostante costituiscano dei punti focali nell'agenda internazionale, sembra non vengano del tutto assimilate ai fenomeni di *land e water grabbing*. Partire dal presupposto che questi fenomeni alimentino tali crisi, può essere la base per iniziare ad affrontarle opportunamente ed in modo mirato, per salvaguardare non solo tutte le comunità che ne stanno subendo le conseguenze, ma anche il nostro pianeta.

INTRODUCTION

Land grabbing and water grabbing: these two expressions recently started entering the global vocabulary, overwhelmingly. These phenomena are raising more and more interest and concern in our society and despite not being new, they experienced a remarkable increase starting from the economic crisis of 2008, due to which national and international concerns regarding food and energy security intensified. This convergence of multiple crises has implied economic and strategic measures, both from public and private sectors where the aim has been cutting the losses and guaranteeing as many resources as possible. Land and water, the basic and primordial elements of our planet, have become the primary targets of these acquisitions. At what cost for peoples' life?

The purpose of this work is to provide a detailed analysis of land grabbing and water grabbing, following a three-faceted structure. The first chapter is going to be the place in which the author presents the definitions of these phenomena, which still result to have different meanings in accordance with the actors considered, because of the relatively recent rising of the issue and its continuous evolution, but also concerning the interests of the players. It is necessary then to consider the main trigger factors, i.e. respectively the agricultural and the energy sector. The recent introduction of the so-called 'flex crops', i.e. smart and convertible crops with different purposes, do really indicate a turning point for a potential achievement of a food security regime combined with environmental sustainability? It is certainly true that they constitute a big progress for the research, but their exponential employment in public and private agricultural choices, coupled with vague and asymmetric transactions actually contributes to the increase of land and water grabbing. Specific attention will be paid also to the energy-related sector and policies, and the role they play in relation to the constant search for new energy sources which could be suitable both in terms of environmental sustainability and energy security. For this reason, following a brief description of the new techniques and applications of the hydraulic fracturing and biofuels, their relationship with land and water grabbing is going to be analyzed,

as the two energy processes are responsible for big acquisitions (and misappropriations) of land and water. To what extent can we push ourselves in the name of an alleged energy sustainability?

Among the peculiarities which are linked to this issue, it is important to present its geographical extension, which is fundamental when first approaching to this theme. This extension is by now global and it is not limited to the developing countries (especially those in Africa and South America) as it was before. This rush towards water resources and lands expanded and hit Eastern Europe, the United States and Southeast Asia as well, covering in this way the entire planet. That is why, together with the driving factors of land and water grabbing, some of the most significant examples pertaining to different geographical areas are depicted, in accordance with the description of the trigger factors. The choice we have to describe a case of land and water grabbing is potentially unlimited considering the fact that, as said, in almost each nation of our world it is possible to find an instance related to this issue. That said, the analysis concentrated upon countries which had gone or are going through one of the different facets of these acquisitions. Concerning Europe and the agricultural sector, the focus country is going to be the Russian Federation, where the basis of the land grabbing wave in the country built itself thanks to the post-Soviet Union state legislature and its tie with the government incentive in favor of an upswing of the agricultural activity. Moving on to the energy-related grabs, it is going to be seen how the modern energy-producing techniques in the shape in of the hydraulic fracturing and biofuels relate to the grabbing techniques on the field. The instance of the United Kingdom and the United States demonstrate how land and water grabbing take place through the energy sector exploiting the legal context despite being developed countries. On the other hand, Africa is going to be represented by the case of the biofuels business expansion in Tanzania, showing how foreign investors acquire the territories exploiting the lack of infrastructure to make false promises to the villagers in exchange of land and resources. As aforementioned, the extension of this phenomenon is global and widespread at the same time, and the study cases could be countless; Latin America offered much food for thought in this sense. Following an extensive

research, the choice of the case in this region oriented towards Patagonia, because of both the conceptual impact that this place creates in the collective imagination (being one of the most famous natural heritages of our planet), and the fact that this region is unfortunately a victim of maybe the most misleading facet of the grabs: the green grabbing, i.e. those acquisitions officially concluded with the purpose of environmental conservation and protection, but whose non-official consequences entail negative impacts on the primary inhabitants of these areas. It will be described how the famous Italian entrepreneurs of the Benetton family played a role in increasing the grabbing practices in the region, and how the Argentinian government is responsible as well, by allowing these practices and by not fully respecting what is actually stated in the national constitution.

The second part of the first chapter is going to depict the main players in both the perpetration of and the defense against the grabbing practices. This unrestrained rush to land and water resources is carried out by both public and private actors, national governments and transnational corporations especially. It is going to be seen in the first place the role that national governments play in the land and water grabbing discourse and the negative impacts which can originate from their behavior with respect to agricultural, land and water policies along with their use and acquisition. The following section depicts the international actors in a twofold way: in the first place talking about the role of transnational corporations (TNCs) and the impact they have on the grabbing practices; secondly, the author illustrates the opposing role of the non-governmental organizations (NGOs), which are always more taken into consideration as 'defending entities' of the grabbing victims, of their lands and their resources and began to step up in the fight to counter these practices. Along with these two international subjects, there is an overview on the concepts of corporate social responsibility (CSR) and of free, prior and informed consent (FPIC), namely. The CSR is a non-binding instrument for the TNCs, indeed the commitment to this principle is voluntary; it can be seen through a positive perspective because facing and dealing with the ethic side of business activities is fundamental, especially if the activity develops on a large scale as in the case of the TNCs. However, how does this principle integrate in the land and water grabbing debate? Is it adopted by the corporations

just apparently with the purpose of giving a good image of themselves just externally, or could it become an effective measure to counter these phenomena? The second concept, this time related to the NGOs, is the FPIC. FPIC is in the first place a right which has been recognized to the indigenous people within the UNDRIP i.e. the Declaration on the Rights of the Indigenous People; this right allows to these populations to give or withdraw their consent when it comes to the realization of projects which could have an impact both on themselves directly and on their territories and resources. Unfortunately, this right is scarcely considered and/or respected, both because a lot of indigenous populations (especially those residing in remote areas, as opposed to those living and/or integrated in bigger cities) are not aware of owning this right, and because even though in some cases it might be known, it is very difficult to claim it successfully without facing a multitude of bureaucratic and legal barriers. As for the CSR, the conception of the FPIC is positive, so why not take advantage of this right through a better implementation in its diffusion and use? This concept is reported right after the NGOs section because these same organizations are pushing more and more to implement the use of this right when dealing with potential or concluded grabbing practices. New and higher standards of the FPIC principle could entail not only an effective reparation measure if the grabbing already happened, but also the creation of an enhanced deterrent against these practices.

The purpose of this thesis, in addition to the first descriptive approach to land and water grabbing, is also to examine the impacts that they have on the people who find themselves as victims of these practices. The three main areas affected by the grabbing practices that the author decided to examine are namely food, water and the housing conditions. The second chapter is indeed dedicated to the examination of this theme. The first part provides an overview namely on the right to food, the right to water and the right to and adequate housing, starting from their definition by the international bodies and their recognition in terms of human rights. Along with the recognition of these three rights, it is worth to examine also the international agenda related to these themes, for this reason a brief excursus on the Millennium Development Goals (MDGs) in the first place, and then on the Sustainable Development Goals (SDGs) is provided. These two

agendas, created and promoted in the midst of the United Nations, are consequential in terms of time: the MDGs, approved in the year 2000, set eight targets related to the global development to achieve by 2015, while the SDGs were born amidst the creation of the 2030 Agenda for Sustainable Development, and its goals are set to be achieved by the year 2030. The second chapter ends with the description of a case which encloses the impacts of land and water grabbing on people's life i.e. the 'river grabbing' of the Mekong River for hydropower development purposes. Mekong River Basin is an important area which provides essential resources in terms of water and food security, but unfortunately it is threatened by the single national choices in terms of hydro- and energy policy.

Finally, it is important to investigate further to understand why land and water grabbing manage to spread out so significantly. That is why the third chapter seeks to describe the juridical and the governance context in relation to the land and water resources. The author tries to understand the limitations and search for new perspectives which could help with the fight of these phenomena, both in terms of implementation of the instruments which already exist such as the Voluntary Guidelines on the Responsible Tenure of Land, Fisheries and Forests, or the Principles for the Responsible Investments in Agriculture; and the juridical innovations such as the recent step undertaken by the International Criminal Court in considering the land grabbing a crime against humanity, and as such, prosecutable. These are little steps which lead us to hope that the urgency to face these issues is finally beginning to make inroads in the collective consciousness, and therefore that there is going to stimulate the research of innovative solutions, not just considering the theoretical reasoning but also in practical and juridical terms. On the other side, as already mentioned, we find ourselves facing a period in which different and multiple crises merge; despite constituting crucial themes in the international agenda, it seems that the association of these crises (also) to the phenomena of land and water grabbing is still not fully perceived. Assuming that the grabbing practices foster such, could create the basis to start facing them differently and in a more focused way, to

safeguard not just all the communities which experienced and are experiencing them, but also our planet.

CHAPTER 1.

THE COMPONENTS OF LAND AND WATER GRABBING

Part One: definitions and main drivers

1.1 What is land grabbing?

“Land grab: The act of taking an area of land by force, for military or economic reasons.¹”

“Land grab: A usually swift acquisition of property (such as land or patent rights) often by fraud or force.²”

“Transnational investments or large-scale land acquisitions (called land grabs by critics) are by developed countries of agricultural land in developing countries, and if properly regulated can promote long-term economic development and reduce poverty.³”

It is immediately noticeable that the term *land grabbing* is far from a universal definition. The coexistence of numerous conceptions, and the use of synonyms, generate a difficulty in understanding the aspects involved in this phenomenon. Except from a basic explanation provided by dictionaries, it is possible to say that everyone has its own definition in mind, as it can be seen in the conceptions provided before by different typologies of actors. During the research of a definition, the website of the Food and Agriculture Organization of the United Nations⁴ (FAO), presented an interesting review of a paper which tries to provide a definitional framework of the term *land grabbing*.⁵⁶ The entity amidst

¹ Cambridge Dictionary ‘Land grab’

<https://dictionary.cambridge.org/us/dictionary/english/land-grab>

² Merriam-Webster, ‘Land Grab’

<https://www.merriam-webster.com/dictionary/land%20grab>

³ Arezki et al. “Global Land Rush”, International Monetary Fund

<https://www.imf.org/external/pubs/ft/fandd/2012/03/arezki.htm>

⁴ Food and Agriculture Organization of the United Nations (FAO)

<http://www.fao.org/home/en/>

⁵ Family Farming Knowledge Platform, FAO. Review available at

<http://www.fao.org/family-farming/detail/en/c/1010775/> Paper full text available at

https://drive.google.com/file/d/0B_x9XeYoYkWSdH3dGk3SVh2cDg/view

⁶ Baker-Smith, K., Szocs, A., ‘What is land grabbing? A critical review of existing definitions’, *Eco Ruralis*, (2016).

which the document was published is a peasant organization in Romania, created by small local farmers which supports the traditional methods of farming, together with having an active role in defending and implementing peasant's land rights (including preventing and fighting land grabbing) against corporations, governments, industrial and large-scale agriculture.⁷ The review is very useful because it presents views and conceptions coming from different actors (namely civil society, governments, corporations and financial institutions) about their perception of what is land grabbing. Furthermore, it provides a framework which is suitable for every geographical area and is composed by five criteria in order to provide a complete definition of the term land grabbing which could cover every feature of the phenomenon; these criteria are size, people, control, legality and usage⁸. It is important to mention that, according to the authors, the land grabbing is necessarily related to these five elements together, and that a single one among them cannot be used to define land grabbing alone. The definition of land grabbing adopted in this thesis is precisely the one by Eco Ruralis, which states that:

“Land grabbing is the control (whether through ownership, lease, concession, contracts, quotas, or general power) of larger than locally typical amounts of land by any persons or entities (public or private, foreign or domestic) via any means ('legal' or 'illegal') for purposes of speculation, extraction, resource control or commodification at the expense of agroecology, land stewardship, food sovereignty and human rights.”

It is worth an explanation about how the five criteria considered by the authors build this definition of land grabbing. The size: as the land grabs are widespread, different, and for different purposes, so that there is not a specific limit-amount of land from which it is possible to distinguish if it is a case of land grab or not, the authors suggest to adapt the size-element to the specific country or territory which is taken into consideration. This means looking at the national

⁷ Eco Ruralis, Access to Land, last accessed March 14, 2020
<https://www.accesstoland.eu/-Eco-Ruralis->

⁸ Baker-Smith, K., Szocs, A., 'What is land grabbing? A critical review of existing definitions', Eco Ruralis, (2016). Framework

land holdings, calculate the average size of the plots of lands and see in which range the majority of the land holdings are comprised. The people: land grabbing does not entail a specific actor or a specific category, and as the authors maintain: *“Absolutely anyone can be a land grabber”*⁹. The control: according to the review, control plays a key role when talking about land grabbing, and there are different methods for plots of land to be controlled, depending on economic, financial and/or human resources employed. The legality: it is possible to say that the legal aspect of land grabbing is very often misunderstood as it can be seen in the definitions aforementioned, some perceive it as legal, others as illegal. The reality is that it occurs in both ways, the problem is that even when the deal is legal and follow the rules of law, there is no previous prevention against the land grabs themselves. The usage: this parameter concerns the use and the purpose of the land. In case of land grabbing, in addition to the negative appropriation, the plots are usually exploited in damaging ways. These fall into different categories such as intensive farming, financial speculations, and resource control.

According to this review, the confusion and the different views of this phenomenon, also depend on which category of actors defines it. The authors took into consideration the four macro-categories of civil society, governments, corporations, and financial institutions. This part is going to resume their findings about these different, and in some cases also misunderstood, perceptions about land grabbing. Civil society acknowledges that land grabbing can have negative consequences on the communities who are affected by it and recognizes that it occurs according to the paradigm rich people v. poor people. Concerning the purpose, civil society considers land grabbing to be related mainly to the control of the resources and consequently, their extraction. These points fit into the phenomenon, but the authors claim that there are other elements which are not considered and/or misunderstood by civil society. For instance, the fact that land grabbing concerns only agricultural land it is not true, because there are other categories of land which are grabbed for different purposes than agriculture, such as the production of wood, the access to mineral resources, and also for housing

⁹ Ibid.

and real estate market. The land grabbers are considered to be foreigners, and in part it is true, but they are also citizens of that nation in which lands are grabbed, as the authors show with the example of Romania, a country in which the biggest agricultural holders are all Romanian. Another correct but not exclusive assumption is that land grabbing provokes environmental damages: this is true and happens in a lot of cases, but sometimes people are deprived of their homeland also in the name of environment protection, as it is the case of programs of environmental conservations which create spaces of protected lands often not caring about their primary inhabitants, who see their access to the land and its resources denied in the name of environmental protection. Another key element refers to the countries in which land grabbing occurs: at first glance one may think that the targeted lands are located only in developing countries, and in part it is true but not limited, indeed also the territories of the developed countries are subject to these grabs, and the factors upon which it may occur or not are related to the presence of resources, the type of land and legal conditions and restrictions of the country. The governments, by virtue of their powerful and also tricky position in the international arena, do not often define land grabbing in a clear way, and fail to encompass all the factors and the criteria related to the phenomenon. The first feature to consider is the use of the terminology: there is a propensity in avoiding the use of the term land grabbing, which is replaced by expressions such as “large-scale land acquisition” or “land consolidation”, this can be seen as a stratagem to conceal the negative impacts caused by land grabbing, but the act and its consequences remain the same. As for the civil society, governments generally believe that land grabbing is related only to the agricultural land, and also the conception of land grabbers as foreigners associates the two actors. When considering the governments, according to the authors, the link “land grabbers=foreigners” could be seen as another technique in order to readdress the attention and the guilt towards different subjects other than themselves which, often, play a role (actively and passively) in acts of land grabbing. Again, another negative mindset which is carried on by the governments, is considering land grabbing as not necessarily bad, claiming that it generates advantages in different directions such as economically and

environmentally. Unfortunately, reality demonstrates that these benefits do not reach the people affected by these land deals. Corporations embody another critical actor in the discussion about land grabbing. As it is common knowledge, corporations represent a stand-alone player which is difficult to completely monitor and supervise because of its uncertain legal (and international legal) nature. This is also the reason why the authors argue that the definitions of land grabbing used by the corporations are “the most controversial”. Being their nature (and consequently, their regulation and obligations) imprecise, corporations adopt an attitude towards land grabbing which is aimed at hiding the fact that they often contribute in a negative way into it. This is reflected in their definitions and ideas on the phenomenon, imprecise and/or limited opinions which seem to serve the hidden purpose of readdressing again the responsibility towards a different subject. For instance, this is evident in two points in particular, related to the fact that corporations believe that land grabbing is due to unclear land rights and ownership and that the lack of consent is caused by a weak due diligence^{10 11}. Namely, these assumptions claim that the responsibility is in the hands both of the state (land rights and ownership) and the land owners (due diligence), thus distancing any kind of guilt from the corporations. Finally, as for the governments, it is typical for the corporations as well, avoiding the use of the term land grabbing directly and instead preferring synonyms, and claiming that land grabbing can bring positive effects and is not necessarily bad. The last category which is considered by the authors is represented by the financial institutions which, in this case, have been distinguished between governmental and private, because of the presence of a lot of differences when connected to land grabbing. Generally, the assumptions are very similar to the ones of the subjects which were previously considered, but at the same time typical of one or the other typology of financial institution. It is easy to imagine that, in alleged cases of governmental financial institutions related to land grabbing, the

¹⁰ Definition by Cambridge Dictionary: “action that is considered reasonable for people to be expected to take in order to keep themselves or others and their property safe”.
<https://dictionary.cambridge.org/us/dictionary/english/due-diligence>

¹¹ Definition by Merriam-Webster (legal meaning): “the care that a reasonable person exercises to avoid harm to other persons or their property”.
<https://www.merriam-webster.com/dictionary/due%20diligence>

purpose is to shift the focus on a scapegoat: that is why the definitions of land grabbing by governmental financial institutions generally claim that land grabbers are foreigners, that it is a problem of the developing countries, and that is a matter of agricultural land only, but also emphasize the benefits it brings. For private financial institutions, the concept of land grabbing concerns land resources and their extraction, and it is correct but not limited to that. As happens with different actors previously mentioned, to them land grabbing is caused by a supposed absence both of due diligence and of transparency in land tenure and rights, shifting again the focus towards another subject other than themselves, in this case the land owners.

1.2 What is water grabbing?¹²

Given the deep interconnection between *land grabbing* and *water grabbing*, it is necessary to dedicate a single section to the *water grabbing* as well, trying to understand and describe its main features. In 2014 the Transnational Institute¹³ presented a useful tool to introduce the phenomenon. Designed to answer to the main questions about *water grabbing*, the document provides a comprehensive picture of its actors, purposes, causes, effects and the bonds to the branches of the current society. Due to the fact that these phenomena have known a relatively recent importance and prominence in global society, it is still difficult to include them, their scale, and their scope in a universal definition, as already mentioned. That is why actors such as Transnational Institute and tools such as these primers are fundamental in providing a quite comprehensive picture on the terms, based on the information currently available. In this primer the phenomenon is defined by the authors as follows:

“Water grabbing refers to situations where powerful actors are able to take control of or reallocate to their own benefit water resources at the expense of previous (un)registered local users or the ecosystems on which those users' livelihoods are

¹² Franco et al., ‘The Global Water Grab: A Primer’, Transnational Institute (2014).

¹³ Transnational Institute is an international research and advocacy institute.

<https://www.tni.org/en>

based. It involves the capturing of the decision-making power around water, including the power to decide how and for what purposes water resources are used now and in the future.”

As for the land grabbing, a key component is the control: the (negative) power of these actions reside not just in the fact of taking away parts of lands or quantities of water, but to have control on them, meaning, as the definition suggests, deciding their present and future purposes. According to Franco et al. considering land and water grabs as subdivisions of a more general “control grabbing”, helps broaden the perspective and the understanding of these phenomena. They are usually considered through the lens of grabbing as an illegal action, and it is not wrong, but it is limited in the sense that in our historical period, grabs often occur through legal means, therefore the act of considering just illegal actions in the strict sense, risks to overlook a lot of cases of grabbing. It is well known that water is vital for our planet as a whole, both for living beings and the environment, and that a single action can generate ripple effects in space, time and subjects involved. Nevertheless, water grabbing alarmingly continues to take place, causing both negative impacts to people and the environment. That is why it covers different areas of interest, such as food, minerals, climate and energy. Water is not fixed, it flows disregarding boundaries and barriers, hence there are complications when it comes to measure the extent of water grabs; undoubtedly, it is global as well as for land grabs, and for this reason these difficulties in measuring it are related to different fields, such as hydrology, ecology and legality. Water grabbing is carried out by a variety of actors, including the state itself which has a direct and indirect impact on the phenomenon when its internal players (both state institutions and single state personalities) have access to the regulations related to water and can modify and bend them for their benefit. Outside the state, other actors in the water arena take the shape of investment funds and transnational corporations, ranging from energy and agricultural industries to private companies.

Given this plurality of actors and contexts, it follows that there is no single factor leading to water grabbing and, according to the authors, due to the current economic model based on capital accumulation combined with resources control,

it is possible to identify five driving forces heading to water grabs. Firstly, there is an increase of large-scale land deals with agricultural target and a consequent growth of intensive farming methods which are not eco-friendly and require much more water than conventional plantations. Secondly, there is a relation to the current energy situation, which is characterized by the risk of oil scarcity (which, furthermore, entails the rise in its price). Therefore, it is possible to see a renewed increase in the use of alternative energy sources such as agofuels and hydropower to try to bypass those risks and guarantee a stable national energy security together with the progressive detachment from fossil fuels; but these solutions clearly imply massive amounts of water. Thirdly, water is always more required by the extractive industries for the research, extraction and manufacturing of raw materials, this is an effect of the increasing demand of those minerals specifically utilized in the technology sector. Fourthly, nowadays, the management of water resources is mainly built following a market-based approach: this method weakens the water access to some population groups, very often the poorest ones. Finally, the financialization of water which is now considered as economic good and no more as vital resource, contributes to water grabs, together with the so called “green grabbing” i.e. the grabs (also in terms of non-access to) which occur through the actions aimed at environmental protection, as it is going to be explained further on.

1.3 Agriculture-driven grabs and food security

Since ever, the nexus land-water-food has been inescapable, if we consider that the survival of all living beings on Earth is primarily related to the resources provided by the soil, which in turn are made possible by the presence of the water. Agriculture in this sense had pushed forward human development in an impressive way through the centuries, shaping our history and survival more than how much we usually imagine. In the current period, agriculture has expanded in terms of size, money and importance. This is the era of global large-scale land acquisitions, transnational mega projects, collective rush to get as much as possible both in terms of resources and profits. Unfortunately,

bigger does not always mean best, and the picture provided by this ravenous tendency, suggests a prevalence of negative rather than positive outcomes, especially considering the long-term period. It is always necessary to underline that land and water grabbing have no geographical boundaries and can occur in any part of the world; in the case of grabs for food/agricultural purposes, most of the action is carried out in the so called “global south”, where a supposed greater availability of lands is located. It is “supposed” because the underlying rhetoric, which is normally used to justify these investments in huge amounts of land is that, given the (usually) rural and basic way of life conducted in these territories and the small size of the communities who made up the social tissue, the land is considered to be underused and/or empty.¹⁴ Primary inhabitants of these areas live in small villages and carry out basic subsistence activities, for instance farming and fishing; villagers have usually been living there for generations but, in the majority of the cases, have not a real right of ownership over the land or the water springs and streams, legally speaking: this reason and the low concentration of people in these places, explain why their presence is often underestimated and sometimes completely ignored in land and water business transactions.

The fear for food scarcity is one of the leading reasons to acquire large amounts of fertile land destined to grow fundamental crops such as corn, wheat, rice and barley, but also plantations like sugarcane and palm trees. Research shows that land grabbing for food purposes expanded at an alarming rate from the global crisis in 2008¹⁵, and this highlighted how countries reacted in different ways to difficulties. For example, the Arab countries which have a great amount of financial liquidity, but a small availability of food resources due to the climatic and geographical structure of their territory, decided to buy large portions of land abroad (usually in the African continent), in those countries where the soil is more fertile and suitable to agriculture, in order to avoid to find

¹⁴ Transnational Institute, ‘The Global Land Grab: A primer’, (2013) p.5

¹⁵ Liberti, S., *Land grabbing. Come il mercato delle terre crea il nuovo colonialismo* (Roma: Minimum Fax, 2011). Kindle edition, introduction

themselves completely bound to food imports in times of crisis¹⁶. That is why food security plays a crucial role in this sense.

The research shows that the conditions of these transactions have always revealed a deep asymmetry in terms of power and money, between investor and target governments, and the buying and selling dynamics are usually very similar. For the investor country the reasons to buy land plots abroad for agricultural purposes, as aforementioned, lie not only in food security (when the acquired plot is farmed or is going to be) but also in the mindset which leads to the current rush to Earth's ultimate available resources. In this case the purchase takes place just to add that land to the amount of assets of the buyer, as strategy designed for times of crisis; plots have begun to be seen only through the lens of their economic value as a good. The following graph shows, according to the target region, the size of land investments (in hectares) concluded for agricultural purposes as main intention of investment and the subsequent branching into subsections related to agriculture. The data are provided by the Land Matrix¹⁷ database, the graph is elaborated by the author and based on the following variables: size of the deal (in ha), date (year unknown or greater than 2000), status (concluded agreements) and scope (transnational). What confirms this trend of considering the lands only through an economic perspective and not for their real worth (natural, human, historical), is represented by the grey column, which is labelled by the Land Matrix database as acquisitions as "other", i.e. land acquisitions conducted with multiple intentions other than agriculture, which entail the majority of land acquisitions in this sense.

¹⁶ Ibid.

¹⁷ Land Matrix is an independent public database globally monitoring land deals.
<https://landmatrix.org/>

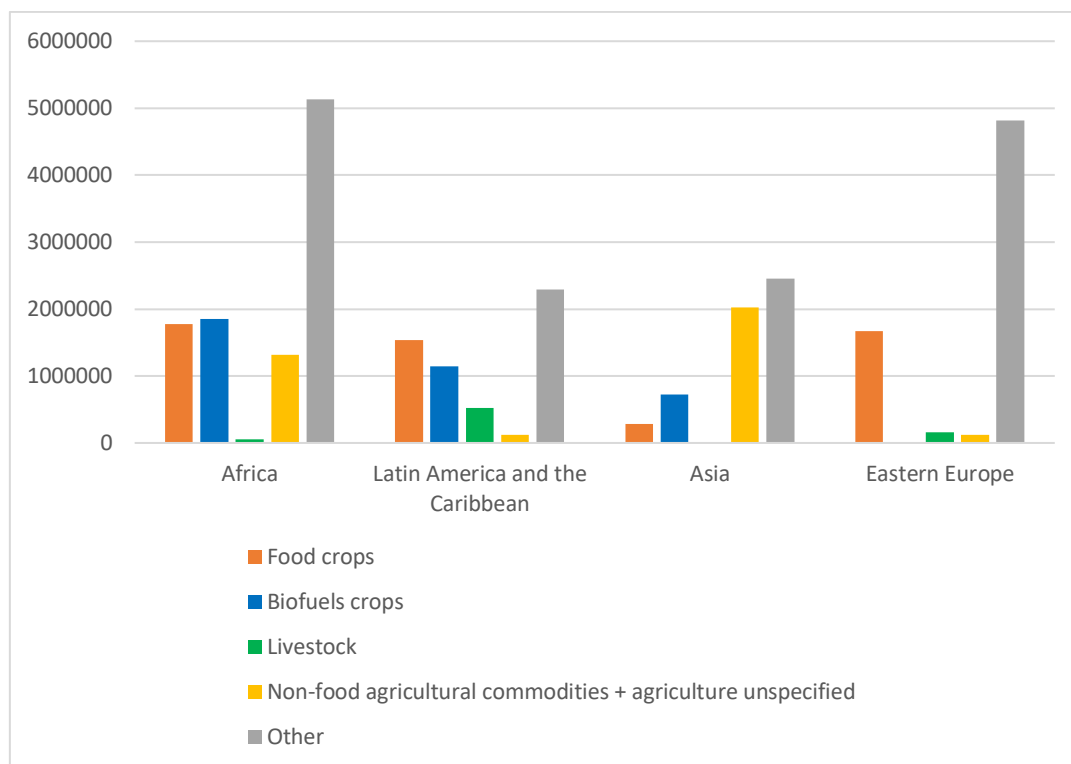


Table 1: Size of land investments concluded for agricultural purposes, according to target regions. Source: author's own work according to the numbers provided by the Land Matrix database.

1.3.1 Flex crops

If we see the nexus land grabbing-agriculture-food security through an historical perspective which considers these days' circumstances in which these grabs take place, it is important to deal with flex crops and their rise within global agriculture. First of all: what are flex crops? As the name suggests with the contraction 'flex', the term refers to those varieties of crops which can be grown and wrought through the flexing, i.e. the process through which they can generate products aimed at alternative uses not limited to their original nature. These often include the most common plantations, ranging from corn and sugarcane to palm trees and soya^{18 19}: classic crops seen through new perspectives other than food, e.g. industry and energy. Why and how flex crops have entered the land grabbing

¹⁸ Borras Jr, S., et al. 'Towards understanding the politics of flex crops and commodities: implications for research and policy advocacy', *Think Piece Series on Flex Crops & Commodities* 1 (2014) Transnational Institute. p. 2

¹⁹ Borras, Jr, S., et al. 'Flex Crops: A Primer', *Think Piece Series on Flex Crops & Commodities* 6 (2018) Transnational Institute. p. 3

debate? Based on our current knowledge on the argument, how much do they practically contribute to the grabs?

The international 2008 crisis, as already mentioned, shed new light on both how to continue to feed the planet, and how to achieve this goal in a framework characterized by an always more alarming environmental and climate crisis. Is it possible to maintain an adequate feeding in proportion with the growing global population rate? If succeeding in doing it, would it be possible to operate respecting the environment or would it happen at its expenses? It was in the research of an answer to these urgent questions that flex crops have been inserted in this multi-subject and multi-directional debate as a possible key solution towards the achievement of a balance between nutrition and sustainability. The use and the expansion of flex crops entail different considerations, technically, financially and environmentally speaking. As aforementioned, the urgency to find valuable alternatives to satisfy the equation “population feeding:environmental protection”, made the experts rethink in a new light what is already available to us. That is how a new life was given to what was previously considered as waste deriving from the most important crops. Particularly, the residuals of raw materials were rethought to promote alternative and clean energy sources (and this gave a renewed importance for example to biomass²⁰ energy sources), and new food sources for livestock feeding. Together with scientific research, the push has then come also through the creation and the reshaping of policy frameworks and directives. The financial advantage provided by flex crops lies in the fact that these facilitate a portfolio diversification and a consequent risk reduction, because the stakeholder will be able to invest the resources in a single typology of crop, having however the chance to gain profits from different and new fields than the one originally associated to that particular plant. No need to say that this element certainly constitutes a key factor in attracting investors towards flex crops and therefore in exponentially increasing their spread. Being a recently new discovery, flex crops are constantly under

²⁰ According to the definition of the Cambridge Dictionary: “Plant or animal matter used as a renewable source of fuel or energy”.
<https://dictionary.cambridge.org/us/dictionary/english-italian/biomass>

research and technology has evolved allowing new processing techniques to reroute the allocation of the final product. The change of technology and processing techniques entails from the economic side substantial investments in new machinery for instance, and from the political and legal side a contribution by states and governments concerning new or modified policies and regulations supporting these innovations. The boom about flex crops consequently reshapes the geography of investments and increases the need of land and water, thus boosting land and water grabbing. Concluding, in the agricultural setting and the consequent grabbing, the goal of using flex crops relates to the feeding area, both for human beings and the livestock. The tie between flex crops and grabbing episodes outside food purposes, will be further analyzed in the section about biofuels.

1.3.2 Land grabbing in the Russian Federation^{21 22}

Despite the resource grabs and their consequences being so blatant nowadays, these phenomena remain too often overlooked and/or not sufficiently investigated to the core. That is the reason why the research material varies depending on the geographical area as well: it is the case of the Eurasian region in general, and the Russian Federation specifically. Due to the lack of updated and actual material and statistics on Russian land grabbing, the author chose to report the investigation and the results which were collected by three scholars (Visser, Mamonova and Spoor) thanks to on-site interviews, investigations and Russian media research. Russia today is not seen through the lens of the typical southern and poor country, and its grabs often went (and still go) unnoticed, even though the size of the country allows it to own the largest existing land reserves. As it is generally known, the wealth of the Russian soil is not just given by its immense vastness, a fundamental feature for agricultural activity, but also in what lies underground. The abundance of oil, gas and rare minerals is probably considered the real value (in economic terms) of the Russian territory and, of

²¹ Visser, O., Mamonova N., Spoor, M., 'Oligarchs, megafarms and land reserves: understanding land grabbing in Russia', *The Journal of Peasant Studies* 39:3-4 (2012) pp. 899-931.

²² Visser, O., Spoor, M., 'Land grabbing in post-Soviet Eurasia: the world's largest agricultural land reserves at stake', *The Journal of Peasant Studies* 38:2 (2011) pp. 299-323.

course, a driving force for grabs. Furthermore, climate change is worsening the rush to get these resources, as rising temperatures are facilitating the expansion towards the northern part of the country, where a substantial quantity of raw materials is located but so far untapped, because of the severe temperatures of the area. There is no need to specify the fragility and the importance of the polar and arctic regions, and what their modification and/or destruction would cause to our planet and ourselves, starting from the loss of the essential freshwater reserve that these places provide, for instance.

In 1991, after the break-up of the USSR, (from 1922 the lands and the farms all around the country had been collectivized and nationalized) property rights have changed, and land have been redistributed. The first part of the land reform dates back to 1990, a year before the end of the Soviet Union, and consisted in using a small part of the territories belonging to the state collective farms (10 percent) and redistributing them to the peasants with the aim to transform them in small private farms. Redistribution was carried out towards citizens who actually found themselves on those lands in that precise period: this specification is necessary because, as scholars explain, there had been no effort in searching the original owners (before the collectivization) of the plots, also because many of them had been killed, imprisoned or forcibly transferred during the Soviet period. The second part of the land reform was carried out at the end of 1991, and had a more juridical and economic character, involving the remaining part of the former Soviet territory. Indeed, the majority of national collective farms were converted into closed joint-stock companies²³. In this way the former Soviet farm employees became shareholders, even though just theoretically: they received and held these new land shares, but those did not entail a real practical ownership over the plots received. Essentially, this second part did not develop real private property rights for the citizens, on the contrary, the process to become a full-fledged owner required further steps to take, and not all the peasants could afford and/or wanted to face additional bureaucratic

²³ Defined by the Cambridge Dictionary as: “A company that is owned and controlled by shareholders, with shares that are traded on a stock market.”
<https://dictionary.cambridge.org/dictionary/english/joint-stock-company>

procedures. To sum up, although intent and concept of this land reform could have been positive for the peasants, the actual result as a whole was that these new measures did not improve and did not secure property rights and, as the authors of the article highlight, could have constituted one of the elements which paved the way to grab land in the country. Land grabbing, however, did not start straight after this reform, as in the first years of the 90's, land and agricultural land (although cheap) were not attractive as assets, both for domestic and foreign investors because of the management obligations and fees; indeed land was used mostly to pay debts, but then it was not exploited. The interest in acquiring land plots increased from the end of the 90's, in conjunction with the economic growth which began in that period. From that moment on, thanks to this renewed interest and to the new government policies towards agriculture and investments, the increase in land acquisition has been staggering, and created the so called agroholdings²⁴ and megafarms, the most prominent actors in Russian land grabbing. By 2007 more than half of the agricultural land was privately owned, even though most of it just 'on paper' without even specifying the precise location of the land plot. This practice increases the uncertainty about who owns what and where, thus creating a serious legal loophole which facilitate land grabbing. In addition, land grabbing in the country is carried out not just domestically, but also from the outside, indeed even if a Federal Russian Law of 2001²⁵ did not allow to foreign companies to directly purchase lands and own them, many of the foreign investors who began to be attracted by the potential of the Russian soil, decided to establish subsidiaries of the main company in the country, thus circumventing the legal obstacle. In this land grabbing instance, the state has a double responsibility in the mismanagement of its own territories. From one side, the imprecise legislation generates confusion with no truly recognized landowners

²⁴ Stands for 'agricultural holding'. The definition provided by the glossary of statistical terms of the OECD is the following: "The economic unit under a single management engaged in agricultural production activities. The unit may also be engaged in non-agricultural activities so that this concept should not be interpreted too strictly; the aim is rather to value the final production of all agricultural products. Also, establishments or specialized units which provide agricultural services on a fee or contract basis should, in general, be included."
<https://stats.oecd.org/glossary/detail.asp?ID=72>

²⁵ FAOLEX Database 'Land Code (No. 136-FZ of 2001)' (2001) LEX-FAOC049671
<http://www.fao.org/faolex/results/details/en/c/LEX-FAOC049671>

and vague or absent geographical designation of the plots, thus increasing the risk of expropriation for the weakest bracket of population, the ones who cannot legally demonstrate their ownership and/or do not have the necessary means to afford and face the process of recognition. From the other, allowing the bypassing of a federal law through the establishment of subsidiaries in the country to attract foreign investments, gives the umpteenth example of how a profit-based logic in this case contributes to the worsening of the land grabbing situation of the country, and how much of the work to tackle it must come from the inside of the state itself.

The following graph shows the top four major investors in Russian Federation and the size of their land deals. Data about the deals are provided by the Land Matrix database and they report the size of concluded deals in hectares (excluding pure contract farming and forest concessions) of year unknown or greater than 2000. The greater investor is the country itself, with 61 deals aimed at: forest logging/management, food crops, livestock, non-food agricultural commodities, fodder, biofuels, industry, unspecified investments about agriculture and other. The second one is China with 59 deals targeting forest logging/management, food crops, livestock, agriculture unspecified and industry. The third investor by size is Switzerland, one of the richest western European countries, with 45 land deals uniquely (as far as it is known through the available intel) aimed at forest logging/management. The last one is represented by Japan, whose deals, as for Switzerland, target forest logging and/or management. The choice to represent the top four is given by the size gap between this block and the rest of the investor countries: indeed, from Japan with deals accounting almost for three million hectares, the following country is Kazakhstan with 489000 hectares.



*Table 2: Top four major investors in Russian Federation by size of land deals.
Source: author's own work according to the numbers provided by the Land Matrix database.*

1.4 Energy-driven grabs

Energy is seen as something invisible and untouchable, but the engine of the modern and industrial society could simply not exist without the most physical element on Earth: the land, and consequently, the water. That is why energy production is the other main driver which lies behind the wave of land and water grabbing. Hydropower, nuclear, oil, minerals: the use of traditional energy sources and the research for new ones are the dimensions through which the grabs take place in this field. The section is going to give an overview on the dynamics of land acquisitions for energy purposes, and their size with the support of the data provided by the Land Matrix database. Hydraulic fracturing and biofuels, because of their large impact in current grabbing episodes, are the two sources which have been chosen to provide an instance of energy-driven grabs, while hydropower-related grabs is going to be analyzed further on talking about the situation of the Mekong River region.

The crisis of 2008 undermined not just the sphere of food security, but the energy one too, because the two pillars on which a country nowadays is rested on, are indeed the capability of providing food to its population, and the energy necessary for every stage of production, distribution and consumption of goods and services. The dynamics of energy-giving countries and energy-buying countries e.g. considering oil and gas extraction are well known: OPEC cartel after sixty years from its foundation remains one of the fundamental players in regulating the market of these two goods, along with other large producing countries (OPEC non-members) like United States, China, Mexico, Canada and the Russian Federation. Energy-driven grabs sustain themselves mainly on the rhetoric of oil-scarcity²⁶ (and more generally of energy-scarcity): the justification of large-scale land acquisitions in order to search and discover new oil or gas fields, relentlessly, are explained through the need of further energy reserves and the fear of a lack of energy, which could both disrupt in a very short time economy and livelihood of millions of people, especially in times

²⁶ Transnational Institute, 'The Global Land Grab: A primer', (2013) p.6

of crisis. These two driver reasonings substantially raise the level of the land and water rush across the planet. The following data provide an overview of the land investments for energy purposes in different target regions. The parameters considered are the typology of deal (concluded deals), the size (in hectares), the date (year unknown or greater than the year 2000), the scope (transnational), and the intention of the investment according to different energy sources. Data are provided by the Land Matrix database, where available. Considering the size of land investments concluded specifically for mining purposes, according to the data, the major target region is Latin America and the Caribbean with 549,385 ha purchased, even though removing the intention of investment from the research filters, gives the result that the real size of land investments which ended in mining in this region, amounts to 20,331,195 ha totally. Considering the size of land investments concluded for renewable energy purposes and biofuels²⁷, Africa is the main target with 1,998,882 ha of concluded investments.

1.4.1 Hydraulic Fracturing: United Kingdom and United States

Due to the fact that fossil fuels are a finite source of energy, especially in their original form of deposits, new techniques have been experimented in order to gain the maximum amount of raw material even in different situations: this issue is usually referred as the exploitation of *unconventional* energy sources. Among these new forms of getting raw materials to produce energy, one of the most known is called *fracking*²⁸ (short for 'hydraulic fracturing' or 'hydrofracking'). Using the fracking technique can be effective in obtaining oil and especially natural gas in different locations than the original oil and gas fields, but its employment is controversial; pros and cons of fracking have to be considered very carefully not just from the economic point of view.

²⁷ The two categories are separated in the Land Matrix database, but given the fact that biofuels are generally considered as renewable energy sources, here the size derives from the sum of the two categories.

²⁸ According to the definition of the Cambridge Dictionary: "A method of getting oil or gas from the rock below the surface of the ground by making large cracks in it." <https://dictionary.cambridge.org/us/dictionary/english/fracking>

How does fracking technique work and what does it entail? Basically, fracking consists in taking advantage of the pressure of a liquid, usually water, which is injected into the rock mixed with sand and other chemicals, to create a crack in the soil aimed at facilitating the extraction or the natural release of the resource. Environmentally, this technique is soil-damaging because the cracks disrupts the land and make it more unstable, indeed one of the claims against fracking refers to the concerns about the risk of more frequent and widespread earthquakes. One famous case is the one in the shale gas fracking site near Lancashire (United Kingdom), where the residents experienced the first earthquakes in 2011; after that, the company commissioned some studies which revealed the correlation between the injection needed for the fracking and the earthquakes²⁹. In spite of this result and the protests of the nearby communities (three activists were also charged of aggravated trespass and assault for occupying a fracking rig³⁰), operations by the UK company responsible, Cuadrilla Resources, continued. During the month of August of 2019 there was another seismic event, following which the Oil and Gas Authority decided to stop the operations in the area indefinitely; the company announced then the withdrawal of the equipment, which was a good news for the residents, whose protests and fear for the earthquakes had been constant³¹. Unfortunately, later on in October it became clear that the company had not completely abandoned its plans for the Lancashire site despite the accidents, indeed the real intention was to apply for an extension of the license until 2021³². This is just one of many examples of the negative effects on the environment and potential collateral damages for the people residing near fracking sites. Another critique against this technique is referred to the pollution

²⁹ Transnational Institute, 'Old Story, New Threat: fracking and the global land grab', (2013) p.4

³⁰ Van der Z, B. 'Anti-fracking activists found guilty of trespass', The Guardian (2012) <http://www.guardian.co.uk/environment/2012/jul/17/anti-fracking-activists-trespass>

³¹ BBC 'Fracking: Cuadrilla removes equipment from Lancashire site' BBC (2019) <https://www.bbc.com/news/uk-england-lancashire-49879291>

³² Ambrose, J. 'Cuadrilla says it is not planning to abandon fracking in Lancashire', The Guardian (2019) <https://www.theguardian.com/environment/2019/oct/14/cuadrilla-says-it-is-not-planning-to-abandon-fracking-in-lancashire>

of the machinery and of the surplus of gas sometimes released: both head directly to the atmosphere, contributing to the greenhouse effect.

Hydraulic fracturing has been considered in this work because its related grabs occur both in terms of land and water. Water grabbing occurs because fracking requires huge amounts of water, usually collected from the sources nearby the deposit, thus depriving it from the inhabitants and influencing local and regional water footprint³³ Moreover, it affects people with regard to health, indeed a big concern is addressed against fracking because of the contamination of surface waters and groundwater by the mixture of water and chemicals (the so called *frack fluid*), which turns water completely unavailable or extremely toxic and generally causes a diversion in water use and management also in water-scarce areas³⁴. Fracking technique has begun to be used and explored in different parts of the world, thus labelling it as a global phenomenon. Being the biggest country in operating fracking, the effects of the technique in terms of land grabbing have been felt diffusely in the United States. A special report³⁵ of 2012 by the news organization Reuters, shows an example of the tie between fracking and grabs. A regular couple living in Texas was aware that the terrain under their property was rich in natural gas and that they could have earned a lot by selling it, but when they started receiving numerous offers from the Chesapeake Energy Corporation to open a fracking site there, the two refused because of their aversion to hydrofracking in residential areas. At the time of Reuters' inquiry, Chesapeake was the second largest natural gas producer in the United States after Exxon Mobil Corporation³⁶ and managed, through a loophole in a Texan state agency, to

³³ Fracking is not always practiced in remote or unoccupied territories; it is often practiced just outside populated communities.

³⁴ Greenpeace USA. 'Fracking's Environmental Impacts: Water'
<https://www.greenpeace.org/usa/global-warming/issues/fracking/environmental-impacts-water/>

³⁵ Grow, B. et al. 'Special Report: The casualties of Chesapeake's "land grab" across America' Reuters (2012)
<https://www.reuters.com/article/us-chesapeake-landgrab-substory/special-report-the-casualties-of-chesapeakes-land-grab-across-america-idUSBRE8910E920121002>

³⁶ Nowadays, it places third after EQT Corporation and Exxon Mobil, according to the following data: -Statista.com on the leading natural gas producers in the United States in 2018, based on average production volume. Available at
<https://www.statista.com/statistics/244505/leading-natural-gas-producers-in-the-us-based-on-production-volume/>

obtain the authorization to drill under this property without the permission of the couple and without having to paying them. This, Reuters recalls, is just one of the examples of Chesapeake's strategy to acquire lands with natural resources by any means, not considering at all those living nearby the planned site, and the real owners of the land. In this case land grabbing shows itself in the dimension of an aggressive land appropriation conducted through legal ways (even though to the limit) such as the accurate research and exploitation of legal loopholes in the legislation, and the tactics of securing the target land without having to pay the fair amount to the owners.

1.4.2 Biofuels and the Tanzanian experience

Connecting biofuels with grabs means considering once more the concept of flex crops, introduced within the section about agriculture. As previously disclosed, the flexing of some typologies of crops and their components promoted and resulted in new forms of energy sources, like biomass. This rethinking of raw materials and waste constitutes an important scientific development in the long road to a clean energy future. In this field, scientific development and legal framework are intertwined: international conventions and conferences about climate change and sustainable development helped and pushed forward scientific research, as well as without technological discoveries and incessant innovation would not have been possible to rethink and redesign new kinds of legislations and policies at regional and international level. The principle to grow biofuels crops relies on the assumption that this practice could gradually reduce the greenhouse gases and that growing a crop is a renewable source. Even though the burning of biofuels, like other typologies of fuels, releases carbon dioxide, the fact that to produce it, implies the growing of plants (and not for instance the extraction or processing of fossil sources), ensures the absorbing of this gas from the plant itself, thus gradually cutting the amount of emissions in the long term³⁷. Sugarcane, corn, soya and palm oil, among the most famous

-M.J. Bradley & Associates strategic environmental consulting list of the largest 40 companies by volume of gas produced in 2018. Available at <https://www.mjbradley.com/u-s-natural-gas-producers>

³⁷ Pearce, F., *The Landgrabbers: The New Fight Over Who Owns The Earth* (London: Transworld Publishers, 2012). Kindle edition, part 5, chapter 22.

ones, have begun to be planted and processed in a massive way for fuel purposes in addition to their original food use. As explained before for the flex crops with agriculture purposes, also for biofuels-aimed flex crops this innovation has been possible in the first place because of the discovery of the flexible biological character of these plants. Secondly, scientific and technological innovation allowed to create new or modify the available machinery to conduct the process. Thirdly, the new policies targeting the gradual abandonment of fossil fuels in favor of clean energy sources, combined with the financial advantage of diversifying one's portfolio investing in a single resource, have guaranteed diffusion and increasing of biofuels-related plantations and technology³⁸. Therefore, which role do biofuels play in the land and water grabbing debate? Surely all these factors made sure that the rush for land and water gained even more speed and strength, sometimes in the wrong direction.

One important destination for biofuels business has been the African continent, where warm climate and land availability represented the perfect combination to grow these particular crops, but not always meant a good deal for the people residing in the area. The Italian journalist Stefano Liberti told in his book about land grabbing what represented the biofuels adventure for Tanzanian people³⁹. Muhaga village, seventy kilometers from the capital city of Dar es Salaam, has been one of the epicenters of the biofuels boom which involved the country. The small village is surrounded by vast plantations, around 8000 ha, of jatropha, a weed grown for its seed from which the oil to produce biodiesel is extracted. How did this small village find itself at the center of such a big transformation? The answer which emerges from the native community interviewed by the journalist is that their land was acquired with deceit, fake promises and corruption, both by local politicians and by the foreign investor. In exchange for the plot, the village would have obtained essential renovation in its structure such as a water pump, a new school, a hospital and the improvement

³⁸ Borras Jr, S., et al. 'Towards understanding the politics of flex crops and commodities: implications for research and policy advocacy', *Think Piece Series on Flex Crops & Commodities* 1 (2014) Transnational Institute. p. 6

³⁹ Liberti, S., *Land grabbing. Come il mercato delle terre crea il nuovo colonialismo* (Roma: Minimum Fax, 2011). Kindle edition, chapter 6.

of the road network. As in these villages the decisions are usually taken collectively, the local assembly gathered to discuss the offer, and since many of them disagreed, the local congressman (who made himself spokesperson for the foreign investor) told them that this investment involved not just their village but other ten more nearby, and that each one respectively agreed to the proposal. In the end, Muhaga village assembly agreed, only to discover too late that the same expedient had been used by the politician in every village. Here, biofuels' land grabbing happened in the form of a completely asymmetric exchange. None of the renovations which have been guaranteed in return for their land has been fulfilled, nor have they received a monetary compensation for the loss of the land, and not just in Muhaga village. The unique change in the village has been the creation of jobs for the jatropha farm even though, as referred by the villagers working there, not in safe and healthy work conditions at all. The vaunted win-win situation turned out to be an expropriation. The 8000 ha make up around one third of their land, land that has been taken without even showing a contract, and the foreign investor, who takes the shape of the British society Sun Biofuels, obtained a leasing contract valid for 99 years in that concession. Tanzanian legislation, however, can show how this was a land grab thank to the so-called Village Land Act⁴⁰. This act establishes three categories of land: the reserved land is the one of parks and natural reserves; the general land refers to those territories in which the government can decide the untended use; and the village land, whose jurisdiction is entitled to the communities residing within. It is possible to lease general land, but the leasing of village land is not allowed, theoretically. Practically, if a switch of the status from village land to general land is made, then the leasing becomes feasible, but only prior agreement with the community and with monetary compensation. As aforementioned, not any of this happened, not regularly at least. Sun Biofuels, which operated in Mozambique and Ethiopia as well⁴¹, ended its African adventure and failed some years later because the slowness in obtaining profits and periodic adverse climate conditions suspended

⁴⁰ FAOLEX Database 'Village Land Act' (1999) LEX-FAOC053306
<http://www.fao.org/faolex/results/details/en/c/LEX-FAOC053306/>

⁴¹ Pearce, F., *The Landgrabbers: The New Fight Over Who Owns The Earth* (London: Transworld Publishers, 2012). Kindle edition, part 5, chapter 22.

the project, leaving Muhaga's workers and villagers without both their occupation and the land.

Overall, the African biofuels business has not had a lot of success, many projects experienced the same destiny of Sun Biofuels, not just in Tanzania but in other African countries too⁴². According to the Land Matrix Database, concluded investments with transnational scope for biofuels in Africa (of year unknown or greater than year 2000) amount to 1,681,162 ha.

1.5 What is green grabbing?

Another form of resource grabbing which is often overlooked and for this reason perhaps less known, is the so-called *green grabbing*, a term that is believed to be coined for the first time by the journalist John Vidal back in 2008. The grabbing cases which are part of this category relate to the land acquisitions in the field of environmental protection and conservation. At first glance, associating attempts aimed at protecting the environment with something negative could sound strange, but unfortunately, many of these initiatives turn out to have negative impacts both for the environment itself and for the native inhabitants (be it human or animal). Further on, Patagonia region, an important case of green grabbing, is going to be examined to show how the phenomenon takes place and how subtle is the boundary between acquisitions to protect and acquisitions to grab. Of course, Patagonia is not unique considering green grabbing, indeed examples of this practice are visible in other continents too, as the extent of grabbing episodes has a global character.

Together with the rising wave of land and water grabbing for food and energy purposes, especially after the 2008 global crisis, another tendency gained momentum. In light of the always more pressing climate change debate and the related conferences and strategies designed to tackle it, new initiatives by private subjects or public organizations began to orient themselves toward the ecological

⁴² Carrington, D. 'UK firm's failed biofuel dream wrecks lives of Tanzania villagers' The Guardian (2011)
<https://www.theguardian.com/environment/2011/oct/30/africa-poor-west-biofuel-betrayal>

safeguard of particular areas of the Earth through land-buying dynamics⁴³. Charity funds, big entrepreneurs and land trusts launched the ultimate race to save some of the most amazing naturalistic zones of the planet through what could be defined as a commodification of nature. How? One way occurs through internet donations designed to suit all budgets, thanks to which it is possible to contribute to the protection of parts of forests, mountains or coasts. The message which is conveyed by this practice is positive because it gives the opportunity to each one to play its part and to show that all the people, in their own small way, can actively contribute to the ecological safeguard of the Earth. The other way, the 'élite' one, takes place with the acquisitions of huge tracts of lands, often several thousands of hectares, by billionaires and entrepreneurs, with the aim of protecting those territories through their private ownership, for instance creating protected areas, wildlife parks, or even tourist sites or resorts⁴⁴. This logical and moral principle of these methods is correct and should be inescapable, but is this 'buying to save' dynamics the right way of achieving the purpose? There is not a straightforward answer, but the bottom reasoning under the common procedures about these conservation initiatives and their outcomes point to a no. In the case of green grabbing, the aegis of the noble purpose of saving the planet often conceals the real changes happening on the field, indeed in many cases deep social and structural modifications occur because of the new landlords of protected areas: eviction of the inhabitants, change in land and water use and rights, transformations in the resource management and in the working dynamics as well. These negative impacts are made possible by the reasons behind the acquisitions, which go far beyond the real desire of preserving nature. The rhetoric (which is present also in the land grabbing discourse, but more powerful and evident in green grabbing) is often based on the assumption that people living in these territories, often since very ancient times, do not have the ability to manage their lands as they should⁴⁵. Or better, as they should according to a profit-based logic. That is why the real green grabbing often goes unnoticed,

⁴³ Transnational Institute, 'The Global Land Grab: A primer' (2013) p.14

⁴⁴ Vidal, J. 'The great green land grab' The Guardian (2008)

<https://www.theguardian.com/environment/2008/feb/13/conservation>

⁴⁵ Fairhead, J. et al. 'Green Grabbing: a new appropriation of nature?' Journal of Peasant Studies, 39:2, 237-261 (2012) p. 16 DOI:10.1080/03066150.2012.671770

because if the original inhabitants and communities of the seized territories are thought to be mismanaging their land and not protecting the environment, then the new landlord who purchases the lands, flaunting the purpose of saving them, begins to be seen as a necessary presence to ‘save the day’, at least from the outside. Instances of this practices are reported in many areas of the planet: Africa, Southeast Asia and South America constitute the main settings along which green grabbing make its way⁴⁶.

1.5.1 The green grabbing of Patagonia



Figure 1: General overview map of Patagonia. Source: Redgeographics from Wikivoyage

Patagonia. The name itself has an evocative power that few places on Earth could compete with. In the collective imagination this is the land at the end of the Earth, recalling peaks, blue glaciers, crystal clear lakes and sweeps which

⁴⁶ Vidal, J. ‘The great green land grab’ The Guardian (2008)
<https://www.theguardian.com/environment/2008/feb/13/conservation>

extend as far as the eye can see. One of the very last examples of real wilderness and extreme beauty of a common good we should be allowed only to admire and respect. Well, theoretically. Going beyond the elegiac conception which the name of this region creates in many of us, it is necessary to provide some of its main features and to explain how this legendary territory is, unfortunately, another victim of the grabbing rush. First of all, Patagonia region is located in South America and more precisely, it mainly covers the southern part of Argentina, running all along the border with the neighboring Chile and sharing a part with it. It is said that the name stems from the explorers who first came to this area, in particular the famous Ferdinand Magellan who, when firstly met the native inhabitants (the tribe of the Tehuelche Indians), named them Patagons. Patagon was a mythical creature of a Spanish romance, and the physical appearance of the tribe members, whose height was bigger than the European average, gave him the idea to name them in this way. Geographically, the territory is immense and covers about 260,000 square miles, mainly made by huge arid plains but also by lakes, glaciers and the peaks which form the last part of the Andes mountain range, among which the famous Cerro Torre, Fitz Roy massif and Torres del Paine⁴⁷. In the context of this thesis, Patagonia has been chosen to represent an instance of green grabbing which, as aforementioned, refers to the land and/or resource acquisitions concluded in the name of the environmental conservation and protection. At least apparently. What seems to appear as an empty and wild place not owned by anyone, is instead a group of plots divided among a variety of famous and rich landlords, who purchased large tracts of land to take care of this unique environment. Some of the most famous owners are for instance Douglas and Kris Tompkins, the founding couple of the two worldwide known clothing firms Patagonia and The North Face; the investor George Soros, and the Italian brothers Carlo and Luciano Benetton, owners of the Benetton clothing firm. But there is a fine line between environmentalism and green grabbing, and what at first glance might appear as an action guided by a noble intention, actually implies hidden interests and consequences.

⁴⁷ Gonzalez Díaz, E.F., Webb, K.E. 'Patagonia' Encyclopædia Britannica (2018) <https://www.britannica.com/place/Patagonia-region-Argentina>

An ongoing land controversy in Patagonia is related to the local Mapuche tribe, (who constitute the largest group of South American Indians⁴⁸), having serious difficulties dealing with both the Argentinian government and the foreign companies. About foreign companies entering Patagonia, it is worth to report how the Italian Benetton played an important role in generating disorders in the area⁴⁹. Carlo and Luciano Benetton, as aforementioned, the owners of this worldwide famous clothing firm, started their Patagonian journey in 1991, acquiring in the first place the company “Tierras de Sur Argentino”, at that time the major owner of the Patagonian territories on the Argentinian side of Patagonia; consequently, the Benetton group obtained all these territories, which count up to about 900,000 ha. In these lands, livestock is raised and grazed to produce primarily the raw material for Benetton’s clothing i.e. wool, which is then entirely exported to Europe, and in minority to obtain meat. The issue that gave birth to the land controversy lies in the fact that most of these plots made up the ancestral lands of the Mapuche, who saw themselves excluded and their land seized by pastures. Firmly decided on not losing their land, part of the population took initiatives to keep it. One of the milestones of this resistance occurred in 2002, by means of two tribe members, Atilio Curiñanco and his wife Rosa. The two Mapuche hail from an area called Leleque, and at some point of their life they decided to move to the city, in order to get better working conditions necessary to support their family. In 2001 they were hit by the deep economic crisis which struck the country, and consequently decided to return to their previous lifestyle, hoping to achieve a second chance in their motherland. Santa Rosa, the area in which they wished to settle, was located in one of the Benetton’s estates (Leleque residence) and, as aforementioned, it constituted part of the Mapuche ancestral lands. Wanting not to settle down illegally, the couple first went to the Instituto Autarquico de Colonización (a property agency which is managed by the Argentinian

⁴⁸ Encyclopædia Britannica. ‘Mapuche’ (2020)
<https://www.britannica.com/topic/Mapuche>

⁴⁹ Centro Documentazione Conflitti Ambientali. ‘Conflitto Benetton/Mapuche’
<http://cdca.it/archives/10045>

⁴⁹ Popham, P. ‘A united world? Benetton and native Indians of Patagonia clash over land’
The Independent (2004)
<https://www.independent.co.uk/news/world/americas/a-united-world-benetton-and-native-indians-of-patagonia-clash-over-land-552212.html>

government) and asked for the permission to occupy that piece of land, about 385 ha. As it is reported by different sources⁵⁰ the agency replied (not immediately) that the Leleque plot was zoned as a commercial one and its intended use was reserved for a micro-enterprise, without telling whether the family could have or could have not settled down there. They specified that for them, the settlement would have meant not just living but also working the land and trading through their small activity of farming and livestock; so that after waiting for a long time for an official response and having received just a verbal authorization (as they claimed) the couple took the answer of the Institute as a go-ahead for the settlement, therefore they built a small house, bought some animals and started practicing agriculture. Few days later, the manager responsible for Benetton of this estate denounced the couple, claiming that that piece of land was property of the company, and was destined to timber production. About one month later, the police burst into the property, evicted the family, and seized their belongings (both their house and tools, and their animals). The eviction was followed by a trial in the provincial court of Chubut, the southern province in which the Leleque plot is located: the charges of illegal occupation against Atilio and Rosa were dismissed, but the judge ruled in favor of Benetton's holding, stating that the ownership of the area pertained to the company, as Mapuche's ancestral rights could not take precedence over the title of the company.

The story spread quickly, protest and mobilization on the issue by other Mapuche tribes increased, starting to threaten the image of the firm. *“Benetton Group aims at all times to combine economic growth with social commitment, competitiveness, care for the environment, business and ethics⁵¹”* says the section on social commitment on the website of the group. Furthermore, the brand name (United Colors of Benetton) and communication strategy are intended to convey a universal message based on social equality, so that their

⁵⁰ Hooper, J. 'Benetton eviction sparks land row' The Guardian (2004)
<https://www.theguardian.com/world/2004/jul/14/clothes.argentina>
And Baldock, H. 'Benetton in trouble over evicted Patagonian couple' The Guardian (2004)
<https://www.theguardian.com/media/2004/jul/18/internationalnews>

⁵¹ Benetton Group 'Social Commitment'
<http://www.benettongroup.com/the-group/profile/at-a-glance/>

products are not adapted on the basis of the country in which they are sold, but are the same for every consumer, no matter the race⁵². From the specific case of the Curiñanco family, the protest assumed a more general nature, and directed itself against all the episodes of eviction and dispossession experienced by the Mapuche tribe in Argentina, and indigenous populations in general in South America. Curiñanco's case can be considered as a landmark case for the reason that it made uncover a lot of similar experiences all over the country and the continent. In support of Mapuche's cause in general and of Curiñanco's case specifically, the Nobel Prize laureate Adolfo Pérez Esquivel intervened. Pérez Esquivel, who won the Nobel Peace Prize in 1980 for his social commitment in protecting human rights in Latin America and for his struggle against violence with nonviolent methods in Argentina⁵³, wrote an open letter to Benetton's owners⁵⁴. In this letter⁵⁵, dated June 2004, Pérez Esquivel addresses Luciano Benetton on the issue, grieving for the fate undergone by the Mapuche tribe, and explaining what the land really means to these people⁵⁶. The plea then continues making a comparison between the first white conquerors who came to South America violently plundering the natives, and the mentality exhibited by Mr. Benetton, which managed to behave similarly, without needing arms or violence, but simply using money. The reference to Atilio and Rosa goes straight to the point directly accusing Mr. Benetton of the misappropriation (referring also to the complicity of the judge who ruled in favor of the company) of a territory that is property of the couple "since ever", and it is based on their birth rights as members of the Mapuche population as their ancestors were. Pérez Esquivel continues by saying that the local population has denominated the Leleque estate as "the cage" because of the fences, and because it traps (figuratively) the natural elements like wind, clouds, stars, sun and the moon. This metaphor is meant to

⁵² Benetton Group 'Communication'

<http://www.benettongroup.com/the-group/profile/at-a-glance/>

⁵³ NobelPrize.org, 'Adolfo Pérez Esquivel – Facts'.

<https://www.nobelprize.org/prizes/peace/1980/esquivel/facts/>

⁵⁴ Pearce, F., *The Landgrabbers: The New Fight Over Who Owns The Earth* (London: Transworld Publishers, 2012). Kindle edition, part 5, chapter 13.

⁵⁵ Instituto Argentino para el Desarrollo Económico (IADE) 'Carta abierta de Adolfo Pérez Esquivel al Señor Benetton'. Original text of the letter in Spanish, translated by the author.

<http://www.iade.org.ar/noticias/carta-abierta-de-adolfo-perez-esquivel-al-senor-benetton>

⁵⁶ Furthermore, the word Mapuche means "man of the land".

highlight that the seizing of this territory and the people eviction from it, show the importance of the economic perspective over the harmony in which Mapuche people coexist with the earth and its natural elements. The address terminates with a reference to Mr. Benetton's Italian fellow citizens, wondering what they would think about this issue, asking the owner to return the plot to Mapuche people and volunteering to act as an intermediary in case of a positive decision. He also released an interview to the Italian newspaper *La Repubblica*⁵⁷, clarifying that Mr. Benetton is not the real enemy, but because of the Argentinian government giving away Mapuche's ancestral lands, Benetton found itself as an accomplice in this complicated situation. However, Esquivel added, if some sort of agreement could not be reached, he is ready to support the Mapuche community in its fight, even considering the address to the Inter-American Court of Human Rights.

After the intervention of such a famous personality, Benetton Group had to act in some way. The first proposal has been to entrust Esquivel the management of a productive land unit of 2500 ha⁵⁸, however it is not clear from the documentation if this proposal has been accepted or not. This offer was then followed by another⁵⁹ concerning a donation of 7500 ha to the government of the province of Chubut, but not in the area which was object of the dispute, that is why Mapuche people decided to refuse the offer, specifying that the original territory from which they had been evicted had also a spiritual meaning for them because it contains a cemetery, an important element for their customs⁶⁰.

⁵⁷ Ciai, O. 'Benetton, restituisci la terra agli indios' *Repubblica* (2004)
<https://www.repubblica.it/2004/g/sezioni/esteri/terraindios/terraindios/terraindios.html>

⁵⁸ *La Repubblica* 'Benetton affida a Pérez Esquivel una fazenda in Patagonia' *Repubblica* (2004)
<https://ricerca.repubblica.it/repubblica/archivio/repubblica/2004/11/09/benetton-affida-perez-esquivel-una-fazenda-in.html>

And Benetton Group's press releases and statements. 'Position Statement – Claims by the native Argentinean population' (2010)
<http://www.benettongroup.com/media-press/press-releases-and-statements/position-statement-claims-by-the-native-argentinean-population-mapuche/>

⁵⁹ Benetton Group's press releases and statements. 'Donation by Benetton in favour of the native communities of Patagonia' (2005)
<http://www.benettongroup.com/media-press/press-releases-and-statements/donation-by-benetton-in-favour-of-the-native-communities-of-patagonia/>

⁶⁰ Pearce, F., *The Landgrabbers: The New Fight Over Who Owns The Earth* (London: Transworld Publishers, 2012). Kindle edition, part 5, chapter 13.

Another target of Mapuche people's critique has been also the museum which was created by the Benetton Group in the Leleque estate. The Leleque Museum is devoted to the story of the indigenous people in Patagonia, starting from the first settlements in the area thousands of years ago, to the present day, and reporting their development, their way of life and their encounters with foreign populations⁶¹. It is criticized because Mapuche people feel themselves represented as an ancient population, almost as a part of a past Patagonian history, rather than the existing and legitimate inhabitants⁶². And actually, the act of dedicating a museum to the history and the customs of a specific population and at the same time seizing and exploiting their ancestral territory, appears a bit hypocritical. The controversy kept going (and still is), with protests and claims from the Mapuche side. In 2010 the Benetton Group released a position statement concerning these ongoing claims⁶³, recalling what Mr. Pérez Esquivel said about the fact that the firm found itself in a fight which plunges its roots in the manner in which the Argentinian state itself deals with the issue internally. Indeed, the Argentinian Constitution⁶⁴ (dating 1853 with the last reform amended in 1994), includes some sections concerning the topics of housing, property and indigenous people. First of all, Chapter I about declarations, rights and guarantees states in Section 17 that:

“17. Property may not be violated, and no inhabitant of the Nation can be deprived of it except by virtue of a sentence based on law. Expropriation for reasons of public interest must be authorized by law and previously compensated.”⁶⁵

⁶¹ Benetton Group's press releases and statements. 'The Museum of Patagonia opens its doors' (2000)
<http://www.benettongroup.com/media-press/press-releases-and-statements/the-museum-of-patagonia-opens-its-doors/>

⁶² Pearce, F., *The Landgrabbers: The New Fight Over Who Owns The Earth* (London: Transworld Publishers, 2012). Kindle edition, part 5, chapter 13.

⁶³ Benetton Group's press releases and statements. 'Position Statement – Claims by the native Argentinian population (Mapuche)' (2010)
<http://www.benettongroup.com/media-press/press-releases-and-statements/position-statement-claims-by-the-native-argentinian-population-mapuche/>

⁶⁴ Argentinian Ministry of Justice and Human Rights. 'Constitución de la Nación Argentina' Spanish version available at
<http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm>
English version available at World Intellectual Property Organization (WIPO)
<https://www.wipo.int/edocs/lexdocs/laws/en/ar/ar075en>

⁶⁵ Ibid. p. 2

In the case of the Curiñanco couple, the expropriation (or better, the eviction) was corroborated by a sentence based on law, as the ruling came from the judge of the local provincial court, but it is not clear if the supposed (by Pérez Esquivel) corruption of the judge, could make consider the final decision on the ruling as a decision taken for public interest, as the Benetton are the biggest landowners and investors of Patagonia. So, the question to investigate would be how important is their presence in the country for the government in terms of investments. However, it is important to recall that the couple has not received any form of compensation at all. Further on, the Chapter II about new rights and guarantees states in Section 41 that:

“41. All inhabitants are entitled to the right to a healthy environment fit for human development in order that productive activities shall meet present needs without endangering those of future generations; and shall have the duty to preserve it. As a first priority, environmental damage shall bring about the obligation to repair it according to law. The authorities shall provide for the protection of this right, the rational use of natural resources, the preservation of the natural and cultural heritage, and of the biological diversity, and shall also provide for environmental information and education. [...]”⁶⁶

What if the rational use of natural resources and the preservation of natural heritage is not in the hands of those who live and always lived within these areas? The project about the small productive activity of Rosa and Atilio consisted in what they knew best: farming, breeding and harmoniously living with what the earth could offer them; but they barely had the chance to develop it, as they were evicted soon after they settled on the land. How about not endangering the needs of the future generations when the children of the two have seen themselves and their parents expelled from their home after having started over their life twice? In the Second Part of the Constitution about the Authorities of the Nation, Chapter IV refers to the powers of the Congress (the authority on which the legislative system is based) and in particular Section 75, states that the Congress is empowered:

⁶⁶ Ibid. p. 4

“5. To decide about the use of the sale of national lands.

17. To recognize the ethnic and cultural pre-existence of indigenous peoples of Argentina [...] to recognize the legal capacity of their communities, and the community possession and ownership of the lands they traditionally occupy; and to regulate the granting of other lands adequate and sufficient for human development; none of them shall be sold, transmitted or subject to liens or attachments. To guarantee their participation in issues related to their natural resources and in other interests affecting them.

19. [...] To provide for the harmonious growth of the Nation and the settlement of its territory; to promote differential policies in order to balance the relative unequal development of provinces and regions.⁶⁷”

Therefore, it is clear from point number five that the destiny of national lands is the hands of the Congress, as it is its responsibility the recognition not just of indigenous people in the country, but also of the legal capacity of the soil they *traditionally* occupy. What if the National Constitution states that none of these territories shall be sold, and the truth of the matter is that almost the entirety of Mapuche’s land has not only been sold, but is even owned by foreign stakeholders who do not guarantee the access to the land and its resources? Whether it is a land, water or green grabbing dynamics, the role of the state is crucial. If it would be very difficult for a population (in particular of an ethnic minority) to oppose the actions of a foreign entity (as for instance of a big transnational company), the struggle becomes titanic if it becomes addressed towards its own state as well. The settlement of the territory by the Argentinian Congress, stated in point number 19, in this case does not guarantee an harmonious growth if the Mapuche people (again, the *largest* group of South American Indians) cannot dispose of a territory whose ownership should be protected by their own Constitution. In this case that is how the state contributes to the land grabbing within its same borders, and to the green grabbing too, by covering these actions thanks to the positive purposes claimed by big foreign investors interested in the safeguard and protection of this amazing territory.

⁶⁷ Ibid. p. 8

Therefore, it is in part true what the Nobel laureate states about the involvement of the state and the non-total guilt of Benetton Group. In spite of this, this internal issue should not morally constitute a good reason for the company to take advantage of the situation, especially for a worldwide known firm which maintains certain ethical and social standards as Benetton does. On the contrary, it should be an opportunity to show the values on which the firm is founded and a chance to 'do the right thing' and make a real difference. Carlo Benetton was reported to have said⁶⁸: "*Patagonia gives me an amazing sense of freedom*". Does it feel the same for the Mapuche people?

Part Two: grabbers and grabbed: the actors involved

Grabbing practices and instances obviously do not materialize out of thin air; that is why after having exposed the definitions and the main drivers of these phenomena, it is necessary to consider who are the subjects involved and how. This section is going to provide an overview on the main actors implicated in the land, water and green grabbing debate, starting from the inside of the countries presenting the role of national governments, to continue with the external players in the shape of transnational corporations (TNCs) and non-governmental organizations (NGOs) with a focus namely on the code of conduct and the corporate social responsibility, and the concept of free, prior and informed consent.

1.6 The role of national governments

Despite the fact that the current society could be defined as always interconnected and that trade, communication and transportation have now a global character with an almost total mobilization of people and goods, the single states and national governments still play an important role concerning the land grabbing debate, and their responsibility is double. As it has been shown by the

⁶⁸ Popham, P. 'A united world? Benetton and native Indians of Patagonia clash over land' The Independent (2004)
<https://www.independent.co.uk/news/world/americas/a-united-world-benetton-and-native-indians-of-patagonia-clash-over-land-552212.html>

examples in the first part of this chapter, although in some cases the internal grab of a state by external players is not carried out by the government directly and/or physically, there is an implicit culpability which can lie for instance in the legislation and in the national economic and land regulation policies. Economic policy, both domestic and external is crucial; for instance, the countries that are developing an emerging economy face the risk of being more vulnerable to land, water and green grabbing if they choose an external economic strategy based on a path of growth of foreign investments within their own borders. In the Russian Federation (one of the BRICS countries⁶⁹) for example, it all started with the land reform designed by the state, whose weak regulation and imprecise designation of owners, territories and land rights created a context which gradually facilitated the growth of land grabbing across the country. The economic growth further experienced by the country consequently increased the ambition to attract foreign investments to boost the economic power, not paying sufficient attention to the trajectories towards which this development would have been undertaken. That is why the fact of considering the land only from the point of view of an economic asset (indeed in many cases the land which has been purchased is not even exploited, on the contrary, it is just seized) has led to a spread of land grabbing practices across the country. Mindset and agenda about land governance and management by national governments could really make the difference. In Argentina, as in Russia, if the national land policy would follow by the book what is stated in its own Constitution, the green grabbing of Patagonia would not exist, or at least would not be such impressive and in terms of size and especially severe for those who face the consequences, for instance the Mapuche people. The development of a solid economic power is of course very important for a country, in order both to support its own structure and the definition of state itself, and to be competitive and create connections abroad. However, in light of the grabbing rush which is undergoing the society, a deeper and forward-looking perspective on the consequences needs to be adopted, starting precisely from within the borders of each country, in terms of rethinking the vision of the value

⁶⁹ The acronym BRICS refers to the group of the five countries of Brazil, Russian Federation, India, China and South Africa which, in the international economic field, are associated one another because of their developing economy and rising gross domestic product.

of natural resources in general such as land and water, but also of considering the adoption of tailored solutions based on the local, and often multiple, human and social realities which coexist within every single country.

1.7 The role of transnational corporations

As we currently live in a globalized society, international actors constitute an integral part of our everyday life in different fields, financially, legally, politically and so forth. Because of their prominence, of course they play a role in the land grabbing debate as well. Be it agriculture, conservation or energy-driven grabs, the presence of an actor which is not the national government is unavoidable. Together with single national governments, transnational corporations (TNCs) have a big impact in the land and water grabbing discourse. As it was stated in the first part of this chapter, corporations tend to minimize the part they play when it comes to land grabbing, and the discursive model which they adopt readdress the responsibility in the first place to national governments as responsible subjects of their own land management, and land rights and ownership settlement; and to the single citizens in the second place, depicting them as non-caring of their environment or lands ('lack of due diligence'). The ambition of an even more major expansion of the corporations in terms of size and profit and the fact that they are not subjects of international law, thus implicating a lack of a real legal accountability, lead them to prevail over other institutions and single citizens in relation to land grabbing and resource acquisitions.

1.7.1 Code of Conduct and Corporate Social Responsibility (CSR)

The expression 'code of conduct' refers to those sets of non-binding rules voluntarily adopted by corporations and transnational corporations (TNCs). These rules concern their ethical conduct and impact, for instance in terms of environment or human rights. Among the most famous sets of rules in the field of corporate governance there are the United Nations Global Compact and the OECD Guidelines for multinational enterprises. The United Nations Global Compact is formed by ten principles aimed at the enhancement of the corporate

sustainability, related to human rights, labour, environment and anti-corruption⁷⁰. The OECD Guidelines are formed by provisions from the governments to multinational enterprises, in favor of a responsible behavior in their business conduct⁷¹, and concern the fields of human rights; employment and industrial relations; environment; the contrast of bribery, bribe solicitation and extortion; consumer interests; science and technology; competition, and taxation⁷². Concerning Corporate Social Responsibility (CSR), a paper by the United Nations Conference of Trade and Development (UNCTAD) was published in 1999⁷³. This paper was drafted to provide a more comprehensive view of the difficulties related to the conduct of transnational corporations and how this conduct has an impact on peoples' life and environment all over the world. Both the codes of conduct and the CSR are adopted on a voluntary basis by the companies and incorporated in their agenda, hence their role is more the one of a moral guideline rather than the one of a binding commitment in avoiding negative impacts in the corporations' activities. So far, the mechanisms of compliance are still weak or absent, therefore although a company may have adopted one of these sets of rules, in many cases this has been probably done mostly to demonstrate a 'politically correct' and responsible behavior about these issues, rather than for the desire to actually follow and implement those rules. These two concepts could really have a greater impact in the struggle against land and water acquisitions in the first place, and also against the negative consequences of these practices such as the forced eviction of people or the environmental seizures. Transnational corporations, as said, are not formally subjects of international law because of the different entities they are composed of, for this reason their actions and the effects that these entail, are difficult to quantify and regulate. If a different approach and a specific regulation on these

⁷⁰ 'The Ten Principles of the UN Global Compact' United Nations Global Compact
<https://www.unglobalcompact.org/what-is-gc/mission/principles>

⁷¹ 'Responsible Business Conduct' OECD
<http://mneguidelines.oecd.org/>

⁷² 'OECD Guidelines for Multinational Enterprises' (20122) OECD Publishing.
<http://dx.doi.org/10.1787/9789264115415-en>

⁷³ 'The Social Responsibility of Transnational Corporations' United Nations Conference on Trade and Development (1999)
https://unctad.org/en/Docs/poiteiitm21_en.pdf

subjects would be undertaken, the codes of conduct and the CSR could become new and efficient legal instruments to diminish the spread and avoiding the appearance of grabbing phenomena.

1.8 The role of non-governmental organizations (NGOs)

In the land-water-green grabbing debate, non-governmental organizations generally represent the defenders of natural resources and human rights. First of all, what is an NGO? NGO is an acronym which stays for non-governmental organization, indeed an NGO is *“an organization which tries to achieve social or political aims but is not controlled by a government”⁷⁴*. NGOs can have both a national and an international scope, and they act in different social fields such as environment, health or human rights for instance. Some of the most famous current non-governmental organization are for example Greenpeace, the World Wide Fund for Nature (WWF), Save the Children, Oxfam, Amnesty International, just to name some of them. Within the land grabbing debate, NGOs generally pick the side of the subjects experiencing the negative effects of the grabbing rush, i.e. people and environment, trying to give voice to these episodes and helping people facing the negative impacts which land grabbing causes. The nature of NGOs does not allow them to have a decisive impact and to win in grabbing-related disputes, but they play an essential role together with the small local organizations (for instance the aforementioned peasant organization Eco Rurales) without which many cases of land and water grabbing would not have been unveiled. That is why in the land-grabbing debate NGOs usually play the part of the defenders, at least as far as possible.

1.8.1 The concept of free, prior and informed consent (FPIC)

Often referred with the acronym FPIC, the concept of ‘free, prior and informed consent’, appears in the United Nations Declaration on the Rights of

⁷⁴ Cambridge Dictionary ‘NGO’
<https://dictionary.cambridge.org/us/dictionary/english/ngo>

Indigenous Peoples (UNDRIP)⁷⁵ which is a resolution adopted by the UN General Assembly in 2007⁷⁶. It is important in the field of the current grabs because it was designed in the first place as a tool to help indigenous populations having troubles with both the domestic authorities of their country and the external players in the cases of land and resource acquisitions and seizures. Within the UNDRIP, this concept explicitly appears in several articles as follows.

“10. Indigenous peoples shall not be forcibly transferred from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

11. 2. States shall provide redress⁷⁷ through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

19. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

28. 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

32. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or

⁷⁵ Franco, J. 'Reclaiming Free Prior and Informed Consent (FPIC) in the context of global land grabs' Transnational Institute (2014) p.3

⁷⁶ Department of Economic and Social Affairs - Indigenous Peoples 'United Nations Declaration on the Rights of Indigenous Peoples' (A/RES/61/295) United Nations (2007) <https://undocs.org/A/RES/61/295>

⁷⁷ Refers to the point number one of the article about the right to practice and revitalize indigenous cultural traditions and customs.

territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”

It is clear from these articles that free, prior and informed consent refers to the fact that in matters occurring within a country in which there is a presence of indigenous peoples, if such matters should involve or affect different fields of the life of these peoples, the country should guarantee that the decision-making process would be open to indigenous peoples as well. Indigenous peoples should have the opportunity to decide about such issues on the basis of these three parameters i.e. being informed about what the issue entails and being informed before any further step by the national government or other entities related is taken, and decide freely about it without any influence or coercion. UNDRIP is not legally binding, therefore FPIC is not unavoidable for a country which deals with indigenous-relating matters, even though the fact of voting in favor of the declaration should constitute at least a moral added value in the governmental way of behaving and decision-making process. Beyond the issues strictly relating to indigenous peoples, the rising grabbing rush gave a renewed importance to this concept, and the references to it expanded their scope. In her work about the relationship between FPIC and land grabbing, Franco⁷⁸ tries to interrogate herself whether the use of this concept could be useful in the fight against land grabbing. As said before, after the crisis of 2008 the emerging land rush and resource grabbing worsened much more the problem of food security and increased the marginalization of rural populations in particular. Unfortunately, free prior and informed concept, besides the fact of not constituting a binding provision for the nation because of the non-binding nature of the UNDRIP, does not entail a real decision-making power for these people. According to the author, a significant variable relating to the outcome of the use of FPIC is given by the context in which it is applied, and it unfolds in a double direction. On paper, FPIC is a positive concept which has the potential to guarantee social justice and equality while avoiding the worst-case scenario concerning the consequences of an unfair decision-making process within the state; and that is the interpretative path

⁷⁸ Franco, J. 'Reclaiming Free Prior and Informed Consent (FPIC) in the context of global land grabs' Transnational Institute (2014) pp. 6-7

covered by the NGOs and advocacy institutions dealing with land grabbing issues. However, it has been shown that in many cases the recall to FPIC has been used to justify and facilitate even more these huge land deals and acquisitions, contributing to the growth of land grabbing. In addition, the author highlights that the letter 'C' in the acronym FPIC is not always interpreted as 'consent' *strictu sensu* (implying that there has to be a given consent by these people) but often as 'consultation', thus reducing the potential of this concept and demonstrating why, although it could constitute a powerful tool to fight land grabbing in many instances, the reality is that it need to be deeply revised and implemented to exploit its potential and uncover its usefulness in the land grabbing debate.

CHAPTER 2.

MAJOR IMPACTS OF THE GRABBING PRACTICES

After having provided a first general framework on the grabbing practices with their definitions, drivers and actors, it is necessary to describe the impacts of land and water grabbing with respect to human rights and the livelihood of the people. As it can be perceived by the first part of this work, the outcomes from this perspective turn out to be rather negative. The four main macro-areas of livelihood and human rights affected by the grabbing practices concern the environmental field and then the food, water and housing spheres. This chapter is going to start with a brief overview on the current natural status of our planet and then there is going to be a description on how the right to food, the right to water and the right to adequate housing are considered at the international level. The chapter is going to end with the case study of the hydropower development in the Mekong River region, which constitutes an instance of how the grabbing practices, often undercover, threaten and affect the environment and these three rights and with them, the livelihood of thousands of people.

2.1 Deterioration and overexploitation of nature

As it has been described in the first chapter of this thesis, especially with respect to the drivers of the grabbing practices and their consequences, together with humankind, nature is the other entity which pays the ultimate price because of land, water and green grabs. Herein, it is interesting to introduce a scientific research⁷⁹, to try to explain which is the current situation of our planet from the natural and the social point of view and how this is tied also and largely to water and land use. The purpose of this research was the delineation of a 'safe

⁷⁹ Led by Johan Rockström, former director of the Stockholm Resilience Center within the Stockholm University.
Stockholm Resilience Centre – Sustainability Science for Biosphere Stewardship
<https://www.stockholmresilience.org/>

operating space' in our world i.e. the identification of the natural elements which are going to allow humanity the continuation and the development of our species on planet Earth, and which is their condition under the present circumstances. Scientists identified nine key factors, among natural elements and natural processes, which could allow this perpetration and named them 'planetary boundaries'⁸⁰. In order of presentation, they are climate change; ocean acidification; stratospheric ozone depletion; interference with the global phosphorus and nitrogen cycles; rate of biodiversity loss; global freshwater use; land-system change; aerosol loading; chemical pollution.

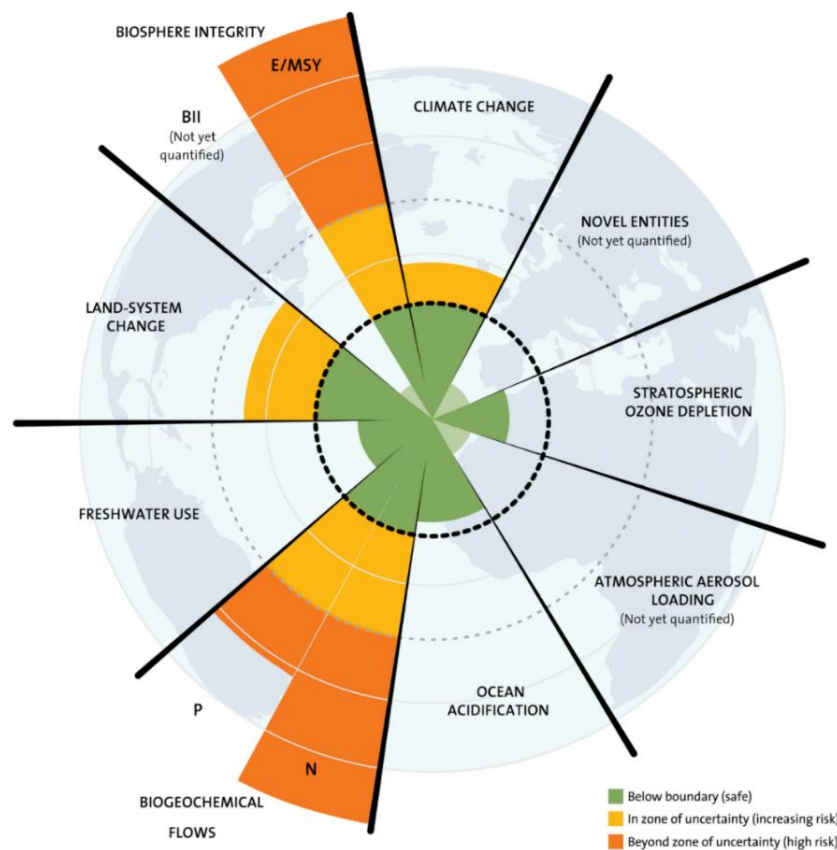


Figure 2: Planetary Boundaries © J. Lokrantz/Azote based on Steffen et al. (2015)
Image available at <https://www.stockholmresilience.org/research/planetary-boundaries.html>

⁸⁰ Planetary boundaries
<https://www.stockholmresilience.org/research/planetary-boundaries.html>

The mechanism consists of reading these nine boundaries as if they were in a circle whose perimeter circumscribes this 'safe operating space' for humanity. If one of the elements which form the boundaries should exceed this space, the safety would begin to be at risk⁸¹. Unfortunately, some of the issues find themselves already in a risky zone or even over the limit: going on at this rate implies a high probability of collapses from the natural point of view in the first place, and for mankind as a result. Another fundamental consideration which has to be made is that these planet boundaries do not exist and have not to be evaluated as singular entities, on the contrary, each boundary may influence another or may be influenced by the changes being experienced by the others, one more reason to be even more cautious⁸². Regarding the subject of this thesis, it is worth to highlight that the two elements of freshwater use and land-system change are approaching the exceeding of the safe threshold indicated by the scientists. It is unnecessary to specify that, among other typologies of singular and collective wrong behaviors and practices, the recent spike in land and water grabbing have a negative and significant impact on these issues. The recent huge land acquisitions for agricultural purposes, for instance for the purpose of cultivating flex crops, affect enormously the land-system change, as it has been seen in the first chapter. Moreover, if we add to the equation the research for new energy sources and the dangerous extractive methods which are being applied and the consequences they are having, it becomes understandable why the safe threshold concerning land is at risk. Additionally, as for the relationship which exists among the planetary boundaries, the land itself is, of course, inextricably intertwined to water i.e., a change in the land system implicates changes in the freshwater use too. Global freshwater availability is already at risk due to the climate change and the raising temperatures, but the issue gets even more complicated if we consider that increasingly amounts of water are required and taken by the grabbing entities, and to support the new changing technologies in

⁸¹ Based on the calculations and limits elaborated by the scientists.

⁸² Rockström, J., W. Steffen, et al. 2009. 'Planetary boundaries: exploring the safe operating space for humanity'. *Ecology and Society* 14(2):32

the agricultural and energy fields which, as described, cannot be properly defined as 'water-friendly'.

If the difficulty in maintaining a safe space from the scientific and environmental perspective is already very high, the challenge multiplies when the social terms are added to the equation. Within this scientific discussion of the planetary boundaries, the economist Kate Raworth integrated the social needs considered as essential for human survival together with the good preservation of the terrestrial conditions⁸³. The following image⁸⁴ shows Raworth's concept of the two limits to be respected in order to keep and maintain the aforementioned 'safe operating space' for humanity, and also the goal towards which a new conception of economy should be oriented. Social and ecological needs must be met in the middle to avoid going over both of a safe environmental threshold and of a just social condition. After having checked the physical state of our planet in the first part, this last reasoning acts a springboard to describe the social consequences of the grabbing practices in terms of human rights as it will be seen further on in the next sections of this work.

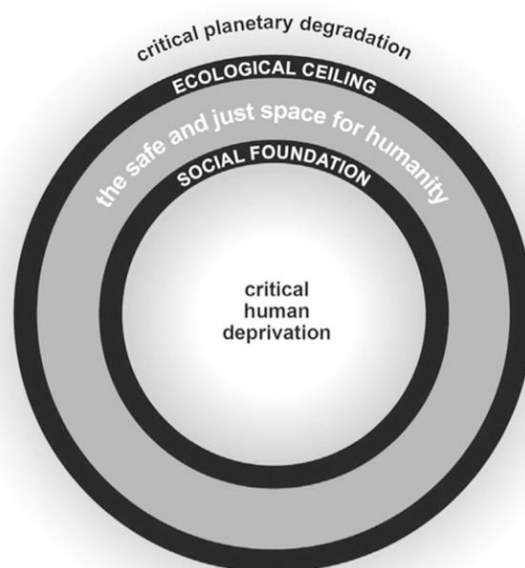


Figure 3: The essence of the Doughnut © Raworth 2017

⁸³ Raworth, K., *Doughnut Economics: Seven ways to think like a 21st-Century Economist*. Random House Business Books (2017) Epub ISBN: 9781473517813 London

⁸⁴ Ibid. p. 10

2.2 Food security and the right to food

Food security is a concept which can be included in the broader context of 'human security'. According to the United Nations in the General Assembly Resolution 66/290:

“Human security is an approach to assist Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood and dignity of their people⁸⁵.”

Addressing the challenges to the survival of the people means that human security covers different fields, such as economics, environment, health and indeed food. As already mentioned, the convergence of different typologies of crises highlighted even more the problem of finding an adequate way of supplying a fair amount of food in the context of an always increasing population growth across the planet. As explained in Chapter 1 of this work, flex crops and the new rise in agriculture have been the proposals in the constant research of addressing this issue. If the difficulty in producing and providing a sufficient amount of food to everyone is already considerable, it becomes enormous when people and societies have to face external factors and contexts which undermine even more the food realm, for instance natural disasters and climate change, armed and unarmed conflicts or, as recently experienced with Covid-19, the global spread of a disease. To counter hunger and famine does not mean dealing with the sole practical issue of food supply, but also with all those factors leading to the issue itself: in this sense, land and water grabbing play an important role in deteriorating the situation with respect to food security. When it comes to the relationship between grabbing practices and food security, the already expressed justifying rhetoric about investments in land and resources to tackle scarcity and mismanagement strikes again. Therefore, rural areas and their inhabitants are seen as poor, needy and with no practical or financial tools or capabilities to develop. As explained in the section about green grabbing, the use of this rhetoric

⁸⁵ United Nations General Assembly '66/290. Follow-up to paragraph 143 on human security of the 2005 World Summit Outcome' A/RES/66/290
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/476/22/pdf/N1147622.pdf?OpenElement>

allows the investors and the grabbers to hide behind the 'shield' of doing the right thing and improving the quality of life of these people thanks to their investments. Unfortunately, this purpose is not always fulfilled, because of both the mentality which stands behind the desire for large-scale investments which, in most cases, is profit- and/or self-security-aimed rather than development-aimed, and because of the natural outgrowths which follow large investments of this kind, even though they are concluded with an actual good intent. The mistake in considering rural and low population density areas as not sufficiently exploited is enormous. The first reason is that this implies a tacit claim of human or civil superiority of the investor towards the primary inhabitants. The second reason lies in the fact that in many cases (especially concerning particular ecosystems) the primary inhabitants are those who actually know how to take care of their environment effectively, and how to gather what they need for their subsistence without disrupting the natural resources and their cycle, thus carrying on a sustainable way of life in parallel to the care of the environment.

Dealing with the field of food security means introducing the concept of right to food as well, a human right which is severely undermined by the grabbing practices. Starting from its definition by the CESCR:

"The right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement⁸⁶."

First of all, it is necessary to state that the right to food constitutes a legal obligation under international law. The reference to food in the field of human rights firstly appeared in Article 25 of the Universal Declaration of Human Rights of 1948. Here, food is not mentioned as a right on its own but as a part of the right to an adequate standard of living, which states that:

"1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical

⁸⁶ Committee on Economic, Social and Cultural Rights (CESCR) 'General Comment 12: The right to adequate food (art.11)' E/C.12/1999/5 (1999)
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f5&Lang=en

care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control⁸⁷.”

The right to food has been then recalled in a more detailed manner in Article 11 of the International Covenant on Economic, Social and Cultural Rights of 1966 (entry into force in year 1976):

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.⁸⁸”

Constituting a legal obligation under international law, means that an evident violation of the right to food can be prosecutable as well. Unfortunately, the research shows that in proportion to the scale of land and water grabbing and

⁸⁷ United Nations General Assembly ‘Universal Declaration of Human Rights’ Resolution 217/A (1948)

https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

⁸⁸ United Nations General Assembly ‘International Covenant on Economic, Social and Cultural Rights’ Resolution 2200A (1966)

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

their consequences, few cases of grabbing have made it to the court if they did not concern at least one right violation. An instance from the jurisprudence of how a land grabbing practice allowed by the state has consequently harmed the right to food, can be found in the case of the Maya indigenous community of the Toledo District against the State of Belize⁸⁹. This case was presented to the IACHR in 1998 by the Indian Law Resource Center⁹⁰ and the Toledo Maya Cultural Council⁹¹ against the State of Belize, claiming the violation of several rights contained in the American Declaration of the Rights and Duties of Man⁹² (or Bogotá Declaration). In this case the State of Belize granted to some private corporations logging and oil concessions in territories which were traditionally occupied by the Mopan and Ke'kchi people, part of the bigger family of the Maya people, and proceeded without their consultation. This action is, without doubt, an instance of a land grabbing practice perpetrated by the state itself, within its own borders and to the detriment of its population, indeed among the consequences of the governmental granting there has not been just the loss of the land, but also the damage of the sources of food because of the exploration and exploitation of the land for the concessions. But what if the key point of the claim to the IACHR would have been the pure land grabbing action undertaken by the Belizean Government without mentioning the right violations? It is not possible to know if the Commission would have taken the case in the first place, being the Commission a specific regional human rights mechanism, and if the concluding observations of the Commission would have recognized the existence of a violation if it would not have concerned at least a human right directly. Among the rights violations of the Bogotá Declaration claimed by the petitioners, the Article 11 i.e. the one concerning the right to the preservation of health and to

⁸⁹ Inter-American Commission on Human Rights 'Report N° 40/04 – Case 12.053 Merits Maya Indigenous Communities of the Toledo District v. Belize' (2004)
<http://www.cidh.oas.org/annualrep/2004eng/Belize.12053eng.htm>

⁹⁰ Indian Law Resource Center
<https://indianlaw.org/>

⁹¹ Toledo Maya Cultural Council (TMCC)
<http://geog.berkeley.edu/ProjectsResources/MayanAtlas/MayaAtlas/TMCC.htm>

⁹² Organization of American States (OAS) 'American Declaration of the Rights and Duties of Man' (1948)
https://www.oas.org/dil/access_to_information_human_right_American_Declaration_of_the_Rights_and_Duties_of_Man.pdf

well-being, is the one more closely related to the right to food in this sense. It states that:

“11. Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources⁹³.”

The legal questions and their examination however, concerned almost exclusively the violation of the right to property and the territorial rights of the Mopan and Ke'kchi people in the area, and of the indigenous people in general. The right to property is defined in Article 23 of the Declaration as follows:

“23. Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home⁹⁴.”

The final conclusion of the IACHR saw the Belizean State responsible for violating this right and for having failed to protect the territorial rights and the lands which these indigenous populations have inhabited since ancient times, considering also the violation of the aforementioned Article 11 among others as well, though. The IACHR called then for a more precise delimitation and demarcation of the lands traditionally occupied by the Maya people. Furthermore, it is important to highlight that the state carried on its actions without consulting the people involved, another instance of how the free, prior and informed consent principle exists in theory but is barely implemented in practice, even though in this sense the Commission recognized that:

“[...] The duty to consult is a fundamental component of the State's obligations in giving effect to the communal property right of the Maya people in the lands that they have traditionally used and occupied⁹⁵.”

⁹³ Organization of American States (OAS) 'American Declaration of the Rights and Duties of Man' (1948) p.3
https://www.oas.org/dil/access_to_information_human_right_American_Declaration_of_the_Rights_and_Duties_of_Man.pdf

⁹⁴ Ibid. p.6

⁹⁵ Inter-American Commission on Human Rights 'Report N° 40/04 – Case 12.053 Merits Maya Indigenous Communities of the Toledo District v. Belize' (2004) Paragraph 155.
<http://www.cidh.oas.org/annualrep/2004eng/Belize.12053eng.htm>

On one hand, this case and the conclusion which originated from it, have constituted without a doubt a success juridically speaking, for the simple fact of recognizing the existence of rights violation in a case related to a grabbing practice. On the other hand, this is the umpteenth demonstration that, in spite of the global extent of land and water grabbing, there are still a lot of progresses to be made in terms of chances to bring these cases to justice focusing on the grabbing actions exclusively. Avoidance and prevention of such practices could be attained also by trying to seek forms of remedy and/or compensation to those who already suffered them and could not have, for instance, the opportunity or the means to take a legal action.

2.3 Water security and the right to water

2.3.1 The right to water

Currently, there exist the right to water and the right to sanitation, and they are recognized as human rights. The official acknowledgment occurred in the year 2010 with the UNGA Resolution 64/292⁹⁶, specifically devoted to these two rights, recognizing:

“The right to safe and clean drinking water and sanitation as a human right that is essential to the full enjoyment of life and all human rights.”

Despite the common knowledge that water constitutes a vital element for the survival not only of human beings but also of the entire planet, the access to water and sanitation is still a privilege which characterizes the people residing in those countries part of the so-called developed world. That said, if the struggle to guarantee to each one the access to the most basic element for the survival has always been difficult also in ‘normal’ conditions, the already mentioned recent convergence of different crises (climate-, energy- and food-related) and the grabbing practices originated and increased from this convergence, worsen this

⁹⁶ United Nations General Assembly ‘Resolution 64/292. The human right to water and sanitation.’ (2010)
<https://undocs.org/A/RES/64/292>

challenge in a serious manner. It is also surprising to notice that, even though water has always been considered essential, its acknowledgement as a human right occurred only very recently, as aforementioned. One of the first steps which paved the way toward an international recognition of this right can be found in the General Comment No. 15 by the Committee on Economic, Social and Cultural Rights⁹⁷ (CESCR) in 2002 directly related to the right to water. This Comment derives from the effort of this body to clarify and implement the issues contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR), and it states that:

“1. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.

2. The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.⁹⁸”

Further on, the CESCR provides an interpretation of what should be included in terms of normative content of the right to water:

“10. The right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.

11. The elements of the right to water must be adequate for human dignity, life and health [...] The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of

⁹⁷ UN Committee on Economic, Social and Cultural Rights (CESCR) ‘General Comment No. 15 The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights’ (2002)
https://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf

⁹⁸ Ibid. paras. 1,2

the realization of the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.⁹⁹

This Comment by the CESCR recalls itself further previous mentions at the international level concerning the importance of having a right to water. As a matter of fact, this topic was already taken into consideration into the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 and in the Convention on the Rights of the Child (CRC) of 1989 as follows:

“Art. 14 para. 2 (h) States parties shall take appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right [...] to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.¹⁰⁰

Art. 24 para.2 (c) “States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures [...] to combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution.¹⁰¹”

Furthermore, for the purpose of this thesis, it is worth to remind another fundamental reasoning within this General Comment, i.e. the part in which the CESCR highlights how water and the right to water are a key to attain also other fundamental rights such as the right to food and adequate housing.¹⁰² Unfortunately, land and water grabbing constitute a huge threat to the scope of these rights, therefore it is not surprising that, in addition to other threats outside

⁹⁹ Ibid. paras. 10,11

¹⁰⁰ UN General Assembly ‘Convention on the Elimination of All Forms of Discrimination against Women’ Res. 34/180 (1979) pp.5,6
<https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>

¹⁰¹ UN General Assembly ‘Convention on the Rights of the Child’ Res. 44/25 (1989) p.7
<https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

¹⁰² UN Committee on Economic, Social and Cultural Rights (CESCR) ‘General Comment No. 15 The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights’ (2002) paras. 3,6,7
https://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf

the grabbing realm such as climate change or wars, fresh and clean water is still nowadays not available to everybody. At the end of this chapter, through the case of the Mekong river grabbing, it is going to be seen how the aforementioned premises of the right to water and of the CESCR Comment are largely neglected due to the grabbing practices, and how this consequently affects the spheres of the rights to food and housing as well.

2.3.2 Water security

As for the concept of food security, water is part of the broader field of human security. According to the definition of UN-Water¹⁰³, water security is:

“The capacity of a population to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development, for ensuring protection against water-borne pollution and water-related disasters, and for preserving ecosystems in a climate of peace and political stability¹⁰⁴.”

The effects of the grabbing practices, in this case of the water grabbing in particular, undermine precisely what is stated in this definition of water security. It is sufficient to recall some previous examples of this work on how the water grabbing due to the hydraulic fracturing activities creates water pollution, for instance, but continues to be explored as a new and alternative energy source. The act of taking control and diverting the water resources creates instability and disrupts the opportunity of leading a sustainable lifestyle for everyone. Furthermore, it is a serious issue also from a geopolitical perspective: due to the way in which humankind is currently (mis)managing the water resources all over the planet, a serious water-scarcity situation has been created. If no substantial modification in this management will be accomplished, water will definitely

¹⁰³ United Nations Water (UN-Water) is a coordinating entity of all those organizations (both part of the UN themselves, and other international entities) which deal with water and sanitation issues.

<https://www.unwater.org/>

¹⁰⁴ UN-Water ‘What is Water Security?’ (2013)

<https://www.unwater.org/publications/water-security-infographic/>

become the element for which each one is going to fight at all costs in the future, predicting a scenario of constant competition and conflict.

2.4 Forced eviction, displacement and the right to adequate housing

The third major consequence of the grabbing practices finds its shape in the forced eviction and the displacement of people. What is a forced eviction? The Commission on Human Rights recognizes that:

“The practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness and in inadequate housing and living conditions¹⁰⁵.”

According to the same source¹⁰⁶, forced eviction constitutes a violation of human rights, especially the one referred to the adequate housing and it is prohibited under international law, except for those cases in which the eviction practice occurs by not violating the provisions of the international covenants on human rights¹⁰⁷. If we consider the aspects of seizing of a territory in general or seizing the access to water and/or natural resources specifically, it is possible to say that forced evictions could be considered in a twofold way: direct and indirect. They are direct when the new landowner acquires the property and explicitly keep people out of it (as it occurred in the example of the Mapuche couple in the Benetton plot). They could be considered also indirect because the ‘simple’ act of denying the access to an important natural resource, be it water or the natural resources it provides for instance, can be sufficient to cause a constrained transfer of a population, although such transfer could be not specifically expressed, but becomes survival-induced. As for the right to food, also the right to adequate housing is part of the right to an adequate standard of living included

¹⁰⁵ Office of the High Commissioner for Human Rights (OHCHR) ‘Commission on Human Rights resolution 1993/77’ E-CN_4-RES-1993-77
<https://www.ohchr.org/EN/Issues/ForcedEvictions/Pages/Index.aspx>

¹⁰⁶ Ibid.

¹⁰⁷ Committee on Economic, Social and Cultural Rights (CESCR) ‘General Comment 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions’ in International Network for Economic, Social and Cultural Rights (1997)
<https://www.escr-net.org/resources/general-comment-7>

in the CESCR at Article 11¹⁰⁸. Generally, it is not news that, beyond the fact that the right to adequate housing is affected also by the land and water grabbing context, this right is far from being respected and accomplished considering the current social and living conditions in many parts of the world, despite the presence or the absence of grabbing practices. Modern society, if it could be defined modern in this sense, is still overflowing with situations diametrically opposed to this right. It is sufficient to think about the situation in the Brazilian *favelas*, or in the huge Mumbai's Dharavi slum, the French *banlieues* in Paris or each instance of overcrowding or in which the concept of living corresponds to a struggle for the survival rather than to the opportunity of carrying on a lifestyle which could be commonly and morally defined as acceptable and dignified.

And then there is the contribution of land and water grabbing. As previously mentioned, one of the points of the justification rhetoric of the grabbers (especially corporations and single private actors) leans on the fact that they are not responsible for the grabbing practice and their consequences, so much that if the victims react denouncing their actions and demanding justice, the grabbers point out that the problem lies in the lack of property rights and titles, and also in a lack of due diligence. It is true that in thousands of cases there is a lack of property rights and titles in the housing branch, but often it is a lack of how 'we' as western and developed world perceive and understand these rights. If a population, especially an indigenous one, has inhabited a particular territory since its creation, with its own peculiar culture, lifestyle and traditions, it cannot be acceptable that everything could disappear all of a sudden because of the lack of formalization of those rights. On the contrary, it should be a common cause, for the national governments firstly, to protect those who do not formally own the land they occupy but need an official formalization in order to keep it, defend it and continue to live on and out of it. The moral logic that needs to be adopted in this sense, should consider a human and cultural safeguard in the first place, in addition to the environmental protection, always fundamental. Everywhere

¹⁰⁸ United Nations General Assembly 'International Covenant on Economic, Social and Cultural Rights' Resolution 2200A (1966)
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

around the world, each little village and each small tribe constitute a living and breathing heritage which cannot be lost in the name of profit or worse, development; because the development rhetoric, as it shows itself in the land and water grabbing context, draws out that still there is not an equal meaning of development, but rather diametrically opposed results for those who call their actions in the name of development, and those who experience the real effects on the ground, as it happens to the victims of the grabbing practices.

2.5 Awareness-raising international approaches: from MDGs to SDGs

In addition to their recognition as human rights, food, water and housing are three principles which are considered as key factors in the international agenda to pursue global development. That is why they were included in the UN MDGs before, and in the SDGs after.

The Millennium Development Goals (MDGs) were launched by the United Nations¹⁰⁹ in the year 2000; they are formed by a list of eight targets to achieve by the year 2015. These targets namely aim at eradicating extreme poverty and hunger, achieving universal primary education, promoting gender equality and empowering women, reducing child mortality, improving maternal health, combating HIV malaria and other diseases, ensuring environmental sustainability, and promoting a global partnership for development. As it can be perceived by their denominations, the goal number 1 is the one relating to food, even though there is no explicit mention of food security and the right to food, indeed the target sets to *“Halve, between 1990 and 2015, the proportion of people who suffer from hunger¹¹⁰”*. The goal number 7 i.e. ensure environmental sustainability is divided in four parts, the third of which intends to *“Halve, by 2015, the proportion of the population without sustainable access to safe drinking water*

¹⁰⁹ United Nations ‘Millennium Development Goals’
<https://www.un.org/millenniumgoals/>

¹¹⁰ United Nations ‘Goal 1: Eradicate Extreme Poverty and Hunger’ Target 1.C
<https://www.un.org/millenniumgoals/poverty.shtml>

*and basic sanitation*¹¹¹.” As abovementioned, the year 2010 marked then the moment of the official recognition of these two rights, so it is important to underline that in the creation of the MDGs, they were still not officially recognized. Finally, among these targets there is no explicit mention on the improvement of housing condition, except for the referral to the improvement of the living condition of the slum dwellers, included in the seventh goal as well¹¹².

The following step which has been undertaken approaching the due date for the achievement of the MDGs has been the creation of the 2030 Agenda for Sustainable Development in 2015 through the UNGA Resolution 70/1¹¹³. This Agenda, generally referred to as Sustainable Development Goals (SDGs)¹¹⁴ sets a new and more detailed list of seventeen targets to achieve by the year 2030. Within the SDGs, the approach to food- water- and housing-related issues is different than the one in the MDGs, indeed each of these three areas have a specific goal on their own. Food is considered in Goal number 2¹¹⁵ which sets to “*End hunger, achieve food security and improved nutrition and promote sustainable agriculture*”. The evolution from the MDGs in the conception of food security and access to food as an always more urgent issue is clear: as already mentioned, ending hunger and famine does not involve just food supply, but is determined by additional several elements, this time included in the SDGs targets and indicators, such a safe and equal access to land and the promotion of resilient and sustainable agricultural productivity. Water and sanitation find their dimension in Goal number 6¹¹⁶ i.e. “*Ensure availability and sustainable management of water and sanitation for all*”. As for the food field, the scope of this goal expanded from the MDGs to the SDGs, including all those satellite

¹¹¹ United Nations ‘Goal 7: Ensure Environmental Sustainability’ Target 7.C
<https://www.un.org/millenniumgoals/environ.shtml>

¹¹² Ibid. Target 7.D

¹¹³ United Nations General Assembly ‘Transforming our world: the 2030 Agenda for Sustainable Development’ (2015)
<https://undocs.org/A/RES/70/1>

¹¹⁴ Sustainable Development Goals Knowledge Platform
<https://sustainabledevelopment.un.org/?menu=1300>

¹¹⁵ Ibid. ‘Sustainable Development Goal 2’
<https://sustainabledevelopment.un.org/sdg2>

¹¹⁶ Ibid. ‘Sustainable Development Goal 6’
<https://sustainabledevelopment.un.org/sdg6>

elements and situations which can affect or contribute to the achievement of this target, such as the environmental side of the water pollution, the improvement of water efficiency and cooperation in the management of water resources, and the inclusion of local communities, among others. Finally, the housing-related target is expressed in the Goal number 11¹¹⁷ i.e. *“Make cities and human settlements inclusive, safe, resilient and sustainable”*, a target to achieve by guaranteeing in the first place a safe and adequate housing but also, and this is an important step forward, by considering the protection of cultural and natural heritage as key elements in the attainment of the target.

This concise excursus about the MDGs and the SGDs was useful to explore following the description on how these three fields are conceived in terms of human rights, to show how, along with a juridical recognition of food, water and housing as human rights, there is also an international agenda which strives to support their existence and their achievement. What is positive about this agenda, especially considering the SDGs, is the renewed acknowledgement that the attainment of these goals cannot be directly obtained without contemplating and assessing external elements and situations which, altogether, play a fundamental role in protecting or disrupting these rights. A further step to be taken is that this same reasoning should be applied to land and water grabbing in the first place because, as seen, they originate from a cross-sector convergence. In addition, given the fact that they have developed at such an alarming rate, the grabbing practices themselves should be included among the satellite elements which directly affects the spheres of food, water, and housing, both in the conception of these issues as human rights, and in the national and international agendas designed to achieve an effective global and equal development. The next section about the ‘river grabbing’ in the Mekong Basin and its negative outcomes, demonstrates how this further step is strongly needed.

¹¹⁷ Ibid. ‘Sustainable Development Goal 11’
<https://sustainabledevelopment.un.org/sdg11>

2.6 The 'river grabbing' in the hydropower development of the Mekong River Basin: a threat to food, water and housing



Figure 4: Map of the Mekong River basin © Wikimedia Commons

Mekong River is the largest river in Southeast Asia, and one of the largest of the world: it stretches for around 4350 kilometers and crosses six countries (considered that the autonomous region of Tibet is part of China), and for this reason it falls into the category of the transboundary rivers. The river arises from the Tibetan (or Himalayan) Plateau, the same place which gives birth to the two highest peaks of the planet: Mount Everest and K2. It then continues its route to the Chinese southwestern province of Yunnan, enters Myanmar and then Laos, Thailand and Cambodia, and finally ends its itinerary in Vietnam, where it flows into the South China Sea. The main activity which is practiced along its banks is

agriculture, and rice is the major typology of crop which is grown in the area, given the fact that it constitutes a fundamental part of the local diet¹¹⁸. The river hydrography is varied due to the numerous habitats through which it flows: the upper part from the Tibetan Plateau up to the country of Myanmar is usually defined as the upper Mekong, and it is characterized by a landscape formed by steep valleys and hills; whereas from Myanmar onward, the river flows through a flatter landscape, until it reaches its delta and ends into the South China Sea. The morphological configuration of the river, especially concerning the upper part, is the element which raised the interest in developing water projects, particularly hydropower-related ones, on the river.

Mekong River, and the basin it forms, is a vital resource for the area both in terms of food security, indeed it bears one of the largest inland fisheries in the world, and in terms of development, because of its use in transportation and energy-related matters. Due to the fact that the river flows in different countries, the water management turned out to be a crucial issue for each country from the beginning. The first attempt to jointly manage the river waters has been the creation of the Mekong River Committee in 1957 with the endorsement of the United Nations. The establishment of the Committee followed a report published in the same year by the ECAFE¹¹⁹ on the development of the river-related resources and its potential. The parties to this newborn committee were the countries of Lao PDR, Vietnam, Thailand and Cambodia; China and Myanmar did not enter it respectively because the first was not part of the UN at that time, and the second was experiencing a difficult situation with respect to its internal politics¹²⁰. Twenty years later, in 1977, Cambodia left the Committee because of the political turmoil period undergone by the country (two years before there had been the establishment of the Khmer Rouge regime led by the dictator Pol Pot);

¹¹⁸ Jacob, J.W. et al. 'Mekong River' Encyclopædia Britannica (2019)
<https://www.britannica.com/place/Mekong-River>

¹¹⁹ At that time ECAFE was the United Nations Economic Commission for Asia and the Far East, it has then been renamed and now it takes the name of United Nations Economic and Social Commission for Asia and the Pacific, briefly referred to with the acronym ESCAP.
<https://www.unescap.org/>

¹²⁰ Matthews, N., Geheb, K., *Hydropower Development in the Mekong Region. Political, socio-economic and environmental perspectives* (Abingdon, New York: Routledge, 2018) p.3

that is why the three countries left over in the Committee formed the Interim Mekong Committee. The final step of this joint management of the river and its resources occurred in 1995 with the establishment of the Mekong River Commission (MRC)¹²¹, of which the four original countries of the Committee were part¹²². The MRC follows the articles declared in the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin of 1995, on which the Commission was founded¹²³. Hydropower development is considered right away in Article 1, among the typologies of utilization of the river and its resources, on which the parties agree:

“To cooperate in all fields of sustainable development, utilization, management and conservation of the water and related resources of the Mekong River Basin including, but not limited to irrigation, hydro-power, navigation, flood control, fisheries, timber floating, recreation and tourism, in a manner to optimize the multiple-use and mutual benefits of all riparian and to minimize the harmful effects that might result from natural occurrences and man-made activities¹²⁴.”

The MRC is formed by three bodies i.e., Council, Joint Committee and Secretariat, and acts in compliance with the five procedures listed in the 1995 Agreement. These procedures concern the data and information sharing, the water use monitoring, the notification prior consultation and agreement, the maintenance of flows on the mainstream and finally the water quality. The objectives of the third procedure in particular are:

- a. To provide steps for the MRC Member States to support the establishment of the Rules for Water Utilisation and Inter-Basin Diversions.
- b. To promote better understanding and cooperation among the MRC Member Countries in a constructive and mutually beneficial manner to ensure the

¹²¹ Mekong River Commission
<http://www.mrcmekong.org/>

¹²² Mekong River Commission ‘The story of Mekong cooperation’
<http://www.mrcmekong.org/about-mrc/history/>

¹²³ Mekong River Commission ‘Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin’ (1995)
<http://www.mrcmekong.org/assets/Publications/MRC-1995-Agreement-n-procedures.pdf>

¹²⁴ Ibid. p.16

sustainable development, management and conservation of the water and related resources of the Mekong River Basin¹²⁵.”

This procedure states that if the parties should intend to launch a new project or an infrastructure affecting the Mekong River or its tributaries, this has to be notified to the other member countries and to the Joint Committee. It is interesting to underline this aspect because, as it happened with the former Mekong River Committee, China and Myanmar, again, are not parties to the new MRC neither, despite being as said, Mekong riparian states. This institutional background, the issue of a shared transboundary management of the river, and this last observation on the absence of China and Myanmar from the MRC, leads us to finally deal with how the hydropower development in the Mekong Region is linked to land and water grabbing with a consequent impact in terms of human rights. Both for the need of new clean energy sources in light of the climate crisis and the transition towards a fossil fuels-free future, and the boom of economic and infrastructural development undergone in the Southeast Asia region, hydropower development in the Mekong Basin has experienced a renewed push. As stated before, the potential of this huge river lies not only in its infrastructural use in terms of energy development and/or transportation but also, if not primarily, in the natural resources it provides to the people living within the area of its hydrographic basin with regard to fish, water and support for agricultural activities.

The role played by China on this argument is of great importance. China is famous in the hydropower field for having built on the Yangtze River the Three Gorges Dam, which supports the largest power station in the entire world. Despite the engineering grandeur of the Three Gorges Dam, this infrastructure is notorious for the impacts originated from its construction, indeed this dam takes the responsibility for having displaced more than one million people, in addition to the flooding of many cities and the hydrogeological instability risk of landslides and earthquakes¹²⁶. Being the first Mekong riparian country in which the river is

¹²⁵ Ibid. p.45

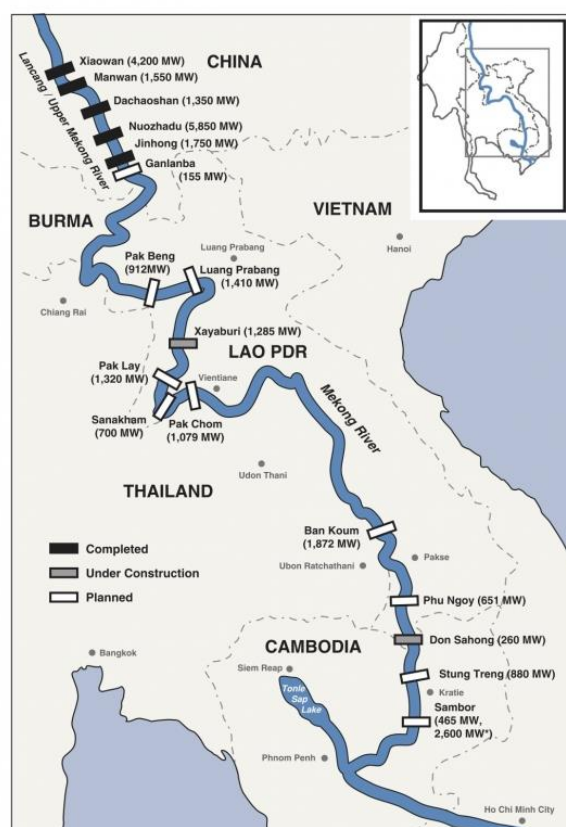
¹²⁶ International Rivers 'Three Gorges Dam'
<https://www.internationalrivers.org/campaigns/three-gorges-dam>
Encyclopædia Britannica. 'Three Gorges Dam' (2020)
<https://www.britannica.com/topic/Three-Gorges-Dam>

born, ensured that the government laid its eyes on the potential of the Mekong River as well, indeed the country has a plan to build eight giant dams on the river mainstream¹²⁷. What does this Chinese massive upstream exploitation mean? The Mekong capability to sustain one of the largest fisheries in the world depends to a considerable extent on the silt, which is carried by the river flow and deposited on the seabed and along the banks of each country, making the water rich in fish, and fertilizing the soil guaranteeing agricultural productivity. A substantial push to the transportation and the dissemination of this silt is given by the strength of the monsoons which blow in the area characterizing the summer season. This means that each dam with its reservoir which should be built on the river mainstream (especially upstream) would partly prevent or totally halt the silt from carrying out its journey up to the South China Sea in Vietnam. This entails the undermining, from the construction site onward, of the food security of all those people downstream relying on the fluvial resources, in addition to the risk of irreversibly modifying the ecosystem. Generally, dams are operated in two different ways depending on their function: if the dam has an energy-supplying purpose and powers a plant, the reservoir needs to be kept full as often as possible to maximize the electricity output; whereas if the dam has been built with an anti-flood purpose, the reservoir has to be kept as empty as possible, so that in the event of a flood, the water and the materials that are carried with it, fill the reservoir with the physical structure of the dam stopping their path and preventing damages downstream. Within the rhetoric of the dam-building discourses, one of the claims which are often used as a positive element to promote the construction of a dam lies indeed in considering it as a multi-purpose infrastructure when, as it has just been explained, it is not possible to fulfill the two functions simultaneously if the reservoir needs to be either empty or full.

As mentioned in the first chapter, China is one of the five BRICS countries, and it is well known that in the last years this eastern power has experienced a frenetic increase in its gross domestic product and development rate. A huge infrastructure and population growth entail the requirement of massive amounts

¹²⁷ Pearce, F., *When the rivers run dry. Water – The Defining Crisis of the Twenty-First Century* (Boston: Beacon Press, 2018) p.57

of energy: besides the utilization of fossil-fuels sources, the country has oriented its energy policy toward the hydropower development, and toward the upper part of the Mekong river which, within the national borders, is referred to with the name of Lancang River. Due to the fact that China is not part of the MRC, even though it acts like a dialogue partner, gives the country the opportunity to project and realize hydropower-related projects on the river more 'freely', with respect to the mutual consultation which exists among the other riparian countries within the MRC; so this absence from the Commission allows China to act on the Mekong River and its tributaries without asking consultation to its downstream neighboring countries. This element, and the faster (in comparison with other Southeast Asian countries) development of the country, results in a current Chinese hydropower supremacy over the Mekong River, as it can be seen in the following map¹²⁸, updated in 2017, where the completed Chinese dams outnumber all those of the other Mekong riparian countries.



Source: MRC Strategic Environmental Assessment: ICEM, 2010
 *Initially proposed as a 3,300 MW project, 465 MW and 2,600 MW options have also been studied.

¹²⁸ International Rivers 'Mekong Mainstream Dams Map' (2017)
<https://www.internationalrivers.org/resources/mekong-mainstream-dams-map-16481>

The main dam-induced effects, both on the Chinese population and on those of the neighboring countries, concern both social and environmental fields, although the two are intertwined. From the social point of view the major effects are people's displacement and the threat to food security, whereas from the environmental point of view there is the modification of the ecosystem the river itself creates, the change in the periodic flood and drought rates and the risk of earthquakes and landslides.

There is one particular feature of the Mekong River which is unique in the world: the Tonle Sap tributary in Cambodia, a river which runs backwards¹²⁹. From June to November, the period which corresponds to the monsoon season in the region, the Mekong flood increases due to the seasonal rains and winds; the growth in the water flow is so massive that the Mekong mainstream cannot contain it, so a large amount of water flows into the Tonle Sap thus reversing its direction and making the Mekong itself its tributary. This huge amount of water from the Mekong River creates the Tonle Sap lake, which submerges an area usually composed by forests, by flooding them. During these five months, the reservoir made by the flooding creates a rich fishing ecosystem both in terms of birth of different species of fish and in terms of their growth; in November, when the monsoon season comes to an end and the Mekong flood gradually lessens, all the fish born and grown in the Tonle Sap reservoir follow the stream and end in the Mekong, substantially increasing the quantity of food resources of the river. A lot of people rely on the fish produced by this stunning dynamic, both those residing around the Tonle Sap area, who go fishing directly in the reservoir, and those living downstream who fish in the Mekong mainstream¹³⁰. Due to this particular feature, and the importance it has both in terms of natural and livelihood impacts, the Tonle Sap and the area it covers, were designated as a Biosphere Reserve by the UNESCO in 1997¹³¹. Unfortunately, not just because of climate

¹²⁹ Encyclopædia Britannica 'Tonle Sap' (2015)
<https://www.britannica.com/place/Tonle-Sap>

¹³⁰ Pearce, F., *When the rivers run dry. Water – The Defining Crisis of the Twenty-First Century* (Boston: Beacon Press, 2018) p.50

¹³¹ United Nations Educational, Scientific and Cultural Organization (UNESCO) 'Tonle Sap' (2015)

change- and modifications in fishing techniques-related reasons, but also because of dams, this natural wealth and heritage is likely to be substantially diminished or worse, in the long run, lost. According to some researchers¹³², Tonle Sap reversing flow and reservoir are strictly correlated with the Chinese dams upstream for two interdependent reasons mainly: the dam-induced consequence of halting both the water flow and the silt at the same time. Stopping or reducing the water flow will reduce the power of the seasonal floods thus avoiding the reverse effect of the Tonle Sap, whereas preventing the silt to spread into the stream will reduce the peculiar fertility of the Mekong River in the first place and of the rich Cambodian reservoir as well, undermining food security in a tremendous way for all those who rely on it as a primary subsistence source for their livelihood.

The fact of not being part of the MRC allowed China also not to submit hydropower and/or dam plans and projects to the other riparian countries, that is why even though the overall dam-induced effects are known and have already started to be perceived, it is difficult to become aware of them thoroughly. However, recently on this year, new data on Chinese dams came to light and were elaborated by the researchers, showing and proving how damaging their impacts are. New proofs and inquiries showed for instance how the Tonle Sap reservoir is already undergoing a serious crisis regarding the wealth of its fishery, whose amount has dramatically decreased, in some cases down to the 20%, thus implying a loss which amounts to around 80% of the usual total fishing catch¹³³¹³⁴. One of the main researches which uncovered the actual and foreseeable impacts of the Chinese dams on the Mekong River and its ecosystem, has been

<http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/asia-and-the-pacific/cambodia/tonle-sap/>

¹³² Pearce, F., *When the rivers run dry. Water – The Defining Crisis of the Twenty-First Century* (Boston: Beacon Press, 2018) p.61

¹³³ Bengali, S., 'No fish: How dams and climate change are choking Asia's great lake' Los Angeles Times (2020)

<https://www.latimes.com/world-nation/story/2020-01-20/how-climate-change-and-dams-threaten-one-of-the-worlds-great-lakes>

¹³⁴ Tan, H. 'China could have choked off the Mekong and aggravated a drought, threatening the lifeline of millions in Asia' CNBC (2020)

<https://www.cnbc.com/2020/04/28/china-choked-off-the-mekong-which-worsened-southeast-asia-drought-study.html>

conducted by the company Eyes on Earth¹³⁵ based on satellite data and water level measurements. The results of this American research shed new light on the significant natural and social effects of the Chinese hydropower policy and its infrastructure, sparking uproar and indignation^{136 137 138}. The study¹³⁹ demonstrates that there is a correspondence in the gradual decrease of the water height since the period in which a series of dams were erected in the Upper Mekong region by one of the biggest national Chinese energy-producing companies, HydroLancang¹⁴⁰. An important information which emerged from the study was that the year 2019 coincided with the period in which the lower part of the Mekong experienced the lowest height level ever. The fact which really shocked the public opinion though, and reasonably, was that this negative record has not been caused 'simply' by a confluence of climate change, scarce rains or a longer dry season (elements that in any case make a difference in each ecosystem, unfortunately): the factor which actually determined this record low has been the water restriction upstream through the Chinese dams. These findings validate the concerns of the downstream countries about the Chinese behavior in its hydropower policy and demonstrate that the instance about the Tonle Sap's crisis in fishing is true and already happening at a spiralling rate.

Overall, it is undeniable that hydropower development in this region is posing an enormous threat, which in some cases already took place, to the food

¹³⁵ Eyes on Earth is a US-based climate consultant company founded by the former government scientist and climatologist Alan Basist.
<https://www.eyesonearth.org/>

¹³⁶ Johnson, K. 'Chinese dams held back Mekong waters during drought, study finds' Reuters (2020)
<https://www.reuters.com/article/us-mekong-river/chinese-dams-held-back-mekong-waters-during-drought-study-finds-idUSKCN21V0U7>

¹³⁷ Eyer, B. 'Science Shows Chinese Dams Are Devastating the Mekong' Foreign Policy Magazine (2020)
<https://foreignpolicy.com/2020/04/22/science-shows-chinese-dams-devastating-mekong-river/>

¹³⁸ Kijewski, L. 'China's dams exacerbated extreme drought in lower Mekong: Study' Al Jazeera (2020)
<https://www.aljazeera.com/news/2020/04/chinas-dams-exacerbated-extreme-drought-mekong-study-200424231003795.html>

¹³⁹ Basist, A., Williams, C. 'Monitoring the Quantity of Water Flowing Through the Mekong Basin Through Natural (Unimpeded) Conditions' Sustainable Infrastructure Partnership (2020)
<https://www.mekongwater.org/reports>

¹⁴⁰ International Hydropower Association (IHA) 'HydroLancang'
<https://www.hydropower.org/companies/hydrolancang>

and water security and to the housing conditions of thousands of people. The dam-induced modifications in the hydrogeological framework of the Mekong Basin ecosystem show that even the smallest of the changes can generate an irreversible ripple effect to the detriment of nature and human being. Of course, the negative consequences of the hydropower development in the region do not come from by the Chinese dams alone, indeed as it can be seen in the figure 3, the other neighboring countries are planning a lot of dams on the mainstream as well, but these are not completed and/or operational yet. However, it is simple to imagine which catastrophic consequences would occur in case should all these other projects be completed if the Chinese dams alone are wrecking the ecosystem already. Along with the food and water security problem, which already constitute a really serious matter on their own, eviction and displacement go at the same pace. Another instance of the negative impacts of the Mekong 'river grabbing', outside the Chinese borders this time, is given by the Xayaburi Dam¹⁴¹ in Lao PDR. Laos, one of the four parties of the MRC, according to the aforementioned Agreement, followed the procedure number three on the notification prior consultation and agreement, notifying the other members of the intention to build a new infrastructure on the river mainstream, but this notification did not involve the dam-induced consequences in terms of transboundary impacts. The construction was carried on and the dam completed and inaugurated anyway despite the concerns of the other MRC members, even though Thai shareholders were and are involved in this project¹⁴². It is estimated that this dam already directly displaced more than two thousand people close to the infrastructure and affected the life of thousands more along the downstream banks of the river. Furthermore, not only the people were evicted without their consent, but the reallocation in the majority of the cases did not guarantee a fair

¹⁴¹ International Rivers. 'Xayaburi Dam'
<https://www.internationalrivers.org/campaigns/xayaburi-dam>

¹⁴² Matthews, N., Geheb, K., *Hydropower Development in the Mekong Region. Political, socio-economic and environmental perspectives* (Abingdon, New York: Routledge, 2018) Ch.5 p.85

compensation and an adequate standard of living because of the loss of jobs and the access to farmland and electricity^{143 144 145}.

In this case-study, the primary grab i.e. the water grabbing from the river, assumes the form of a broader resource and control grabbing, carried on by a national government against its own population in the first place and the one of its neighboring countries as well. In the case of the Chinese dams, the grabbing practice takes advantage of the weak legal framework and the absence of a completely shared water governance among all the Mekong riparian countries. In the Laotian instance of the Xayaburi dam, the grabbing is even more severe given the fact that it happens within the context of the MRC in the first place, showing a lack of a real solid commitment and binding legal framework for the parties; in the second place it concerns not just one country (Laos), which unilaterally decides to pursue its hydropower agenda despite the joint commitment in the river management, but also Thailand which is the country of origin of some of the biggest shareholders in the Xayaburi project. The case of the hydropower development in the Mekong River Basin and its consequences, demonstrate that the existence of an intergovernmental body for the river management is still not sufficient to counter the grabbing practices, if cooperation already lacks from the inside. As cooperation has been the starting point for the creation of the MRC in the past, it has to remain the standing point to orientate its agenda in the future, especially in light of the even bigger crises that modern society has to fight, relating to food, energy and climate for instance, crises that will be impossible to counter if each entity will fight for itself.

¹⁴³ Earth Rights International. 'Xayaburi Dam'
<https://earthrights.org/what-we-do/mega-projects/xayaburi-dam/#:~:text=The%20dam%20will%20likely%20block,including%20the%20Mekong%20giant%20catfish.>

¹⁴⁴ International Rivers. 'The Xayaburi Dam: A looming threat to the Mekong River' (2011)
https://www.internationalrivers.org/sites/default/files/attached-files/the_xayaburi_dam_eng.pdf

¹⁴⁵ The Bangkok Post. 'New home not where the heart I for Xayaburi locals' (2012)
<https://www.bangkokpost.com/thailand/special-reports/306038/new-home-not-where-the-heart-is-for-xayaburi-locals>

CHAPTER 3.

INTERNATIONAL LEGAL FRAMEWORK IN RELATION: LIMITATIONS AND NEW PERSPECTIVES

The final chapter of this thesis seeks to provide an overview on the current international legal context in relation to land and water grabbing, and how this can contribute to the improvement or the worsening of these practices in our society. In the first part of this work, there have been illustrated the descriptions of these phenomena and how they are perceived, followed by an analysis of the driving factors leading to the completion of the grabbing practices. Global geographical extent, and presence of a multitude of actors playing in the land and water grabbing debate, have revealed how these issues do not concern limited areas or subjects anymore, on the contrary, they demonstrate the magnitude to which society is exposed to these issues. That said, it is possible to state that land and water grabbing constitute a matter of global governance because, although they concern acquisitions (legitimate or not) of resources within the borders of sovereign states, these practices have become so widespread and intertwined among different subjects, that the ways to fight them should build themselves on the basis of a joint and common effort among institutions. Albeit the role of the single states is crucial, as already seen, the struggle should develop in the direction of a multilateral cooperation as well. Following the impacts originated by the grabbing practices in terms of human rights, it is now time to depict how international law and governance relate to the grabbing discourse and if, based on the current available instruments, there could be effective measures to challenge the insurgence and the spread of these practices, and if and how, in cases which already occurred, could be possible to find adequate remedies.

3.1 Current soft law instruments

The first element which is worth to remind is that, nowadays, there is still a lack of law instruments directly related to the phenomena of land and water grabbing, and to the grabbing practices in general, as well as the absence of a

single site or institution where these issues are discussed. For instance, there are no conventions or similar instruments strictly dedicated to these issues, and this absence certainly constitutes a weakness in the difficult fight against these practices. On the other hand, as follows, there are some instruments concerning the resources governance of different environments such as land, forests or fisheries. Despite their non-binding character (in legal terms), they could represent an effective starting point to counter the grabbing phenomena, if properly managed and followed. The next sections depict some of these instruments, based on their pertinence with the settings hit by land and water grabbing.

3.1.1 FAO Voluntary Guidelines on the Responsible Governance of Tenure of land, fisheries and forests in the context of national food security (VGGT)¹⁴⁶

The FAO Voluntary Guidelines date back to 2012 and were promoted by the World Committee on Food Security (CFS). The CFS, as the name suggests, is a platform within the FAO that deals with the ensuring of the food security at the international level. The contribution of the CFS occurs in terms of recommendations, therefore its provisions can be adopted by the countries on a voluntary basis. The VGGT constitute a non-binding instrument of soft law that aims at the improvement of the global food security context through a set of principles that addresses different issues which affect the food realm, such as climate change and sustainable development, property rights recognition and the tenure systems. This is another positive step toward the reasoning and the recognition that food security and the right to food, as stated in the second chapter, do not entail and depend only on the practical aspects of the global food production and food supply, on the contrary, the achievement of these goals must be considered in a much broader perspective.

¹⁴⁶ Food and Agriculture Organization (FAO), Committee on World Food Security (CFS). 'Voluntary Guidelines on the Responsible Tenure of land, fisheries and forests in the context of national food security' (2012)
<http://www.fao.org/3/i2801e/i2801e.pdf>

As expressed in the title of the VGGT, the three main ‘physical’ areas related to the tenure governance which were identified in the principles, are land, fisheries and forests. These three settings indeed represent the most fundamental ones when it comes to the relationship between nature and food security. Land is essential not just to provide a place to live, but to ensure the opportunity to practice agricultural and farming activities, the most ancient and still the safest production methods with regard to food procurement. Fisheries, as seen in the case study of the Mekong Basin, constitute not only an important environment in terms of water security, but are also essential for food security for all those communities relying on fish resources as primary source of food and income. Forest-based environments play an important role in the context of food security as well, due both to their climatic relevance in detaining CO2 emissions (thus avoiding them to be released in the atmosphere in large amounts), and to the fact that they constitute another influential setting for food security for the opportunity they provide for fishing, hunting or the gathering of wild fruits and vegetables; it is sufficient to think about the Amazon rainforest and the relevance it has in accomplishing these two purposes, when it is not threatened by arsons, fires or deforestation.

Despite being voluntary and parallel to national and international law instruments, FAO and CFS explicitly recognize the importance of applying these guidelines considering both the already existing obligations under national and international law and the human rights-related initiatives. The positive aspect of this soft-law instrument is that in the desire of achieving not only food security but also an improvement of the right to housing and of a more general condition of sustainable and social development, there is an acknowledgement that these goals cannot be achieved without considering a wider set of elements and circumstances which directly and indirectly contribute to these goals, such as the tenure governance which indeed is at the center of these guidelines and it is considered essential also in order to avoid other negative impacts. The following excerpts by the VGGT demonstrate this reasoning:

“Safeguard legitimate tenure rights against threats and infringements. They should protect tenure right holders against the arbitrary loss of their tenure rights, including

forced evictions that are inconsistent with their existing obligations under national and international law.

Provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes.¹⁴⁷

As already mentioned, business actors such as the TNCs, are among the main characters in the grabbing discourse. The VGGT acknowledge this aspect as well, and warn these actors about the conduct of their activities:

“Non-state actors including business enterprises have a responsibility to respect human rights and legitimate tenure rights. Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others.¹⁴⁸”

Yet, it is important to recall that, despite business actors have a great responsibility on their own in the first place, the national governments should keep a close (and closer) eye on their activities. As already stated in the first chapter, the relationship which occurs between the state conduct and the grabbing practices is fundamental (the Russian experience is a prime case in this sense), and so it is when it comes to the surveillance over the activities of non-state actors on national territories. The VGGT envisage this scenario as well, and design further guidelines about the state behavior concerning these entities.

“States, in accordance with their international obligations, should provide access to effective judicial remedies for negative impacts on human rights and legitimate tenure rights by business enterprises. Where transnational corporations are involved, their home States have roles to play in assisting both those corporations and host States to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights. States should take additional steps to protect against abuses of human rights and legitimate tenure rights by business

¹⁴⁷ Ibid. 3A General Principles pp. 3,4

¹⁴⁸ Ibid. p. 4

enterprises that are owned or controlled by the State, or that receive substantial support and service from State agencies.¹⁴⁹”

Furthermore, based on how this instrument has been designed, and for its voluntary character, the trust concerning their implementation is put again in the single states, bearing in mind to act following principles which reflect the exact opposite of the behaviors which give space to the grabbing practices.

“This process should be inclusive, participatory, gender sensitive, implementable, cost effective and sustainable.¹⁵⁰”

It has been seen in the second chapter that one of the major impacts is the violation of the right to adequate housing through forced evictions and displacements. In this case the state is seen as the highest entity in the first place which has to counter this effect:

“Consistent with existing obligations under relevant national and international law, States should not recognize tenure rights to land, fisheries and forests acquired, within their own territories, through forceful and/or violent means. Refugees and displaced persons and others affected by conflict should be settled in safe conditions in ways that protect the tenure rights and host communities.¹⁵¹”

In light of all the barriers and the flaws revolving around and allowing the perpetration of land and water grabbing, the VGGT constitute a comprehensive and valuable instrument which shows that, under the nebulous curtain covering the grabs all over the world, the elements and the dynamics at the base of these practices have begun to be unveiled and confronted, at least theoretically.

¹⁴⁹ Ibid. p. 4

¹⁵⁰ Ibid. p. 39

¹⁵¹ Ibid. p. 37

3.1.2 CFS Principles for Responsible Investment in Agriculture and Food Systems (RAI)¹⁵²

The RAI Principles were endorsed in the year 2014 by the CFS¹⁵³. Differently from the VGGT, these principles throw light on the investment side within the realm of agriculture and food systems. As for the VGGT, also the RAI principles pertain to the category of the soft law instruments, therefore being non-binding and adoptable on a voluntary basis. The reasoning and the push behind the creation of this instrument stems from the correlation which exists between the financial setting of investments and the realm of food security and nutrition. These principles are the demonstration that the achievement of food security is not only a matter of collecting resources for people's nutrition physically but should be supported also by a positive attitude in the conduct of financial investments related to agriculture and food (included but not limited to).

The question naturally arises: what is a responsible investment? The CFS interrogated itself and provided a clear and thorough answer:

“Responsible investment in agriculture and food systems refers to the creation of productive assets and capital formation, which may comprise physical, human or intangible capital, oriented to support the realization of food security, nutrition and sustainable development [...] Responsible investment [...] requires respecting, protecting, and promoting human rights, including the progressive realization of the right to adequate food in the context of national food security, in line with the Universal Declaration of Human Rights and other relevant international human rights instruments.¹⁵⁴”

The principles which have been outlined by the CFS are ten, namely: contribute to food security and nutrition; contribute to sustainable and inclusive

¹⁵² Committee on World Food Security (CFS) 'Responsible Investment in Agriculture and Food Systems' (2014)

<http://www.fao.org/cfs/home/activities/rai/en/>

¹⁵³ Committee on World Food Security
<http://www.fao.org/cfs>

¹⁵⁴ Committee on World Food Security (CFS) 'Responsible Investment in Agriculture and Food Systems' (2014) p. 7 para. 3
<http://www.fao.org/cfs/home/activities/rai/en/>

economic development and the eradication of poverty; foster gender equality and women's empowerment; engage and empower youth; respect tenure of land, fisheries and forests, and access to water; conserve and sustainably manage natural resources, increase resilience and reduce disaster risks; respect cultural heritage and traditional knowledge and support diversity and innovation; promote safe and healthy agriculture and food systems; incorporate inclusive and transparent governance structures, processes, and grievance mechanisms; and finally assess and address impacts and promote accountability.

It follows that these principles do not strictly include only the economic/investment point of view, but rather, they aim at a more global change in behavior by the stakeholders, be them states or other entities, when approaching investment related to agriculture and food systems. That is why, among these principles, we find also explicit guidelines concerning the approach to the environment, the sustainable management of natural resources but also for instance the respect of cultural heritage and traditional knowledge as typical local features of the locations chosen for these investments. As said, the RAI Principles were released in 2014 i.e. two years after the VGGT, to which the CFS gave credits; that is why the same Committee recalls the necessary principles of implementation to follow in order to pursue the goal of a new way to conceive investment in agriculture and food systems¹⁵⁵. The direct correlation between investments, food security and human rights is clear in this instrument, and that bodes well for a more responsible path to follow which could balance economic development and social justice in this field.

3.2 New perspectives: the ICC step

Within the international context, a recent significant step which could show one fairer (and practical) path to follow to counter the grabbing practices, has been made by the International Criminal Court (ICC). The ICC, based in the Netherlands, is the court which deals with the most severe international crimes

¹⁵⁵ Ibid. p. 10

occurring in our society, such as war crimes, genocide, crimes against humanity and crimes of aggression. It is always important to remind that, differently from the International Court of Justice (ICJ) which is an authority of the United Nations that deals with the disputes between the states, the ICC prosecutes the single individuals in matter of international crimes. The function of the ICC is complementary to the one of the national courts, this means that this court goes along with the national ones and does not replace them, on the contrary it is used as last resort when the single states cannot or do not act in matter of prosecution of international crimes, but it can only take into consideration the countries which have ratified the ICC Statute. The ICC is indeed founded on the Rome Statute, which entered into force in 2002 and sets the provisions for the establishment and the jurisdiction of the court.

Which is the new direction undertaken by the ICC recently? In 2016, the ICC Prosecutor Fatou Bensouda released a paper about the selection and prioritization of the cases¹⁵⁶. The policy document aims to explain which are the principles that guide the Office of the Prosecutor in choosing the cases to examine and, possibly, to prosecute. Within the scope of this thesis, the fundamental part of this paper to report, which is already set out in the introductory section, is the following:

“7. [...] The Office will also seek to cooperate and provide assistance to States, upon request, with respect to conduct which constitutes a serious crime under national law, such as the illegal exploitation of natural resources, arms trafficking, human trafficking, terrorism, financial crimes, land grabbing or the destruction of the environment¹⁵⁷.”

This is the first time that land grabbing is explicitly mentioned and considered as a crime. Going on, the most important element in considering the criteria in the case selection is, according to the document, the gravity of the

¹⁵⁶ Office of the Prosecutor. ‘Policy paper on case selection and prioritisation’ International Criminal Court (2016)
https://www.icc-cpi.int/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf

¹⁵⁷ Ibid. p.5

crime. Among the elements to assess the gravity of a crime, it is worth to quote that:

“40. The manner of commission of the crimes may be assessed in light of, inter alia, the means employed to execute the crime, the extent to which the crimes were systematic or resulted from a plan or organized policy or otherwise resulted from the abuse of power or official capacity, the existence of elements of particular cruelty, including the vulnerability of the victims, any motives involving discrimination held by the direct perpetrators of the crimes, the use of rape and other sexual or gender-based violence or crimes committed by means of, or resulting in, the destruction of the environment or of protected objects.

41. The impact of the crimes may be assessed in light of, inter alia, the increased vulnerability of victims, the terror subsequently instilled, or the social, economic and environmental damage inflicted on the affected communities. In this context, the Office will give particular consideration to prosecuting Rome Statute crimes that are committed by means of, or that result in, inter alia, the destruction of the environment, the illegal exploitation of natural resources or the illegal dispossession of land¹⁵⁸.”

The crucial consideration in the ICC reasoning concerns the bond of the land grabbing practice to the environmental field. Throughout the previous chapters it has been seen that, in addition to the social and human impact of land and water grabbing on the population, the other victim of these activities is the environment. Even though many people, still nowadays, perceive climate change, destruction and over exploitation of natural resources as if they were not a problem which is directly related to their survival, the ICC not only managed to put in writing this relationship, but also to give importance to it in terms of justice and prosecution.

Two years before this significant milestone, in 2014 a group of villagers from Cambodia decided to address the ICC, denouncing the Cambodian ‘ruling elite’ (as the alleged criminals have been denominated) for having run a huge campaign of land grabbing in the country, in the period going from 2002 to 2014,

¹⁵⁸ Ibid. pp. 13-14

through planting and logging practices to the detriment of thousands of Cambodians, in large part indigenous ones, who suffered from threats, murders and displacements¹⁵⁹. As explained before, the ICC jurisdiction covers the four most severe crimes of the international community, therefore in order to file a case to this authority and to go on with the proceedings, the case should pertain to one of the four typologies of crimes abovementioned. Therefore, the villagers claimed that this campaign of massive land grabbing and all the consequences it had, altogether could constitute a crime against humanity according to the ICC founding Rome Statute. How is this crime defined under the ICC?

“Art. 7, Para. 1: For the purpose of this Statute “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane

¹⁵⁹ Business & Human Rights Resource Centre ‘Cambodian villagers’ Intl. Criminal Court complaint (re land grabbing’ (2014)

<https://www.business-humanrights.org/en/latest-news/cambodian-villagers-intl-criminal-court-complaint-re-land-grabbing/>

In Business & Human Rights Resource Centre ‘Des cambodgiens saisissent la Cour pénale internationale pour crimes présumés découlant de l’accaparement des terres pratiqué par les entreprises et le gouvernement’ (2014)

<https://www.business-humanrights.org/en/latest-news/des-cambodgiens-saisissent-la-cour-p%C3%A9nale-internationale-pour-crimes-pr%C3%A9sum%C3%A9s-d%C3%A9coulant-de-laccaparement-des-terres-pratiqu%C3%A9-par-les-entreprises-et-le-gouvernement/>

From Fédération Internationale pour les Droits Humains (FIDH) ‘Cambodge: un examen préliminaire devrait être ouvert par la CPI sur les crimes résultant de l’accaparement des terres commis à grande échelle (2014)

<https://www.fidh.org/fr/regions/asi/cambodge/16175-cambodge-un-examen-preliminaire-devrait-etre-ouvert-par-la-cpi-sur-les>

acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.¹⁶⁰

According to the sources¹⁶¹, the actions perpetrated by the 'ruling elite' fall into the category of crime against humanity, many people have been murdered, forcibly transferred, and these actions implicated a violence both on mental and physical health of all those who unfortunately experienced this national land grabbing campaign. Subsequently to this filing, the ICC Prosecutor firstly had to start a preliminary investigation to determine whether the actions perpetrated in Cambodia had a basis to fall into the category of crime against humanity. The villagers appointed an international lawyer to file the communication and notify the crimes to the ICC Prosecutor¹⁶². According to the facts and the data reported in the Communication¹⁶³, around 770000 people experienced the consequence of the national grabbing campaign, and a considerable part of them have been forcibly transferred and displaced through coercion and violence, including indigenous minorities. The reasonable basis for the criteria of admissibility of these actions as crimes against humanity within the jurisdiction of the ICC has been described as follows:

"11. There is a reasonable basis to believe that members of the Ruling Elite have committed, aided and abetted, ordered and/or incited the crimes of forcible transfer, murder, illegal imprisonment, other inhumane acts, and persecution, since

¹⁶⁰ International Criminal Court 'Rome Statute of the International Criminal Court' (2002) p.3
<https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

¹⁶¹ See footnote no. 156 and Arsenault, C., 'Landless Cambodian farmers look to International Criminal Court for justice' Reuters (2016)
<https://www.reuters.com/article/us-icc-cambodia-landrights-idUSKBN13H1J9>
Tang, A. et al. 'La Cambogia incarcera chi si oppone agli espropri delle terre' Internazionale (2017)
<https://www.internazionale.it/notizie/alisa-tang/2017/04/24/cambogia-espropri>

¹⁶² Business & Human Rights Resource Centre 'Communication under Article 15 of the Rome Statute of the International Criminal Court – The Commission of Crimes Against Humanity in Cambodia' (2014)
<https://www.business-humanrights.org/en/latest-news/communication-under-article-15-of-the-rome-statute-of-the-international-criminal-court-the-commission-of-crimes-against-humanity-in-cambodia/>

¹⁶³ Global Diligence 'Communication Under Article 15 of the Rome Statute of the International Criminal Court - The Commission of Crimes Against Humanity in Cambodia – July 2002 to Present' (2014)
https://static1.squarespace.com/static/5bf447e7365f02310e09e592/t/5eb178be2da21b0620c19194/1588689097212/executive_summary-ICC.pdf

Cambodia signed the Rome Statute in July 2002. These crimes form part of a widespread and systematic attack against the civilian population, pursuant to a State policy, and amount to crimes against humanity.¹⁶⁴

As we can see in this ‘summary’, the elements described in the Court definition of crimes against humanity should match with what happened in the country. The targets/victims of these attacks have been civilians, the attack itself has been systematic and widespread, and it entailed actions of murder, forcible transfers and generally, inhumane acts which seriously undermined people’s health. Furthermore, concerning the criteria of admissibility of the case to the ICC, the lawyer underlined the elements of complementarity, gravity, and of the interests of justice. With regards to the complementarity criteria, in Cambodia at that moment there were still no national proceedings related to this case and moreover, the lawyer highlighted the manipulative and corrupt character of the Cambodian national courts. Concerning the gravity of the crimes, it is not just the systematic attack on civilians all over the country, but also the fact that it has been perpetrated by actors largely pertaining to public institutions i.e. who exploited the national institutional and legal framework to undertake the attacks, indeed the position in this Communication directly blames the State:

“This relentless, omnipresent, State-sponsored criminality reached the level of gravity contemplated by the ICC Statute.¹⁶⁵”

And it should be finally in the interests of justice to begin a preliminary investigation on this case in order to avoid that:

“[...] Hundreds of thousands more Cambodians will likely fall victim to the land grabbing unless something is done to stop it. Secondly, Cambodia may descend into larger-scale violence, as societal stability is progressively undermined by the crimes and their consequences.¹⁶⁶”

Taking all this into account, the new ICC step of 2016 seems promising for international society generally, and for the Cambodian villagers in particular.

¹⁶⁴ Ibid. p. 6

¹⁶⁵ Ibid. p. 10

¹⁶⁶ Ibid. p. 10

As for today, there are no updates on the decision of the ICC, but, if the Court should decide to prosecute the alleged guilty parties following this new juridical direction, this could constitute a huge leap ahead in the fight against land and water grabbing.

3.3 Reshaping rights and governance to fight land and water grabbing

Following a journey which started from the very basic elements of land and water grabbing (as for instance the trouble in gathering the elements which form a single, clear and shared definition), and continued exploring the different facets of grabbing, the actors and the consequences, the author tried to unfold these phenomena in their main components. This last chapter has sought to describe the legal framework which exists around these practices, which are the main instruments that can be related to this topic, and if and how they could help fighting and regulating the grabbing discourse. This last section is going to encompass most of the elements which have been examined so far, to try to understand why land and water grabbing directly relate also to the current governance model of our society.

In retracing the path of this journey into the grabbing discourse, it is worth to remind that the relatively recent sharp rise in these activities generated especially from the convergence of multiple crises (food, energy, economic ones) in the last decades. Each one of these crises brings different typologies of land and water grabbing into being. Considering for instance the energy crisis, it has been seen and demonstrated how this sector influences and causes grabs: searching new energy sources, new sustainable alternatives to the dying fossil fuels such as biofuels, or new techniques like the hydraulic fracturing, brought with themselves harsh consequences for the land owners, not only for those living in developing countries but also for those of the developed ones.

Of course, it is possible to state that a great part of the biggest and most serious cases of grabs have taken place to the detriment of the poorest

communities in developing countries due to an undeniable power asymmetry, as for the case of the rich Gulf States or China leading huge land investments in the African continent. However, it has been seen that the dynamics rich v. poor countries are no longer applicable to all the grabbing cases occurring nowadays, both for the recent overcoming of the classical 'power directions' (e.g. north towards south), and for the birth and development of new categories of actors, each one with its own operational methods and juridical profile, and increasingly gaining space in our society. That is the reason why a closer look to these new directions and actors and how they integrate themselves in the land and water grabbing debate, suggests that the governance framework should be taken into consideration and that it plays an important role too, in this case especially the field of land and resource governance.

It has been seen in different contexts that the State is still depicted as the main authority for a lot of reasons, but on the other side it is clear that the modern society, the interconnection of different networks, the presence of new categories of actors, measures and governance models relying only on the single States, are not enough to counter the grabbing practices. International society has developed in many directions and with it, its complexities; there is now a multitude of different actors each with different purposes and operational schemes, who act in every part of the world, indistinctly¹⁶⁷. Another element which affects the creation, and the evolution of land and water governance is the fact that these two elements, as seen, are being increasingly commodified. It is true that land and water have an economic value, but this cannot be the only perspective. Considering land and water solely as economic goods is the most dangerous reasoning from the economic/financial point of view, which leaves the door wide open for the grabbing practices. Land and water are not merely 'things', they have a social and human value in the first place. To consider this aspect and the impacts of the grabs in terms of human rights could lead us to think of a shift in how land and water governance are perceived and consequently managed. If the

¹⁶⁷ Margulis, M. et al., *Land Grabbing and Global Governance* (2016). Chapter 3, Kindle edition.

starting point would be an approach based on human rights and social justice rather than on the economic profit, the struggle against land and water grabbing could take a different turn.

One further modification on the conception of land and water governance should be related to the geographical character, one of the major fields taken into consideration in the grabbing discourse, as seen in the first chapter. Nowadays, our society is transnational: states are no longer the primary entities, especially in relation to land and water grabbing, the classical power directions have been overcome, new actors, new fields and new networks have been created and as such, the global governance in general and land and water governance in particular, should adjust in this sense. The difficulty stems from the fact that despite this transnational character of society and economy, the 'local' perspective remains crucial. Land and water rights are elements that have to be examined 'on the ground', because they differ according to each reality which is taken into account. Act locally to fight land and water grabbing means also to examine and consider the peculiarities of the single realities in the first place, and to create a devoted transnational network in which is possible to channel them, secondly. The creation of a transnational model of governance is complex and of course it is going to have many coordination issues to face and solve. The basis could be to start from each small situation all over the world in a preventive way, for instance by providing information and instruments to the local primary inhabitants about their rights, about land and water grabbing and what should they do to safeguard themselves. Creating these inputs all over the world could constitute a transnational network about land and water grabbing to refer to. In this way, it could be possible not only to gather information on how this issue is perceived and practiced in different parts of the world, but also to put together general differences and similarities which could serve as a starting point for a shift in land and water governance and in initiatives aimed at the fight of land and water grabbing.

CONCLUSION

The purpose of this work was to provide a descriptive analysis of the practices of grabbing, be it land, water or environmental grabs, it has been seen how intrusive and widespread these practices are. If words do really have any meaning, it could be possible to say that the problem in acknowledging, recognizing and fighting these practices, starts right from the fact that they still do not have a universal definition in the first place, despite constituting by now a matter of global relevance. From the boundless plains of Patagonia to the most impenetrable forests surrounding the Mekong River, control grabbing and the global rush to resources demonstrate that boundaries cannot cease to exist only when it comes to the 'dark side' of business and national security, thus favoring such destructive practices. Economic advancement, scientific development, instant communication and global transportation are the biggest promoters of what our global society is today: multicultural and interconnected. However, despite marking out the progress which constantly undergoes human society, these peculiarities and the way in which we experience and exploit them, still do not constitute a safe environment, at least not for everyone.

The spread of the COVID-19 disease hit the society worldwide and created food for thought towards different directions. The extreme measures enacted by almost each country, imposing a regime of nationwide lockdowns, certainly marked a significant historical milestone. The reader could reasonably ask which should be the correlation between this issue and the subject of this thesis i.e. land and water grabbing. Aware of not having the truth in my hands, I would like to share in this concluding context some personal observations. After having examined through an academic perspective what land and water grabbing consist of, the mechanisms through which they take place, their impacts, the legal framework around which they happen, is there really a proper way to conclude the reasoning?

Normality. This is what our society is currently craving for. Longing to come back to our lives, to go outside, to meet friends and relatives, to hug them, to

travel, to grab a coffee or have a drink in our favorite pub, to go out for dinner. No masks, no social distancing, no fear. It is not new that humans usually do not figure out the value (or the worthlessness) of what they have until they lose it. It is a social behavior as old as the human race itself and, despite the famous and ancient advice of the Roman poet Horace '*Carpe Diem*', about the importance of seizing the moments and value them in those very instants we live them, we still tend to take everything for granted. This spreading disease has been described by many as an 'equalizer' and, in front of an invisible enemy which strikes everyone with no distinction, it is completely understandable that the first feeling perceived by all of us has been "We are in this together". We have to be united in this struggle, together we stand, and we are all going to fight and win the enemy and come back to our lives and to normality. But what if the real goal is not to return to normality? What if this 'equalizer' made ring an alarm clock which was set since a long time, an alarm clock we ignored for too long or did not even know that was set? What we did have in this period (at least many of us) has been a great amount of time: time to relax, time to stay with our family, time to dedicate to all those little things we usually postpone but, most importantly, time to think. I guess the subjects of all our thoughts differed in countless ways as we do differ from each other in our cores. In my own personal domestic confinement, I used to imagine that we are finally facing another conflict. The one with (or against) ourselves, our perception of world and society. I imagined people coming to terms with their lives, what we have accomplished, what we have lost, our failures, our successes, our past and our future, in other words, take the stock of the situation. With billions of cases in the world, and even more people stuck in their homes, modern society has experienced and is still experiencing, maybe for the first time in recent history, a prolonged phase of slowdown and suspension. This pandemic has forced us to 'take a break', to finally take that time for us and our loved ones that we have always postponed, delayed or taken for granted until now. Meanwhile, nature has not just continued its cycle, but it also reinforced itself and healed a little: from the water in the canals of Venice which turned crystal clear since the beginning of the national lockdown last year, to the massive reduction of emissions above China and above some of the biggest American cities.

On the other hand, the subject I chose for this work could not make me think about this disease as an 'equalizer' in absolute terms. If the 'stay at home' imperative has sounded all over the world as the only and necessary thing to do to contain the spread of COVID-19, for many people this has been the only thing they could not do. I thought about all those people who have been evicted and displaced because of land grabbing, or who are living and surviving in outrageous health conditions with no access to water because of water grabbing. How can they 'stay at home' if they do not have one? How can they wash their hands (the other popular imperative in this pandemic) if they do not have water or a proper access to it? How are living this situation the Muhaga villagers in Tanzania without the hospital that was promised to them by the biofuels business company?



*Figure 5: Brazilian woman from Yanomami Tribe watching her surgical mask.
Photographer: Joedson Alves for EPA (European Pressphoto Agency) 2020*

It is time to urgently recognize that land and water grabbing are a matter of human security and global governance and constitute a serious crisis as much as the energy or the economic ones. We still do not know if the pandemic and the consequences it had (and is having) is going to cast a light on this matter too. What is indisputable is that the goal of global social justice, human rights respect and a safe environment for everyone still have a long way to go.

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