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Socio-Political Economy and Dynamics of Government-Driven Land Grabbing in Nigeria since 2000

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Abstract

Large-scale agricultural land investment (LALI) has been widespread across Africa over the past decade. In Nigeria since 2000, such investment has been central to the government's efforts at an 'alternative development' model to revamp and reanimate the agricultural sector. This paper examines the nature and dynamics of government-led land acquisitions in Nigeria. It begins with a definitional exploration of what constitutes a "land grab", laying out the basic principles, based on international standards, that define the phenomenon. It contends that only the total respect of these principles would ensure that a LALI is not a "land grab". The (re)emergence and intensification of land acquisition trends in Nigeria are explained as the product of a combination of external and internal factors which ultimately led to an environment that triggered and exacerbated problematic patterns of acquisition. Through case studies of three distinct examples of government-led land acquisitions, the paper illustrates the diverse undercurrents of this dynamic as well as the genuine experiences of local populations of it, and thus highlights trends within the cases that mark them each out as a "grab" of sorts. In the final analysis, some critical lessons and incipient realities of the land grab development in Nigeria are then articulated.

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Introduction

Since the beginning of the twenty-first century, several developing countries have been witnessing an accelerating intense pressure from wealthy foreign governments, agencies and private investors (both local and foreign) on their land resources, particularly for agricultural purposes (Friis and Reenberg, 2010:1; Cotula *et al*, 2009; Daniel and Mittal, 2009; GRAIN, 2008). This development has resulted in many large-scale land investments in these countries' farmlands; sub-Saharan Africa has been noted as a primary target of and destination for such investments (Borras and Franco, 2011; Mbow, 2010). The region accounts for over 60% of the global foreign land deals since 2000 (Brüntrup, 2011; Deininger *et al*, 2011), while 62% of about 1217 publicly reported land deals across the world — covering a total area of about 56.2 million hectares (ha) — are located in Africa (Anseeuw *et al*, 2012b; GRAIN, 2012; Deininger *et al*, 2011). The revaluation of land resources in Africa by powerful economic and political actors has continued to engender a dramatic rise in the number and extent of land transactions in the region (Agbu, 2011). Recent figures from Oxfam show that an area the size of London was being sold off to investors every six days (McElroy, 2012). Against this background, there has been an increasing attention focused on these land deals, often under the heading of "land grabs".

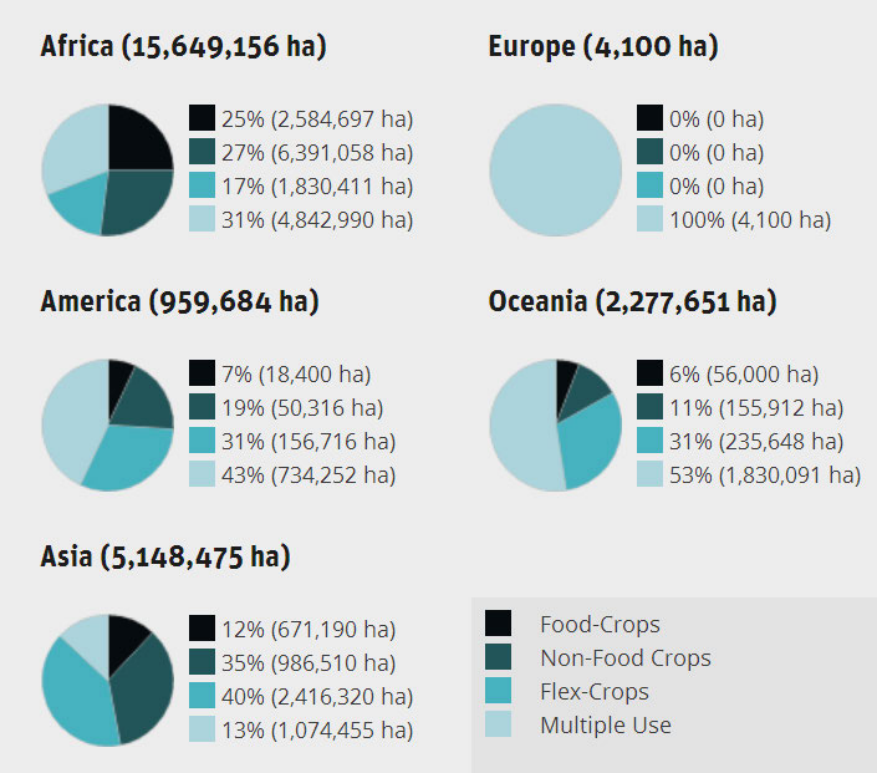

Figure 1. Top target regions for foreign farmland investment (since 2000)
Source: Land Matrix, 2013 (published 14 June)

But when exactly does a land investment deal become a "land grab"? How important and pervasive is this large-scale agricultural land investment (LALI) dynamic in Nigeria? Under what socio-economic and political contexts and conditions was it necessitated, prompted, engendered, and exacerbated? What are the political considerations involved in the negotiations and structuring of this phenomenon? How does the phenomenon manifest in the society and what are its implications, particularly for the many locals affected by the

phenomenon? These questions will guide this study, which examines the nature and dynamics of government-led LALI dynamic and its implications. The specific objectives include to: (1) clarify what defines a "land grab" by laying out the defining principles of good conduct in land investments; (2) explain what important external factors drive contemporary land rush developments; (3) critically interrogate the internal, domestic factors that engender the development in Nigeria; and (4) examine the diverse types of the investor rush and their tendencies, drawing from important local examples.

Nigeria, Africa's biggest economy and most populous country — with the expected projection of becoming the world's third most populous in 2050 (Obasanjo, 2014; Oshikoya, 2008) — is a major target and destination for this renewed and remarkable LALI dynamic. It is among the top 20 most targeted countries globally (Osabuohien, 2014) and among the first ten of such on the continent (GRAIN, 2011). Nigeria is ranked fourth globally in the 2012 *World Investment Report*, with returns on investment at an average rate of 35.5%, compared to the global average of 7% (UNCTAD, 2012; *AllAfrica* Interview, 2013). Based on such returns, the government has resolved to attract more than $30 billion worth of such land-related investments *per annum* (*AllAfrica* Interview, 2013). Nigeria's agricultural potential is attractive to investors. Reliable estimates indicate that Nigeria has between 79 to 84 million hectares of arable land (the ninth biggest in the world), a variety of livestock, an agriculture-friendly climate, coastal marine resources of over 960km of shorelines, and 120,000 square kilometres of rivers and lakes (Akanbi, 2011; Nwajiuba, 2001). Indeed, the country has optimum conditions for the cultivation of a wide range of food crops.

Oftentimes such large-scale agricultural land investments involve investors buying or leasing farmlands from the government with the purpose of growing commodity crops primarily for export. Investors frequently claim to be investing sustainably and even improving food security and rural development in local host communities. However, a growing body of research challenges these claims and instead suggests that some of these investments are worsening the food crisis, in addition to abusing rights in affected host communities. Furthermore, there are instances where the processes undertaken by investors, acting in coordination with the government and the elite, point more toward "land grabs" rather than "legitimate land acquisitions". This is especially because the acquisition of land often excludes or marginalizes local residents who have age-long direct attachments — spiritual, cultural, socio-economic and political — to the land in question. Indeed, the rise of such problematic land deals has emerged as one of the strongest trends in Nigeria's and Africa's economic renaissance over the last decade. The varied reactions and responses to these land acquisitions in Nigeria — ranging from unsuccessful resistances and acquiescence to violent protests, riots, and/or small-scale rebellions (Attah, 2013) — mark them out as a social phenomenon deserving scholarly attention.

The analysis in this paper is drawn from three cases studies of land acquisitions across Nigeria. These are in Gassol community in Mutum Biyu Local Government Area (LGA) of Taraba State, where there exists a commercial land deal with Dominion Rice Farms and Integrated Limited; in Shonga community of Edu LGA in Kwara State, where there exists a government land transaction with Shonga Farm Holdings Nigeria Limited (formally Kwa-Zimbo Enterprises Ltd.), a company established by emigrant white Zimbabwean farmers; and in Ekong-Anaku village of Akamkpa LGA of Cross River State. Wilmar International Farms is situated and operates in this community. These three cases of land acquisition allow an in-depth perspective on the questions of interest. Primary data was gathered through field visits to these communities, involving both personal and group interviews as well as direct observation by the researcher.

In all, 38 key informants were involved as participants in the research. These comprised community leaders (male, female and youth), local smallholder farmers and landholders, civil society activists, government officials and foreign investors' representatives.

Interviewees were mostly purposely selected, while several others were identified through a "snowball" method of sampling. With regards to the case selection, the three cases were selected so as to have geographical variation, and one case was drawn from each of the south-east, south-west, and north-central geo-political zones of the country.[1] The three cases were drawn from a pool of twelve documented cases of government-driven land transactions in the country.

What Makes a Land Deal a "Grab"? The Defining Principles

There are many definitions of what constitutes a "land grab." This paper defines this phenomenon as "the forced acquisition of land without valid consent and reasonable commitment to the future survival of the dispossessed." This definition does not presuppose the identity of the perpetrator, the scale or extent of the act, nor even the purpose for which the land is or was acquired. In contradistinction, it points to the *process* undergone to acquire the land as the key to understanding a land grab. I argue that three basic, pre-conditional and indispensable principles of good conduct must be present in any land acquisition deal so that it is "legitimate" and, thus, not a "grab" as such. If these conditions are not met, a land grab could be said to have taken place. These principles include: (1) primacy of the local/indigenous peoples,[2] (2) valid consent, and (3) non-coercion. The following section expands on these principles, which must be observed in order for a deal to be legitimate.

Primacy of the Locals

This first principle places locals at the centre of a potential transaction and underscores the thinking that the overall interests and welfare of the locals whose lands are sought after are pre-eminent throughout the land acquisition processes. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly in September 2007, outlines the internationally recognized rights of indigenous peoples. It calls for the protection of indigenous peoples' cultural heritage and manifestations of their cultures, as well as the maintenance and strengthening of their own institutions, cultures, and traditions, and the pursuit of their development in accordance with their own needs and aspirations. This includes their full and effective participation in all matters that concern them and their right to remain distinct and pursue their own visions of economic and social development. The convention's Article 45 indicates that the rights in the Declaration are "the minimum standards for the survival, dignity and well-being of the indigenous peoples," and do not in any way limit greater rights (UNDRIP, 2007).

The declaration reflected "the commitment of the UN's member states to move in certain directions", and established the primacy that should be accorded indigenous peoples in matter concerning them. The convention clearly states that this is "the obligation of states to protect or fulfil" (UNDRIP, 2007: Art. 22(2)). In other words, governments and other interested parties must assign "primacy to the local" — privileging, listening to, and being guided by "voices from below", who are on the receiving end of such radical developments as land use reforms. Giving greater importance to locals' interests not only entails the prompt payment of adequate and commensurate compensation, but also requires an examination of the impact of such acquisitions on the sociocultural and economic development of the would-be-displaced locals with a view to dealing with their future needs and fears associated with the land to be acquired. Particularly important in this context are issues of survival, food sustainability, and livelihood support, which are often adversely affected or even totally destroyed by the outcomes of such land dispossessions and subsequent projects (Nolte, 2013). This of course, is without prejudice to the entitlements of the investor(s) which should also be clearly established.

A principle of indigenous primacy resonates with other norms of investor behaviour. Corporate social responsibility (CSR) approaches stress the investors' responsibilities towards host societies' welfare. Another compelling framework is Li's (2011) "human rights approach". This approach has "the potential to get closer to the structural dynamics of impoverishment" (Li, 2011: 292). Through this process, the institutions with vested interests in such lands are required to think more broadly about the overall implications and impacts of the deals, especially on livelihoods of both current and future generations, rather than focusing narrowly on the technicalities of a particular deal (Stephens, 2011; Li, 2011). Yet,

this is a standard that is almost never adhered to in land deals in Africa. As Nolte (2013) aptly reveals, often only very little is known about the characteristics and needs of target communities in potential land deals. Consequently, locals' interests were often "tertiary", not even "secondary", in the primacy scale.

In practical terms, giving primacy to the locals means that both investors and government must come to a full understanding and realization of the diverse and potentially dire consequences of the land acquisition for local landholders — economic, social, cultural, political, and spiritual — all of which impact on their survival. Thus, government and investors must consult these locals, understand their needs, aspirations, and fears in relation to the proposed acquisition, and from there make detailed, comprehensive, and adequate efforts to address all those concerns. The first step would be proper consultation of the local populace, followed by addressing concerns through a reasonable commitment to the future survival of the locals when the acquisition is made. For instance, some critical questions to ask in this regard are: What uses is the land put to? In what ways will its acquisition impact on the landholders? How can each of these (impacts) be dealt with in the long term, so that the peoples' survival is guaranteed? Beyond these questions, there must be critical evidence that the concerns are (and will continue to be) dealt with in a sincere manner.

The first principle, "primacy of the locals", is the fundamental and all-encompassing principle from which the other two — "valid consent" and "non-coercion" — derive. In other words, when the locals are truly given primacy and prioritized in things that concern them, their valid consent would not only be sought but there would be no use of force or duress in the process of engagement. However, given their importance, each of the latter principles also merits discussion.

Valid Consent

The second principle for a legitimate land acquisition is "valid consent". It presupposes that before the land belonging to a person, family, or community is acquired, adequate information would be given to the land owner(s), and their informed agreement sought and obtained. For such agreement (consent) to be "valid", it must be prior and exhaustively informed as well as free (voluntary). In addition, the locals must have the capacity to make a free and informed decision. The guide here is the *Indigenous and Tribal Peoples Convention* of 1989 (No. 169), which requires that such consent of locals in all affairs that affect them involve detailed and widespread consultations with them, their free and informed participation in the policy and development processes, prior consultation with them in terms of relocation, and appropriate procedures in a way adapted to their cultures and characteristics. Article 6(a) of the Convention provides that governments shall "consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly".

The International Labour Organization (ILO) (2005: 2) further clarifies that these consultations "shall be undertaken in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures". This means that the consultation procedures should take account of indigenous and tribal peoples' traditional methods of decision-making. This might mean consultations with traditional institutions such as councils of elders, allowing them to find appropriate solutions in an atmosphere of mutual respect and full participation. It goes on to state that "if

an appropriate consultation process is not developed with the indigenous and tribal [*sic*] institutions or organizations that are truly representative of the peoples in question, then the resulting consultations would not comply with the requirements of the Convention" (*Ibid.*: 2).

For there to be valid consent, there has to be proper prior consultation, detailed information on and explanation of the purpose, process, and impact of the acquisition, a proper understanding of these plans and actions by the locals, and the giving of informed, free, and open consent in this regard. Openness would ensure that there is transparency and agreements are not reached in secrecy. Any practice short of this procedure can only lead to consent that is not valid. For instance, a press release by Oakland Institute's executive director, Anuradha Mittal, noted that the organization's research, *Understanding Land Investment Deals in Africa*, "exposed investors who said it's easy to make a land deal — that they could usually get what they want in exchange for giving a poor, tribal chief a bottle of Johnny Walker" (cited in Comstock, 2011). Clearly agreements of this sort do not constitute valid consent, and agreements "should take place with the free and *informed* consent" (ILO, 2005: 3).

Non-Coercion

Non-coercion is the third principle of good conduct in the process of any land deal. From the periods of negotiations to the eventual execution of the project(s) for which the land is acquired, every engagement with the land owner(s) must be such that it excludes any forms of coercion. Byman and Waxman (2000: 9) define coercion as "the use of threatened force, including the limited use of actual force to back up the threat, to induce an adversary to behave differently than it otherwise would." In other words, though coercion relies on the threat of future physical force to influence adversary decision-making, limited uses of actual force may form one of its key components. Coercion is closely related to "duress", a concept in international jurisprudence which refers to "any unlawful threat used … to induce another to act in a manner [they] otherwise would not" (Black's Law Dictionary, 1994: 504). This is a well-known and accepted legal standard in international law which is enshrined in Article 31 (1) (d) of the Rome Statute of the International Criminal Court (ICC).

Land owners must be allowed adequate time and space to take decisions without pressure, intimidation with harm, or actual violence. In other words, even during the process of relocation, not a form of coerciveness should be adopted or witnessed. Even when free and informed consent to the acquisition has been secured, such relocation of the people must be without any form of coercion. However, this principle of non-coercion is frequently violated in the relocation of locals.

These principles of good investor conduct are premised on the internationally recognized rights of local/ indigenous peoples. But these rights are, in practice, often denied them. As Arendt (1962: 298) noted, "[T]he first right, above all others, is the right to have rights". When this "first right" is denied by not giving primacy to the locals' survival, the consequences are often abuses of varied dimensions and violations of layers of rights. The central argument advanced is that a "land grab" is defined in the process, the procedure through which the land acquisition is made. In order for a land acquisition to be legitimate an investor leasing or buying land (as well as the government) must comply with these minimum international standards on respect of the rights of local peoples. Doing so would mean ensuring that the identified principles are strictly adhered to avoid the abuse and violation of the locals.

External Drivers of the Land Acquisition Dynamic

Present-day land acquisition developments were triggered by a convergence and critical nexus of global human-environmental factors, namely the fuel (energy) crisis, the food crisis, and the financial crisis: the "3F crises nexus" or what Stephens (2011) aptly dubbed "the perfect storm". We will next consider these three crises as drivers of land acquisition in Africa.

Fuel (Energy) Crisis

The most important factor of this "3F crises nexus" is the drive for biofuels — cheaper, cleaner, renewable, and "more reliable" energy — by many countries aiming to shift from fossil fuel to biofuel consumption. Advocates of biofuel use stressed the need to develop these alternative energy sources that could overcome the "peak oil" problems that often result in unstable oil prices, achieve higher levels of energy security, and at the same time, limit greenhouse gas emissions and the incidence of climate change through "greener" fuels. Indeed, the great rush towards biofuels has been a direct result of global factors, such as European and North American countries' policies of mandatory renewable biofuel targets for their domestic energy supplies (Anseeuw *et al*, 2012a; Stephens, 2011; Lonza *et al*, 2011; Arezki *et al*, 2011; Brüntrup, 2011; Deininger *et al*, 2011; Friis and Reenberg, 2010; Daniel and Mittal, 2009; Cotula *et al*, 2009). For instance, the European Union has set a target of 10% of transport fuels being biofuel by 2020, while the US is to use 36 billion gallons of biofuels by 2022, and India's 20% ethanol mandate in 2017. Meeting these biofuel targets will require even greater production, and associated land acquisitions (FoEI, 2010).

Biofuels development, particularly the production of ethanol and biodiesel from agricultural crops and feedstock, has been specifically in pursuit of three clear global objectives: (1) migrating to a cleaner and cheaper transport fuel supplement to mitigate climate change; (2) expanding the fuel energy resource mix; and (3) fostering rural development in target societies (Fischer *et al*, 2009: 30). Indeed, the perceived importance of these three objectives has seen biofuels touted prominently on the international agenda. The United Kingdom is the biggest investor in biofuel production in Africa, and is followed by the United States, India, Norway, and Germany (Kosciejew, 2011).

Food and Agriculture Crisis

The second most significant reason for the rise in land acquisitions is the fear of food insecurity. In other words, lands are being acquired so as to ensure food security for countries whose capacity to produce enough food for their citizens have been greatly compromised either due to lack of arable land or the exigencies of climate change (Anseeuw *et al*, 2012a; Arezki *et al*, 2011; Brüntrup, 2011; Deininger *et al*, 2011; Odoemene, 2012; Friis and Reenberg, 2010; Daniel and Mittal, 2009; Cotula *et al*, 2009). The phenomenon of land acquisition in the world intensified with the 2007–2008 global food crisis, in which world commodity prices rose precipitously, sparking fears among many net food importing countries about the security of their food supplies. Many of them sought food investment opportunities elsewhere to ensure some level of food security in their home countries. Thus, the food produced by these countries' agents on African farmlands is specifically meant for export or repatriation back to the investor countries, not for 'domestic consumption' in the

host African country (Friis and Reenberg, 2010). Important investment players in this regard include India, Libya, Saudi Arabia, and the United Arab Emirates (Kosciejew, 2011).

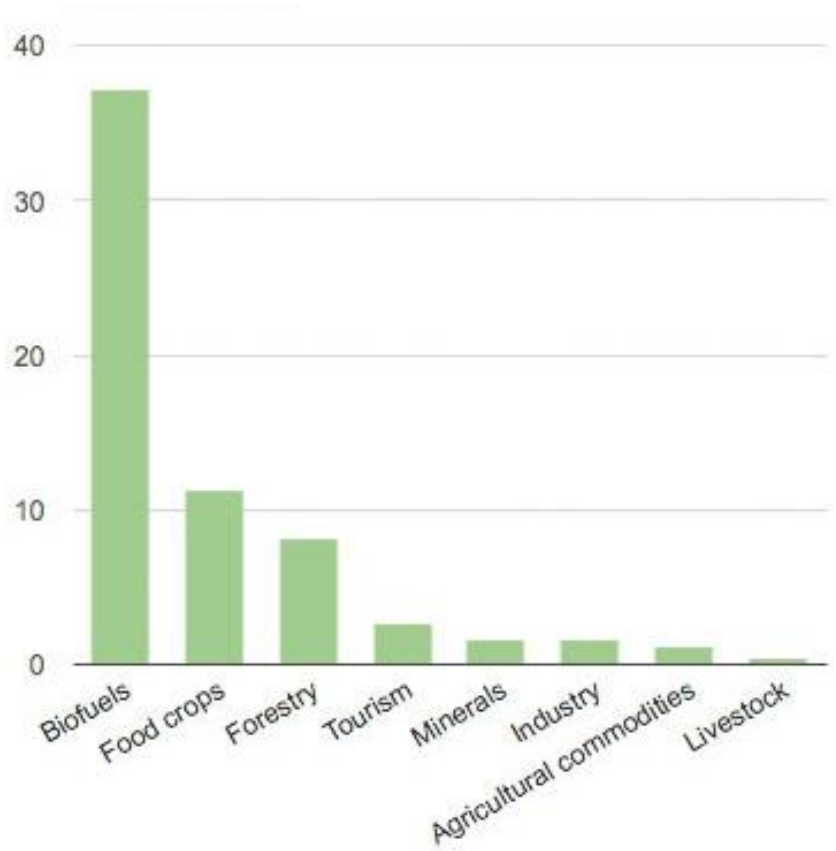

Figure 2. Global land acquisitions by sectors (in millions of hectares)
Source: Land Matrix, 2012

Financial and Economic Crisis

Beyond the fears of food insecurity and the need for sustainable biofuel energy sources, a third important factor is pure speculation — land speculation — from which the aim is neither food nor fuel (energy) security, but profits and high returns: either from increasing land values or short-term land exploitation. This came about after the 2007–2008 financial (and economic) crisis, which also had a dramatic impact on food prices. As Ghosh (2010: 72) has aptly argued, the two (financial and food crises) should not be treated as discrete from each other, but rather be seen as very well connected. When the financial (and economic) crisis hit the US, causing a series of collapses in its housing and derivative markets and equally having a ripple effect on the world, "investors were left searching for new areas in which to channel their funds" (Stephens, 2011: 4). The agricultural sector was, thus, "rediscovered" by multiple actors as a reliable investment destination (Deininger *et al*, 2011: xxxii).

As the sharp upward trend in commodity prices increased returns on investment in production, as Cotula and Vermeulen (2009: 1237) have noted, there emerged a great interest by numerous investors in owning land or shares in companies that are involved in the production end of the value-chain (Stephens, 2011). Financial investors' attention was drawn to the profit opportunities presented by cheap, "available" land in the developing world

— a development that eventually led to an all-time surge in land purchases across the African continent. Indeed, George Soros, the US billionaire and investment expert, unequivocally expressed his conviction in June 2009 that “farmland is going to be one of the best investments of our time” (GRAIN, 2012a: 121).

Because of these three crises, transnational corporations, global banks, world players and wealthy (but resource-poor) countries, including Western democracies, and other emerging powers began to acquire African agricultural farmlands (Kosciejew, 2011; Agbu, 2011). Farmlands being used by local smallholder farmers in Africa for subsistence (basically their own food, family needs, and livelihood) are sold and converted into big businesses and capitalist investment opportunities, in order to secure food and energy production for their citizens and clients elsewhere and/or to increase and maximize profits for their businesses and investments (Kosciejew, 2011). The changes in these international contexts engendered a change in corporate investors, causing them to overlook the three important principles that are backed by international conventions.

Internal Factors of Exacerbation

In addition to the external (global) drivers of land investments, there were other domestic factors (internal to Nigeria) that further increased the rate of land acquisition. In this section we will consider these factors, and thus move from a discussion about the general drivers of land investments globally to a discussion of the local Nigerian context. These factors were often the key determinants that set the stage at the domestic/national level for the violation of the three principles of good conduct previously discussed — these factors exacerbated the likelihood of there being no valid consent, of there being coercion, and of there being non-compliant treatment of indigenous peoples. In other words, they created a permissive environment in which the three principles of good conduct are likely to be abrogated and thus gave rise to a high likelihood that a land acquisition will be a land grab. These three internal factors were often government-related: (1) agricultural development paradoxes and remedies; (2) ineffectual rural land claims and the contentious land law; and (3) corruption, weak governance institutions, and high poverty levels.

Agriculture Paradox and Remedies

The first of such internal factors has to do with the government's failure to modernize agriculture in the country despite its agricultural potentials and wealth — and thus, the turn to the private sector (Mustapha 2010). This resulted in an 'agricultural paradox', as agricultural development stagnated and Nigeria became one of the largest net food importers in the world.[3] Nigeria once depended on agriculture as its main source of foreign exchange, especially since the late colonial period when agriculture accounted for 60–70% of total exports. Although this was attained through complete reliance on small scale farming and farmers (Auta and Dafwang, 2010: 138), general development activities were undertaken to modernize the agricultural sector (Adekanye *et al*, 2009: 6; Piñeiro, 2007). At independence (1960), Nigeria was not only self-sufficient in agricultural production, but was a net food exporter (Daramola *et al*, 2007). In addition, experiments with new agricultural activities such as "farm settlements" and "nuclear plantations" in Western and Eastern Nigeria respectively were highly successful and rewarding, and were acclaimed nationally and internationally as revolutionizing agricultural production (Korieh 2010; Ukaegbu 1974; Olayiede and Olatunbosun, 1972; FAO, 1966).

However, the first 'food shocks' came with the Nigeria–Biafra (civil) war (1967–70) and, from then on, Nigeria began to experience chronic food deficits (Sano, 1983). The emergence of crude oil as a key export further exacerbated the agricultural crisis through the 1970s, and the eventual overdependence of the economy on oil revenue led to a dramatic neglect of the agricultural sector (Daramola *et al*, 2007). For instance, between 1970 and 1974 agricultural exports as a percentage of national total exports fell from about 43% to slightly over 7% (*Ibid.*). This led to drastic increases in food imports, so much so that by the end of the 1970s the level of food imports was about 15 times higher than at the beginning of the decade (Ogen, 2007). This situation worsened in the 1980s and 1990s. Whereas agricultural exports in 1960 accounted for three-quarters of the value of total exports, they fell to 2.4% in 1980 (Hans-Otto 1983: 20) and 2% by 1996 (Daramola *et al*, 2007). In contradistinction, petroleum exports moved in the opposite direction from a level of 2.7% of total export value in 1960 to a level of more than 95% in 1980 (Hans-Otto 1983:21) and about 82% by the end of the 1990s (Katz *et al*, 2004).

On account of the oil industry, therefore, and also due to an unfortunate legacy of years of misrule, corruption, and ineptitude, the country's agricultural sector was largely abandoned — still largely driven by peasant farming with simple tools, with farmers who do not have the capital for mechanized and commercial farming or the ability to raise sufficient credit from banks. Yields stagnated, investments in infrastructure were redirected, and rural communities slid into poverty. Again, the structure of domestic demand for food and agricultural products was altered in favour of imports of grains, beverages and vegetable oils, and fibres[4] of which Nigeria was once reputed as a leading world producer (Odoemene, 2013). In order to halt the food crisis which the country faced, different administrations have tried to put a series of programmes in place aimed at achieving self-sufficiency and improve agricultural production in the country. Unfortunately, the plethora of all these agro-development initiatives from the early 1970s to the mid-2000s were colossal failures due to the ill-preparedness of their initiators and high-level corruption (Korieh, 2010; Daramola *et al*, 2007; Joseph 1978; Forrest 1977), as well as a disconnection between successive agricultural policies and their efficacy (Abubakar, 2010: 12).

It was not until after the return to civil rule in the country (1999) that the government — led by the "farmer-turned president" Olusegun Obasanjo — began a period of "new thinking" for the agricultural sector of the country. For this administration, "agriculture in Nigeria" would have to transcend the subsistence, peasant agriculture, and smallholder farming models to become "agribusiness". Launched in 2001, one of the strategies of the "New Nigerian Agricultural Policy" entailed "creating a more conducive macro-environment target at stimulating greater investment by private sector in the agricultural sector" (FMARD, 2001). The key components of government's incentives to support new investors in agriculture (since 2001) include:

1. new fiscal motivations to encourage domestic import substitution;
2. removal of restrictions on areas of investment and maximum equity ownership in investment by foreign investors;
3. no currency exchange controls — free transfer of capital, profits and dividends;
4. constitutional guarantees against nationalization/expropriation of investments;
5. zero percent (0%) duty on agricultural machinery and equipment imports;
6. pioneer tax holidays for agricultural investments; and
7. duty waivers and other industry related incentives e.g., based on use of local raw materials, export orientation etc. (Adesina, 2012).

In pursuit of the same policy, government stopped "treating agriculture as a development project", but has begun, instead, to treat it "as a business" (Adesina, 2012). This has great implications, especially in terms of attracting new investments, as well as for land acquisition, access, and use. Thus, a primary component of this development initiative was the desire to attract agro-investors, or to "import farmers" with the necessary investment capabilities — funds, technology, and expertise. The claimed intention and hope of the government and other advocates of this development alternative is to jump-start Nigeria's moribund agricultural sector and transform it into a commercial and mechanized one (Borzello, 2005). In this way, they argued, agriculture would become one of the backbones for and bulwark of Nigeria's economic growth and development. According to Nigeria's

Agriculture Minister, Dr Akinwumi Adesina, who is championing such agricultural investments:

> *… we're making agriculture the new oil.… Our first decision was to stop looking at agriculture as a government-run, charitable development program across rural Nigeria. We now treat agriculture as a business. Government's role is simple: to create the enabling environment, policies and incentives for a private sector-led transformation to flourish. (Koh, 2013).*

Thus, large-scale agriculture, and by implication, large-scale land acquisition, was not really common until 2001, during the Obasanjo administration, which brought about far-reaching reforms. These have been sustained through to the present. Indeed, this shift of emphasis from the local farmers to the attraction of investors in the agricultural sector was one highly controversial reform measure of the "New Nigeria policy" programme (Daramola *et al*, 2007) and remains the single most important swing that triggered incidents of government-driven large-scale land acquisition in Nigeria. But for the government this was strictly a business venture — an alternative development model aimed at rescuing the economy. In other words, to understand efforts to attract agro-investors into the Nigerian agricultural sector, it is important to consider the "agriculture paradox" of the country in failing to modernize this very important sector and the efforts to remedy this situation. But this development did not arise without a heightened interest from foreign investors themselves.

Such external influences could be noticed in the spirit and drive behind the "New Alliance for Food Security and Nutrition". Indeed, this is one other very important but less visible development which underscores external influences on local realities. In 2013 Nigeria decided, alongside Malawi and Benin, to join Tanzania, Ghana, Ethiopia, Mozambique, Côte d'Ivoire, and Burkina Faso as experimental cases for this "New Alliance" which is a partnership consisting of a "Group of Eight" of the most industrialized countries (the G8), African governments, and private companies (including Monsanto, Syngenta, Cargill, and Yara). Launched in 2012 by President Barack Obama, under this "New Alliance" arrangement, 50 million people were expected to be lifted out of poverty over the next ten years through development aid to be offered on the condition that the leaders of these experimental countries refined their local policies in order to improve investment opportunities, thus "catalysing private sector investment in African agriculture" (Jacobs, 2012). The policies in question concern seeds, pesticides, fertilizers, water resources, and importantly, land tenure, as well as any other domain where local practices, if "unreformed", may constrain the investment potentials for agribusiness (Jacobs, 2012).

Ineffectual Rural Land Claims and the Contentious Land Law

The second key internal factor driving large land acquisition deals is the nature of domestic legal structures with respect to land. In many parts of Nigeria, most, if not all rural inhabitants, land owners, and users — farmers, herders, and gatherers — only had insecure legal rights to the land they see as theirs. They lacked written documentations or 'formal' (and as many would argue, 'valid') titles for the lands they claim ownership of, though they clearly had uncontested land rights and security of tenure[5] over what they considered "ancestral lands". Such claims are based on generational inheritance and customary/autochthonous rights of ownership. It is a fact that most of these locals have had

centuries of attachment to such lands, which have been bequeathed to them by their forebears — a process they also look forward to reliving and re-experiencing with their own inheritors and descendants. In some cases, as in the case of nomads and itinerant traders, such claims are not even fixed. This situation of informal claims to rural lands now puts the locals in precarious situations in present-day Nigeria. This is because such claims are, in many cases, not acceptable by the government and its agents, particularly when the land in contention is sought after by the state/government. Prior to 1978 this was hardly a problem as land was generally understood to belong to the rural people whose ancestors and forebears had farmed and worked it for generations.

This radical change was brought about by the enactment of the highly controversial and contentious Land Use Decree (No. 6) of 1978, and annexed to the 1979 Constitution as an "Act" on the eve of the military junta's handover of political power to elected civilians (Ako, 2009: 293–4). The promulgation of this land law marked a watershed in the history of land use and associated relations in the country. Certainly, the Land Use Act was ostensibly designed to nationalize land-holding in Nigeria, and combined with changes in Local Government powers, this law is believed to have shifted the balance of power significantly against the locals/natives and rural communities and their inhabitants. Thus, this law is thought to have facilitated an abrogation and stripping of the customary (or "autochthonous") rights of ownership of communal (and ancestral) lands, removing from local peoples their rights over lands and vested such authority in the federal government (Blench, 2003: 4), which could at will invoke its "right of eminent domain" to compulsorily acquire and pay compensation for land for public purposes and common benefit of all Nigerians (Odoemene, 2013; Land Use Act, 1979).

Contrary to the common perception and understanding of many in Nigeria that the government owns land with reference to the stipulations of the post-colonial land law, the present researcher is of the opinion that land belongs to the people instead. Indeed, the position of the much cited and controversial "Land Use Act" is grossly misunderstood. The Act states that the country's land is "vested in the government which holds it *in trust for the people*" (emphasis mine). Clearly, when one holds something in trust, that which is held does not belong to the trustee, but to the beneficiary, in this case, the Nigerian "peoples".[6] In other words, the government, as a trustee when it comes to land matters, is a mere "caretaker", while "the people" are the real land owners. This is further buttressed by Section 14 (2) (a) of Chapter Two of the Constitution of Nigeria,[7] which clearly states that the sovereignty of the country (Nigeria) "belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority", while the Section 14 (2) (b) states that "the security and welfare of the people shall be the primary purpose of government". In other words, the primacy of the people is very well established in and protected by the constitution and the law.

Furthermore, while government has powers to the extent that it can acquire land for "overriding public interest" as guaranteed under Section 6 of the Land Use Act (1979), and the processes for doing so are equally clearly articulated, these are almost always neglected and not followed through. They include provisions to the effect that the government must compile and pay due compensation to the original occupiers and users of the land (Land Use Act, 1979). It further stipulates that government must then revoke the title of such lands, publish it in the government official Gazette for public notice before it can enter the said

lands (Land Use Act, 1979). The land law also states that when it is a community's farmland that is being acquired by the government, such a community must be provided with an alternative farmland, or appropriate compensation must be given to them. Even when such lands are considered "depleted lands", they do have local/native owners. However, it is evident that there is widespread misunderstanding of the true position of the law on this matter in Nigeria, even among government officials.

This law has been the basis upon which all government-driven land acquisitions in the country have taken place since 2000. It has not only led to the fast-tracking of dubious land deals that meet the definition of "land grabbing", since it provides a pseudo-"legitimate" cover for the government, but also the arbitrary takeover of lands by the government all across the country "for developmental purposes". The land law has equally corrupted many government officials who often take advantage of the country's weak, excessively bureaucratized, and obstructive institutions and the chance created by the land law to acquire lands for their private gains and aggrandizement (Nwaka, 2005). Many of the elite who had access to the state structure have also managed to benefit disproportionately from the Act through it conscious manipulation (Francis, 1984: 5–28). Such corrupt acquisitions by the state are even rife in rural areas where many illiterate natives have been dispossessed and evicted. This contentious land law was the basis on which the government made land grants in the three cases considered below, amongst many others.

Corruption, Weak Governance Institutions, and High Poverty Levels

The third and final domestic factor driving land acquisitions that violate the principles set out above is a context of corruption, weak governance, and higher poverty levels. Certainly, a country's weakened institutions and corrupt governmental systems provide a favourable context for opportunistic investors. Murphy (2013: 5) points out that most of the target countries for large-scale land investments have problematic (weak and/or corrupt) governments, in which case "accountability, transparency and the enforcement of law can hardly be expected". This position is corroborated by the observation of Phil Heilberg, a United States agro-investor, who noted:

> *My view is that you want government to be as small as possible.… Listen, I want to control that ground.… I want a country that's weaker. There's a cost to dealing with strong countries: resource nationalism. People forget that (cited in Funk, 2010: 62).*

It is not surprising that land investors tend to focus mainly on countries with a weak institutional framework in order to maximize their returns on investments (Osabuohien, 2014; Oxfam, 2012; Arezki *et al*, 2011; Deininger *et al*, 2011). Complicit, corrupt, and rent-seeking leaderships and a "predatory" local elite, together with broken, inefficient, and weak governance institutions and poor and ineffectual land policies make situations in many countries even worse.

Another factor that has aided the rapid land acquisition in Nigeria is the level of impoverishment of the population and particularly indigenous peoples, who also are often politically weak and lack a voice. Despite high economic growth — one of the world's highest rates, averaging 7.4% over the last decade (*Africa Economic Outlook*, 2012) — a well-developed economy, and plenty of natural resources, Nigeria still retains a high level of

poverty, with more than 60% of the population living on below the poverty line (*Ibid.*), especially in the rural areas of the country. In other words, the vast majority of the people lack what it takes even to effect changes in their communities, not to mention petitioning their government to protect their rights and interests in the face of moves to "grab" their natural resources. In the face of such glaring "weaknesses" — of both its governmental institutions and the majority of the citizenry — the Nigerian state would be unable to "stand its ground" and insist on fair treatment, or even on best practices in investment deals.

Types of Government-led Investor Rush for Land and the Implications

In this section, three case studies of government-led LALI in Nigeria will be critically evaluated. In doing so, some valuable new primary evidence on types and processes of land acquisition, based on these local experiences, will be presented. Knowing the enormous potential of agriculture in Nigeria, the paradoxes of agricultural development, the government's commitment to an alternative development paradigm, the vulnerable nature of rural dwellers in terms of land ownership, as well as the interests of the predatory local elite of power, the country exhibits many of the traits that encourage large-scale agricultural land investments. In fact, Nigeria is not only one of the most targeted countries, but also among the prime destinations for such investment. Due to consistent support from the government since 2000, there has been relatively smooth progress with this development over the last decade, except for a handful of instances of resistance.

In this section, the diversity and nature of investments in agriculture in Nigeria and their intersections with land-grab dynamics will be examined. The idea here is to critically interrogate the *processes* and nature of the land deals, thereby highlighting what makes them bad land deals, or "land grabs".

(a) Dominion Rice Farms (Gassol, Taraba State)

Dominion Rice Farms is a commercial rice production entity owned by a United States parent company, the Oklahoma-based Dominion Farms Limited. The farm is located in Mutum Biyu, Gassol Local Government Area of Taraba State, on a 30,000 hectare piece of land — an area the size of 42,000 football fields (Jopke, 2014). The Dominion Farms land deal was the result of intense negations between the Federal Government and the Taraba State Government on the one hand, and Dominion Farms USA on the other hand. The real content of the negotiations between the company and the government officials is unknown in the local community. According to a high-ranking chief in the community, "it was much later, virtually at the concluding part of the deal, that the Gassol Traditional Council was brought in. This was when the deal was about to be sealed" (Galadima, 2014: Personal Communication[8]). In essence, neither the Gassol Traditional authorities nor indigenes of the community were involved in the negotiation of the land deal. Indeed, Jopke (2014) noted that the agreement was shrouded in secrecy: the land acquisition notice issued in May 2012 was oddly marked "secret".

The Emir of Gassol, His Royal Highness Alhaji Idris Y. Ciroma, a chief of third-class grade, opined that the role of his council, as the last authority at the grassroots, was to "sanction what government in its wisdom felt was going to be beneficial to the people and mobilize the latter to give the necessary support and co-operation" (Idris Ciroma, 2014: PC). The Memorandum of Understanding of this public–private partnership was signed in February 2012 (Jopke, 2014; Idris Ciroma, 2014: PC; Dayyabu Gunduma, 2014: PC). The prime fertile land, which is located at the edge of the Rivers Benue and Taraba, was reported to have "laid (*sic*) fallow for decades" by a notable Lagos-based newspaper (Jopke, 2014). On the contrary, a visit to the community by the author revealed that the area is actually well inhabited and farmed by indigenous people who claimed autochthonous ownership of the land through customary rights.

According to the representatives of the local farmers, former President Olusegun Obasanjo, who was intimately involved in helping Burgess to secure land in Nigeria,[9] the Taraba State Governor Danbaba D. Suntai, and their entourage of both federal and state government officials took the company (Dominion Farms) and its agents to Gassol and allocated to the company the land called 'Sector 5', a virgin woodland area (Adamu Shelle, 2014: PC; Yusufu Shehu, 2014: PC). This particular area was difficult for cultivation by local farmers because they lacked the necessary equipment to uproot the trees and clear the land. Dominion Farms would have been able to use its machinery to prepare the land for cultivation. However, it 'abandoned' this assigned portion of land and instead prepared for cultivation another area that is very likely to bring it on a collision path with the community. This is because the current acquisition has resulted in livelihood losses for about 45,000 inhabitants who were being forced to vacate their lands, as well as the depletion of an important grazing area in the region. The land is said to metamorphose into a "Lagos of Cows" during the often critical Harmattan dry season (Jopke, 2014).

Many locals, especially the farmers and herders amongst them, were not happy with this development and never supported it (Adamu Shelle, 2014: PC; Yusufu Shehu, 2014: PC). They insisted that, based on the current land acquisition deal they were aware of, 'Sector 5' is the actual area allocated to the company and not the area the company currently forcibly occupies, including where its station and yard are located. Other complaints abound too. There is the issue of forced ejection, as well as non-payment of compensation. Though the Emir averred that it was the Taraba State government that will pay compensation for the land acquisition, nothing has happened in this respect. Furthermore, some members of the community whom Dominion Farms recruited and trained in Kenya, mostly young people, have since returned home and were yet get their allowances and other entitlements promised them by the company. They are also currently redundant in the community as they have yet to be engaged by the company. Interviews with local residents suggested they had developed heart and/or kidney diseases due to exposure to harmful chemicals, but have received no form of assistance from the company in this respect (Dayyabu Gunduma, 2014: PC; Yusufu Shehu, 2014: PC; Adamu Shelle, 2014: PC).

The community also had high expectations in terms of the economic benefits and agricultural development that this land deal with Dominion Rice Farms would afford them because of their experience with the previous land deal with the defunct Upper Benue River Basin Development Authority (UBRBDA), to which respondents frequently made reference, comparing the two deals. Under that previous arrangement, the land was cleared and parcelled out to local farmers, who managed it after undergoing training in modern farming methods and maintenance. It was these farmers who cultivated and planted the land with the supervision of UBRBDA officials. The farmers paid some stipulated amount of money regularly into the coffers of the UBRBDA after every harvest. This was an example of socially inclusive indigenous enterprise and "the local farmers benefitted from such an arrangement" (Yusufu Shehu, 2014: PC; Dayyabu Gunduma, 2014: PC). Thus, the community expected the new company to operate on a similar model as UBRBDA and even make progress beyond that legacy.

As Dominion Farms expected some resistance from the people, it employed the services of armed policemen, who stood guard while the land was being prepared. As Musa Galadima (2014: PC) noted, "for starting its operations in this way, the company is only living up its

name, 'dominion', by coming to dominate us through the use of force." As a result, there is clearly widespread resentment and even antagonism by the community towards the company, as well as lack of trust in its operations. There were suspicions by many in the community of connivance between government officials and some local authorities with the company's agents to short-change the community and its people. Many of them questioned why government authorities were silent over violations of the land-deal agreement. The people seemed to be waiting for the compensation that government and company officials promised before they know the next step to take in asserting their rights over the land.

From this account it is clear that there were problems with the process of this land deal. Neither the leaders of the community nor other members were ever consulted. The community's leaders were only approached to "rubber stamp" the deal, which the Emir noted was expected of him by the authorities and which he duly carried out. But one doubts if such an agreement satisfies the requirement for valid consent. Furthermore, because the people's economic and agricultural expectations from the land deal were not met, this caused apprehension in government quarters, leading to the deployment of security forces. The use of security forces is a clear case of intimidation and violates the principle of non-coercion.

This particular land deal violated each of the principles of good conduct: there were no consultations with the people, no valid consent was sought or received, and the local people were intimidated into acquiescence with security forces. In all, one could argue that the locals were not given primacy in this deal, which was instead concluded with the government (both national and state) on the one side and Dominion Farms on the other side. As such, this agreement meets the definition of a land grab.

(b) Wilmar International Farms (Ekong-Amaku, Cross River)

Oftentimes, land deals also exhibit complex interactions between local elites (both within and outside of government) and investors, companies, and organizations. One such case is the experience of the Ekong-Anaku rural community in Akamkpa Local Government Area of Cross Rivers State. The community lies in one of the country's few remaining tropical rainforests, which is located in the south-eastern part of the country. Due to the importance of this ecosystem in the country's environment, many conservation groups and the federal government wanted some sections of the rainforest lands conserved as a reserve (GRAIN, 2013). While indigenes were keen for the extra protection against illegal logging, and thus interested in the idea of 'conservation', they were nevertheless worried about losing access to the hunting, foods, and medicines the forest provided them and to lands that they farmed and which the future generations would direly need (Orok, 2014: PC; GRAIN, 2013).

In 1992, the locals (indigenes) of Ekong-Anaku village entered into a written agreement with the state government that allowed for the conservation of 10,000 hectares of their traditional forestlands — Ekinta forest — into a reserve. This was done in exchange for the government's provision of programmes for agroforestry and rural development, as well as access to credit for small farms and businesses (Orok, 2014: PC; GRAIN, 2013). However, the government's promises were not followed through. Ten years after the handover of the forestlands for conservation, the governor of Cross River State, Donald Duke, gifted ("dashed", in Nigerian parlance) the same lands — a public property of the Ekong-Anaku

rural community — to Olusegun Obasanjo, the country's serving president at the time. This questionable act was undertaken without the community's knowledge. As Orok pointed out, "[T]hey never consulted us, not even the local chiefs," leading to a feeling of betrayal (Orok, 2014: PC; GRAIN, 2013).

President Obasanjo then bequeathed the gifted lands to his farm, the Obasanjo Farms, which planned to convert the large expanse of forestland into a large-scale oil palm plantation but lacked the capacity to do so. Thus, he turned to an outside investor, Wilmar International, with whom he entered into an undisclosed deal.

> In 2011, having acquired the lands for free and invested very little of his own money, Obasanjo turned around and sold the lands to Wilmar International … The locals say that Obasanjo's company was paid millions of dollars under the deal (GRAIN, 2013).

Upon discovering the deal, the Ekong-Anaku village-community resisted the transfer of the land. Their resistance eventually exposed the deal publicly and attracted international attention to the situation. However, Wilmar International soon set up a subsidiary in Nigeria, established a large oil palm nursery, and started clearing the lands for planting (GRAIN, 2013), since, as it claimed, it had acquired the relevant clearance and approval from the government to do so (Frederick Ogan,[10] 2014: PC; Orok, 2014: PC; Oyama, 2014: PC). Wilmar International, a conglomerate based in Singapore, is the largest palm oil trading company in the world, accounting for about 45% of all globally traded palm oil (*AlimenTerre*, 2014; Colchester, 2011; *Forest Peoples Programme,* ND), as well as one of the world's largest palm oil plantation owners and the largest palm oil refiner in Indonesia and Malaysia (*Wilmar International*, ND). It is also the largest supplier of edible oil to China (*Forest Peoples Programme*, ND). Valued at $17.9 billion USD, the company, through a raft of subsidiaries, holds a "land bank" of over 600,000 hectares and is currently expanding its operations into remote Africa (*AlimenTerre*, 2014; *Forest Peoples Programme*, ND). The Ekong-Anaku village land deal is one such example of expansion.

In terms of financing, Wilmar International's assets are financed by shareholders, bank loans, and short-term trade finance from across Europe and America. Several major bank loans and bond issuance were granted to the company by major and established financiers from these continents.[11] International pension fund groups also play an important role in the financing of Wilmar International.[12] To put things in perspective, as of year 2012, European and U.S. financial institutions owned about 4% of Wilmar's shares, with a value of €621 million, while pension fund administrators from the same geographical areas held €55 million of the company's shares (FoEI, 2013; van Gelder and de Wilde, 2013). Similarly, by the end of 2012, shareholders from Europe and the United State financed 34.2% of the company's assets (*Ibid.*). Interestingly too, Wilmar International has equally received substantial support from the World Bank's private sector arm, the International Finance Corporation (Colchester, 2011; Oxfam*,* 2011; *Forest Peoples Programme*, ND). Such was the power of the foreign conglomerate which the Ekong-Anaku community was up against. Unfortunately, the government support so critically needed in such a crisis was with the foreign company; not with the local community.

With the support of the Rainforest Resource Development Centre (RRDC), a civil society organization based in Calabar city, the Ekong-Anaku villagers started an effort to reclaim their lands. This was on three different fronts: (1) the government, (2) Olusegun Obasanjo

(in his capacity as a 'private person', not as the country's president, though with enormous powers), and (3) Wilmar International. Their contention was that Wilmar had no valid claim to ownership of the lands in question since they were "never Obasanjo's to sell" (Orok, cit. GRAIN, 2013) as he never owned them in the first place. They hinged their arguments on valid documents which the community signed with the state government which made clear that the lands truly belonged to the local residents (Oyama, 2014: PC; Orok, 2014: PC). Thus, it was illegal for the government to have gifted what it never owned, doing so without the permission of the rightful owners. In other words, Wilmar merely "bought" what was misappropriated, and "[I]f you buy something stolen, then you cannot say it is yours" (Orok, cit. GRAIN, 2013).

By contrast, Wilmar International hinged its ownership of the lands on the argument of "legitimate purchase" from Obasanjo. The company did not engage the claims made about the land acquisition controversy and refused to negotiate with the community. However, it continued its operations on the lands. This position was what led the RRDC to make a formal complaint regarding the conduct of Wilmar International to the Roundtable on Sustainable Palm Oil (RSPO). Oyama (2013: PC) noted the grounds of the complaints to RSPO, of which Wilmar International has been a member since 2007, to be:

1. failure to reach an agreement with the landlord community;
2. unlawful acquisition of the community's traditional lands, earlier conserved by the government;
3. lack of commitment to openness and transparency; and
4. failure to comply with applicable municipal laws and regulations.

However, Oyama (*Ibid.*) also noted that, despite this formal complaint, neither Wilmar International nor the RSPO addressed specific complaints that the RRDC raised about the illegal, abusive, and contentious activities of Wilmar International with respect to the acquisition and use of Ekong-Anaku community's traditional lands. As a matter of fact, the RSPO, based on the strength of government's approval and clearance of Wilmar International's operations in the community in consonance with the 1979 Land Use Act, agreed that "Wilmar has complied with national legislation" (*Wilmar International*, 2013) and thus issued the group "approval to proceed with its plantation development" (*Ibid.*). Regardless of this development, which actually emboldened Wilmar International, the Ekong-Anaku locals believed their claims to the lands were on solid grounds, and promised a legal action against their adversaries if their demands were not met through dialogue (Oyama, 2014: PC; Orok, 2014: PC). These acts of activism by the agitators led to several acts of intimidation and threats on the lives of the community rights protestors (*Ibid.*).

In contemporary society, the Ekong-Anaku indigenes faced economic difficulty, particularly due to the lack of farmland for subsistence food production. Land thus became critical for their day-to-day survival. According to another representative of the community, Patrick Chi, "We need land now; our village is starving" (cit. GRAIN, 2013). An Ekong-Anaku indigene who is a community rights activist in Calabar city, elaborated more on this issue:

> *How would our children go to school? What would we be doing for a living in this unfortunate circumstance, to get some money to pay for the school fees of my children and to attend to some other needs? If you take away our lands without*

> *giving us any reasonable alternatives, you sentence us to death. No one — not the government, not the king, and certainly not the Wilmar foreigners — has the right to do so. We have the right to food, the right to decent livelihood, and the right to survival in our own ancestral land. These are God-given rights and are unconditional and inalienable (Grace Enyonga, 2014: PC).*[13]

Evaluated against the principles of good conduct, this Wilmar International land deal crisis case is quite instructive. The case typifies the nexus between official corruption of the elite and the LALI dynamic in Nigeria. The first thing to note is that in this fraudulent process of land acquisition, the overall interests of the people of Ekong-Anaku were sacrificed in the interest of prebendal politics — the dynamics of the patron–client relationship between Obasanjo (the president) and Duke (the governor). It was this relationship that accounted for the "gifting" of the contentious lands to Obasanjo. Based on the written agreement with the local community, the land was in the locals' possession and could not be "gifted". Furthermore, the "clearance and approval" secured by Wilmar International for operation on the lands were issued by both the federal and state governments, which were complicit in the deal.

This case demonstrates clear violations of the principles of legitimate land acquisition. First, the consent of the people of Ekong-Anaku was never sought before the land was gifted to Obasanjo, and eventually sold by him to Wilmar International. In fact, awareness of the deal only arose after representatives of Wilmar International began appearing on the land. There were also cases of subtle intimidation by the state government and Wilmar International through several official invitations and incessant phone calls made to local activists, intended to pressure them to back down over their campaign of mobilization, agitation, and protest (Oyama, 2014: PC; Orok, 2014: PC). For instance, one of these leading agitators, Odey Oyama, described several instances of official intimidations and threats to his life (Oyama, 2014: PC). Finally, the refusal by Wilmar International to engage with the local people's advances for negotiation on the lands indicates that primacy was not placed on the local residents and their welfare. Given the failure to adhere to the principles set out above, this deal qualifies as a land grab, and a clear example of government leadership in such problematic land acquisitions.

Other observers have challenged Wilmar International over their track record. The company has been widely criticized for failing to adhere to the law, for the takeover of communities' lands without proper consent, for the clearance of forests without prior environmental impact assessments, and for illegal burning (*Forest Peoples Programme*, ND). Similarly, there are numerous land disputes between Wilmar International subsidiaries and local communities, as well as conflicts over the way it treats smallholders for the loss of food crops and forests and the environmental destruction caused by its operations (*Forest Peoples Programme*, ND). Based on this range of critiques, in 2012 the Rainforest Foundation Norway team and the Norwegian Government Pension Fund Global (GPFG) denounced Wilmar International for unsustainable palm oil production and responsibility for tropical deforestation and environmental degradation of the areas of its operation. By the end of that year, the GPFG divested its investments in Wilmar International by more than 40% (*AlimenTerre*, 2014; Lang, 2013).

(c) Shonga Farm Holdings (Shonga, Kwara State)

The Shonga Farms project in Nigeria started with the inauguration of Dr Bukola Saraki as the Executive Governor of Kwara State in 2003. He had promised in his inaugural speech that one of the priorities of his administration was agricultural development (Nnabuko and Uche, 2011). This was perhaps not surprising given the fact that there was a dire need of expertise in the country's agricultural sector despite the fact that the state is endowed with plenty of arable land, and agriculture has always been the people's main economic activity. Zimbabwe's controversial land redistribution crisis since 2000, which saw the dispossession of hundreds of white commercial farmers from farmlands previously forcibly taken away from the black locals, provided a unique opportunity for Saraki to actualize his dream by inviting the experienced farmers to come to his state. Many of the white farmers had relocated to other countries in Africa, including South Africa, Zambia, and Mozambique (Mustapha, 2011; Saraki, 2011).

In April 2004, Saraki began efforts to encourage some of the Zimbabwean farmers to emigrate to Nigeria. The stated aim of this venture was to harness the expertise of these farmers in order to jump-start Nigeria's moribund agricultural sector, and transform it into a commercial and mechanized one. Saraki hoped his state "will be the backbone for Nigeria's agricultural drive" (Borzello, 2005), and his unprecedented move received presidential support from Olusegun Obasanjo. In 2005, 15 members of the Zimbabwe Commercial Farmers Union arrived in Nigeria for business. Soon after, they were settled at Shonga, a one million resident semi-urban area located in Edu Local Government Area, and about 110 Kilometres (68 miles) north of Ilorin, the Kwara State capital. The new farmers were encouraged by the Governor to acquire any part of the 17 communities in Shonga for cultivation (Ademola et al, 2013).

The terms of the Memorandum of Understanding (MoU) between the Kwara State government and the Zimbabwean farmers committed the State government to the provision of choice land, loan facilities (funds), tax and duties exemptions, and many more (Odoemene, 2012; Mustapha, 2011; Nnabuko and Uche, 2011). The government initially allocated almost 200,000 hectares of choice agricultural land of indigenous farmers, right next to the River Niger in Shongaland, to the Zimbabwean farmers. This was not only almost twice as much as the farmers had asked for, but the government also promised to provide further land if required (Hofstter, 2004). These land grants were of 1,000 hectares to each farmer on a 25-year lease (Adewumi et al, 2013). The Kwara State government offered the farmers as much land as they needed for their agricultural business (Nnabuko and Uche, 2011).

Despite the fact that the whole development was supported by the state with public funds, the details of the agreement were not disclosed, nor was the process transparent. Similarly, at no stage were the locals of Shongaland or their representatives contacted or brought into the negotiations for this land deal (Isaiah Ayodokun, PC). The land grants were unilateral actions by the governor who merely invoked, albeit erroneously, the provisions of the Land Use Act which vested his office with the sole right to determine what, where, and when any landed property could be given out and to whom. This reference to the Land Use Act neglected the obligation to consult with the landholders. The fiscal relationship between the Kwara State Government and the new farmers was of great concern to critics of the project.

It was, for instance, alleged by many critics that the entire project was a façade designed for the benefit of Saraki and his family (Nnabuko and Uche, 2011; Isaiah Ayodokun, PC). Iyiola Oyedepo, a lawyer, former Commissioner for Agriculture in Kwara State, and vocal critic of the farm project, described it at public fora as a huge fraud:

> *The foreign farmers came to the state without any form of capital to set up a farm business in Shonga … the government had to do everything for the farmers, including paying compensation on land acquired by private businessmen … The whole arrangement is a fraud. If a foreign investor is coming to any country, they ought to come with their capital. This would include their resources and skill. But I know that these people did not come to Kwara with any capital. Anything you find in Shonga farm today was paid for by the state government.… That is why I say the arrangement is a fraud, and the truth would become clear when Bukola Saraki vacates power (Tell Magazine, 2009: 23).*

Specifically, the greatest concern of local inhabitants was the belief that the new investment may jeopardize their sole source of livelihood for many years (Attah, 2013). Indeed, the land deal and appropriation drastically reduced the area available to the local farmers for their rotational bush fallowing — the main feature of their farming system. The deal also reduced the rangeland available to both settled and nomadic pastoralists who used the land for livestock grazing (Ariyo and Mortimore, 2011). Undeniably, the question of access to farmland, grazing fields, and water resources became a problem for many of these locals.

In contrast, however, during a courtesy visit of the Zimbabwean farmers to the presidential state house, Obasanjo declared to them that: "[T]here's no need to worry about land, you'll get a 'C of O'[14] of up to 99 years leasehold. The question of farmland is no problem here" (*Zimbabwe Crisis Report*, 2005; Odoemene, 2013: 266). Similarly, Governor Saraki also used strong language in defence of the Zimbabwean farmers' presence, declaring that "*their land* will not, never ever, be repossessed in the future" (*All Africa News*, 2005), as had been the case where they originally came from. Understandably, this was a worrisome signal to the local populace in Shonga.

In terms of financial compensations, it was reported that a total of $58,000 USD was paid as compensation to 1,990 out of the 2,771 local people who were affected by the land appropriation.[15] The remainder of about 781 affected people did not receive compensation because, according to officials in the State Ministry of Agriculture and Natural Resources, "their claims were questionable" (Ariyo and Mortimore, 2011: 13). Similarly, an agricultural incentive package amounting to $73 USD *per* hectare for land preparation, for up to a maximum of one-third of the land area lost, was also presented to the affected people (Ariyo and Mortimore, 2011). The MoU signed with the foreign farmers contained very little about limits on the new farmers' ability to import labour (Nnabuko and Uche, 2011), thus narrowing the chances of employment of the locals in such a farm.

As dispossession of such a large expanse of land had dire consequences and implications on the original landholders, it is not surprising that it was attended with protests, sometimes violent, by the local people, farmers, and pastoralists (Ariyo and Mortimore, 2011). As was variously reported, resistance and protest by the dispossessed peasant farmers over the takeover of their lands was met with brutal suppression from anti-riot police and other law

enforcement agents who were deployed by the state. In the process, some of the natives were killed, many maimed or injured, and many sent to prison, thus forcing the local peasants into acquiescence (Attah, 2013; Elombah Perspective, 2010). Similarly, the government established a police station within the commercial farm area at the height of the locals' agitation, and created buffer zones around each village within the areas appropriated to the white Zimbabwean farmers, in this way restricting the movement of the peasants beyond the demarcated zones (Attah, 2013).

Mustapha (2011: 542; 2010) and Hofstter (2004) also noted that government officials admitted that some 400 families and 1,289 local farmers in 28 communities of Shongaland were forcibly uprooted against their will from their ancestral lands and farms to make way for the invited Zimbabwean farmers. This was despite protestations and resistance by the people (Odoemene, 2012). The government claimed that 75.3% of total land area in Kwara State had been found arable and suitable for almost all types of food crops, and only about 11% of this proportion was being cultivated by smallholders, with an average farm size ranging between 1 and 2 hectares (Saraki, 2008). If this claim were true, there would seemingly have been no need to relocate the large local population.

The Shonga Farms case, as has been reviewed here, failed the "good conduct" test. All three principles required for a good deal were flagrantly disrespected and abused. A review of the evidence here would indicate that this is a clear instance of a government-led land grab. The government appeared so intent on commercialization of agriculture in the state that it violated common codes of behaviour to settle the emigrant farmers. In the first instance, there was no evidence that the government ever intended to engage the locals about the land deal. There were no known consultations, nor was consent sought. This may be connected to the belief that the state actually owned all lands within its jurisdiction, based on the popular understanding given to the Land Use Act.

Furthermore, there was strong evidence of the coercive stance of the government in handling the land deal, particularly with respect to the takeover of the lands and the removal of locals — both processes of which were forceful and violent. Resistance or protest were met with force by state security and other law enforcement agencies, in the course of which many were killed, injured, and/or maimed, while others were intimidated with prison sentences. This response was an effort to secure acquiescence from the locals, as even government officials conceded. The establishment of buffer zones around each village that restricted the movement of the peasants beyond demarcated zones was a disturbing violation of the non-coercion principle. Given these violations of the principles for a legitimate land deal, it seems clear that locals were not given primacy in this process of land acquisition.

Each of the three cases surveyed in this paper were clear instances of land grabbing. Domestic factors internal to Nigeria were central to these deals: in each the government led the acquisitions in the belief that it owns all land in the country. Oftentimes the deals were carried out with a show of insensitivity to local people's sensibilities and rights, although there were differing degrees in which the principles of good land deals were violated. The Shonga Farms land deal was the worst of the three cases surveyed. Not only were all the principles of good conduct violated, there was also a notably high level of violence in dealing

with the locals. By contrast, the Wilmar International Farms case shows the investors exercising considerable restraint in their dealings with the locals, with almost no violence.

Lessons from the Cases

The first point to note is that the emergence of the new land deal trends in Nigeria began with the start of the Olusegun Obasanjo administration in 1999. This, without a doubt, "marked the emergence of extensive networks of [land] investment agreements in Nigeria" (Aremu, 2005: 12). But this upsurge in land deals is ultimately linked to that government's desire to remedy the broken agricultural sector through new forms of investments that could trigger a revolution in the sector. This was the government's alternative development model that was premised on the development of commercial agriculture (agribusiness) and a move away from the country's over-dependence on the petroleum and crude oil sector.
In considering these cases of land acquisition, it is important to recall that the societies were purely indigenous agrarian communities whose major source of livelihood have always been farming, particularly soil cultivation and, in some cases, fishing — both directly related to the use of land. Thus, to such communities, land and all its allied resources (including water, forest/bush products and vegetation) constitute the pivot upon which their socio-economic and cultural lives revolve. This makes it even more critical for the locals to be taken into confidence when such critical resources could be affected by governmental policy or action. As the case studies showed, such consultation did not occur. One other thing that became clear is that the government and perhaps local authorities claimed to represent the local communities in negotiations, without genuinely representing their interests. This is most evident in the Ekong-Anaku case, where a serving governor made a "land gift" of such magnitude to a serving president. Indeed, these are not unconnected with official corruption, bad and "predatory" governance, the prevalence of weak institutions, as well as the influence of the elite.

The difficulties experienced by the local people in asserting their diverse rights are connected with poverty, ignorance of the legal situation, and ineffectual rural land claims. This is especially so with the Land Use Act (1979) which has been subjected to different and often contradictory interpretations, misuses, and abuses. Law enforcement agencies were often the tools used by the government to give protection to the investors and their facilities and coerce the local rural populace.

Conclusion

Nigeria needs investment, especially in the agricultural sector, which has been broken since the early 1970s. The government might also have the good intention of addressing the problems associated with this critical sector of the country's development. However, the process through which this is conducted — seemingly unregulated investments in farmlands — is characterized by serious abuses. As seen in the set of cases examined, such investments flagrantly contravened the three principles which underline a "good" land deal. This analysis calls for a rethinking of the agro-investment policy in the country, in order to secure the interests of both the locals — who must always be given primacy — and the agribusiness investors, in whose interest it is that only "good' land deals are done so as to avoid resource nationalism, violent conflicts, and possible loss of expensive investments. Upholding the principles for good investment is in keeping with Nigeria's constitutional claim that "the security and welfare of the people shall be the primary purpose of government". Failure to comply with the international conventions embodied in the principles may not be met with enforcement consequences, but can have very serious reputational costs (Guzman, 2008a; Guzman, 2008b).

If these international conventions were respected, or even minimumally upheld, there would be a considerable improvement in the situation for rural Nigerians affected by large land acquisitions. Rethinking the agro-investment model by upholding the principles of good conduct would go a long way to helping secure the rights of both local landholders and agribusiness investors.

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Notes

[1] Regrettably, the other remaining three geo-political zones – south-south, north-east and north-west – were omitted in this study due to the endemic violent conflicts.
[2] The term, "indigenous peoples", is being used here in its broadest sense, that is, as it is used in international law, to include peoples locally referred to as "aboriginal", "native", and "tribal"; people who are still transferring and inheriting lands through the application of customary law. Local communities that represent the focus of this article are inhabited by such "indigenous peoples", who are also often interchangeably referred to as "locals" in this article.
3 Import of agricultural products is 'presently estimated at 3 billion Naira (approximately $20 million USD) annually (Ajayeoba, 2010; Bakare, 2009).
[4] Nigeria has become a major food-importing country since the 1980s. In very recent times (between 2010 and 2012) it spent an average $11 billion a year on wheat, rice, sugar, and fish imports alone (Adesina 2012).
[5] Such security of tenure depended on collective and communal holding by mostly the male members of a society. There were (and still are) strong traditional beliefs of cultural ties between these indigenous peoples and their ancestral lands, and membership of such groups conferred "autochthonous rights" of ownership over such ancestral lands (Korieh, 2010).
[6] This is in agreement with the *Black's Law Dictionary*'s definition of "Trustee" as "the holder of property on behalf of a *beneficiary*" (Black, 1979: 1357).
[7] This Chapter of the Constitution deals with the "Fundamental Objectives and Directive Principles of State Policy".
[8] Personal Communication, hereafter noted in this paper as "PC". Galadima is a pseudonym used in order to mask this respondent's identity for protection.
[9] Obasanjo met Burgess in Kenya. Despite Dominion's very bad records in that country (see: Jopke, 2014; *Jangola* News, 2013), Obasanjo wooed him to come to Nigeria and invest. He described Burgess as "a friend of Nigeria" (*Vangaurd* Newspaper, 2011; GRAIN, 2012b).
[10] This is a pseudonym used in order to mask this respondent's identity for protection.
[11] These include investment management firms Van Eck Global and BlackRock, which together are its largest institutional shareholders. Others comprise more than 26 "choice" global banks and financial houses which also

provided loans, especially as its minor shareholders (*Friends of the Earth International*, 2013; van Gelder and de Wilde, 2013).

[12] In this respect, ABP, *Caisse de Depot et Placement du Quebec*, CalPERS and *Pensioenfonds Zorg en Welzijn* amongst others, are all important shareholders (van Gelder and de Wilde, 2013).

[13] This is a pseudonym used in order to mask this respondent's identity for protection.

[14] "C of O" is a Nigerian common parlance for the "Certificate of Occupancy," which is a legal document issued by the government for any land acquisition, irrespective of any circumstance. It embodies the land acquirer's rights of claim on the said land.

[15] This came to $29 per local farmer for a year for the land, often the only source of livelihood.

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