

## Land and Land Grabbing - Reflections and Questions

Brewster Kneen

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The global epidemic of land-grabbing has elicited considerable consideration, analysis and opposition. In this brief article, I discuss what, in the West, is largely overlooked: how we conceptualize and think about land and our relationship to it. I suggest that it is now essential for us to reconceptualize land not as property and commodity but as something un-ownable and at the same time deserving of our respect and care: Mother Earth.

In 1986, when we quit farming and moved from Nova Scotia back to Toronto, I was struck – shocked even – by the large signs on the edges of farmland on the outskirts of the city advertising ‘development land’ for sale. Having been a full-time commercial farmer for 15 years, the idea of describing farmland as ‘development land’ struck me as obscene. I certainly never thought of the land we were farming in central Nova Scotia as ‘development land’. Nor did I think of it as a marketable commodity, a ‘property’.

We did actually own, and have a title deed for, our home farm of some 200 acres, consisting of woods and creeks, hayfields and pastures. Our relationship to the other 300 acres that we made some use of was considerably more informal or ambiguous: some we simply had use of by verbal agreement with its owner. When he died, we just carried on. We never did know just where the boundaries of that land were. Other land we rented, with the price agreed over a handshake. The boundaries of that farm were identifiable as it was settled early on, as were the boundaries of the neighbouring farm, which we rented from the Provincial land bank after reaching an agreement with the retiring farmer to sell the farm to the Province. (We had to purchase outright about one acre with the house and barn.)

What was particularly notable about the land in this area was that none of it had ever been surveyed. There were no state-verified boundaries, just tradition and neighbourly agreements about fence lines. When we made the deal with the Provincial Government to buy the farm next to the one we were renting, the Government insisted on a survey. But then we discovered that there was no surveyed land – i.e., cadastral mapping – on any land within 20 miles. The only recourse for the government was to accept the agreement between Sam and Alex, the two retired farmers, as to where the boundary line between them was. A steel pin was then driven into the ground, next to the tree that had always been there, to mark the ‘legal’ boundary. A tidy description – so many feet up the fence line, then so many feet westerly, then south, then back

along the road – was worked up to make the boundaries of the lot with the house and barn nice and official. When spring came, it was obvious that one corner was in the very middle of a pasture on the side of a hill and made no sense whatsoever – except on paper. This would appear to make the legal paper and its delineations of greater significance than the lay of the land itself, suggesting that it was the legal paper that was the real commodity, the land itself being just the ‘underlying value’.

The Provincial land bank that the government established did not last long in its initial form. We were fortunate to be one of a few farmers to be able to take advantage of the opportunity to pay an agricultural rent for the land, with no option to buy, making it quite affordable for sheep farming. The mainline Nova Scotia Federation of Agriculture very quickly demanded that the program provide an option to buy. Nova Scotia politics being what they are, the Provincial Government acquiesced, but wisely changed the rental fees to a much higher commercial level, which we would not have been able to afford. The moral, of course, is that when agricultural land is valued as a market commodity, it soon ceases to be agricultural land and becomes ‘development land’.

The real irony in this story, however, is that the change was unnecessary, since at the time there was already a provincial agency, the Farm Loan Board, from which farmers could borrow for a very low interest rate to purchase land. We actually utilized the Farm Loan Board to finance the purchase of the house, barn and acreage. For the Federation of Agriculture, however, it was clearly a matter of ideology, not practicality. Under both the Farm Loan Board and the Provincial land bank program we had security of tenure and could pass that along to our family. We had more security this way, in fact, than many farmers had when they held title to the farm but the banks held the mortgage and could foreclose as they saw fit for failure to make payments. Our rental costs were considerably below commercial mortgage rates.

Our home farm, up in the hills, was not surveyed first nor last, and apart from the gravel road that marked on side of it, we never quite knew exactly what we ‘owned’. One boundary was a meandering creek that shifted its location a bit from year to year. Our neighbours across the creek and ourselves simply recognized that the boundary was somewhere ‘there’.

For us, in all this, the primary consideration was not owning (holding title to) the land we needed to be a viable sheep farm, but having secure tenure at a price we could afford, including the home farm which we did purchase, but at a very low price. When, after 15 years, we sold our ‘holdings’ – livestock, machinery, home farm and barns and the house and barn we had a mortgage on – we certainly did not make a ‘profit’; but that was never our intent. The barns, which I had built, were, in fact, a ‘valueless’ asset, as the new owners had no livestock.

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None of this addresses the question of who ‘owned’ the land in the first place. It was inhabited, sparsely to be sure, by various indigenous peoples for a very long time (“time immemorial”) prior to the arrival of the European colonizers/settlers, but it was the British crown that exercised the authority of granting lands to settlers and territories to commercial interests, such as the Hudson Bay Co. But then we have to wonder who actually defined or demarcated these lands and granted what came to be recognized as legal title, if any? The state and its law, of course, only came to these colonized lands later, after the French settlers had been sufficiently marginalized. When did the concept of land ownership arrive? (Obviously the French and Spanish courts and commercial interests also played their parts in colonizing the Americas and appropriating lands.)

It may appear as something of a great leap from the colonization, mapping and ownership of the Americas to the present era of what is being referred to as land grabs, but it appears that underlying assumptions and judgements have not significantly changed. The major question unaddressed in the growing body of critical discussion of land grabs concerns the nature of land *itself*. What *is* land, what forms do human relationships to land take?

These questions are not considered because capitalism itself is based, in part at least, on commodity trading, however abstract, and the accumulation of what gets defined as property, or capital. To be bought and sold sight unseen, however, every commodity, including land, has to be clearly identified and defined. (Hence the cadastral map which was a prerequisite to the efficient taxation of land and people by the state.<sup>1</sup>) This necessary objectification removes us from any dynamic or living relationship with the commodity. Land ceases, of necessity, to be a living entity, a thriving – or even destitute – community of organisms, minerals and decaying organic matter to which we can relate.

In recent years the scale of land holding and ownership has increased dramatically almost everywhere. While the number of very small peasant farms remains high, small family holdings have grown into larger and larger industrial farms and now giant acquisitions of land for the production of commodities for food and fuel are taking place around the world. The mentality behind the language of land, however, has changed very little. It is not land that is the subject, but a ‘natural resource’, an object subject to the ‘law of supply and demand’, referring to the fact that while land in many places appears to be in limitless supply, it is common knowledge that this is not actually the case: there is a definite, finite ‘supply’ of land, and with increasing demand for land on which to grow food commodities and raw materials for biofuel production, the price can and will be driven up by those individuals, corporations, investment agencies and

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<sup>1</sup> James Scott, *Seeing Like a State*, Yale, 1998

sovereign wealth funds holding excessive wealth looking for a way to further increase their wealth. It all has nothing to do with need.<sup>2</sup>

The relationship of humans to land in western culture is assumed to be fairly simple: land is a material phenomenon amenable to being demarcated, objectified and commodified, its value based on its material contribution to a certain understanding of human welfare – in a capitalist economy, its contribution to human welfare being measured primarily in terms of the profits it provides, or may provide, its owners. These profits may accrue from mining the minerals and organic matter located under or on the surface, extracting the surface nutrients with industrial agriculture, and selling ‘development rights’ or building lots. Large, and very large, profits can accrue from trading and speculating in land as *real estate*.

These superficial and materialist relations to land are neither universally valued nor recognized. There are peoples worldwide that enjoy a very different relationship with the land which they inhabit, meaning the land on which they dwell and to which they intimately relate, as with the non-human inhabitants of the same land. The relationship is not one of possession, but of familiarity, respect, and mutual enjoyment.

*Land holding*, unlike *ownership*, is an ambiguous term which recognizes that there are people or institutions (including corporations) relating to the land in question while inviting consideration of how, and by whom, the land is held, and beyond that, just what the land in question *is*. Yet the term is routinely used as if it meant formal *ownership*, conveyed by legal title granted by a state authority.

Below are other words and terms similarly encountered in a variety of excellent, recently published papers on land grabs. Surprisingly, though not illogically, these papers appear to share a common western/European cultural framework which speaks in the language of market relations, property and ownership. It seems we have neither the language nor the imagination to speak otherwise, even while delivering a deep critique of such objectification and commodification of life.

acquire  
purchase  
lease  
own

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<sup>2</sup> In his 2010 commentary 'Responsibly Destroying the World's Peasantry', U.N. Special Rapporteur on the Right to Food Olivier De Schutter wrote that “between 2006 and 2009, land equivalent to the total arable area of France was negotiated for sale - with millions of hectares passing from state or peasant ownership into the hands of Western investors including Wall Street banks and private hedge funds, entities that have come to view land as an investment safe haven in a time of financial turmoil.”

private  
public  
common  
landholders  
investors  
access to  
control over  
allocated  
property rights  
natural resources  
contract farming  
land rights  
'land deals' (a convenient basket )

It's past time to forsake the western European cultural framework of the Enlightenment altogether and to enter a cosmos whose people regard the earth as a living being worthy of respect as Mother Nature, Pachamama, with whom they have a dynamic relationship. This will create a major problem, of course, in that the language of Mother Earth does not sit well, to say the least, in the rationalist, legalist culture of the west. To speak of Pachamama (or water as the blood of Mother Earth) is decidedly 'unscientific' and non-market, if not uncivilized and even 'barbaric'.

The language of "land-based social relations" does take us in the direction of a non-western, non-commodity understanding of reality. However, while Saturnino Borrás and Jennifer Franco, in their fine paper<sup>2</sup>, for example, emphasize the necessity of recognizing the centrality of 'land-based social relations' in any discussion of social justice, they do so, still, within the context of the western concepts and culture that they critique. They don't raise the question of the nature of land itself. (A rejoinder that to do so would be strategically unwise would not be out of order. It obviously all depends on the intended audience.)

While we try to reshape and reconceptualize our relationship to land, the concept of 'trust' might be helpful: trust as in 'holding in trust' for future generations, as a legal concept to take land off the market, and trustee, as being responsible for the land as a farmer or as a person legally appointed with responsibility for care of the land.

The spiritual connections to and identity with the land that are characteristic of many non-

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<sup>2</sup> Saturnino M. Borrás Jr. and Jennifer Franco "Towards a Broader View of the Politics of Global Land Grab: Rethinking Land Issues, Reframing Resistance", IICAS Working Paper Series No. 001, May 2010

western cultures are just as, or more important than, human social relations per se. For example, Borras and Franco rightly mention ‘pastoralists settlements’ and grazing lands as being highly problematic for the tidy issues of land identification, mapping and titling, but they do not go further to explore the implications of recognizing nomadic and pastoralist ways of life, or the relationship to the land of hunter-gatherers, forest dwellers and fishing peoples. Is this because the cadastral map, designed to facilitate identifiable ownership and taxation by the state, is incapable of dealing with the fluidity of these people with ‘no fixed address’?<sup>3</sup>

A cultural revolution of the western mind is in order.

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### **Further thoughts on how we think about land**

If only land could simply be considered as a free-standing, easily measureable commodity or ‘resource’, then all that would be required to deal in it would be clearly delineated (surveyed) boundaries, a deed (title) and its recognition by the state. A problem arises, however, when the inhabitants of the land, or their society, regard themselves as having a special relationship or identity with the land and do not understand it to be a commodity or ‘resource’. They think of it as a living being – Pachamama among the Andean peoples – to be respected, not as property to be bounded, owned and exploited. There are many others who simply say, ‘you cannot own land’.

*Land holders* is a useful ‘basket’ term to describe such peoples since it leaves open the question of how the land is regarded and related to. *Land rights*, or *rights to land*, on the other hand, introduces a totally different conception of land and how it is to be related to. Rights is a legal, ‘hard’, not relational, term that comes out of a very particular culture, namely that of what is referred to as The West, with its roots in the Enlightenment and epoch of nation-state construction. Contrary to the proclamation of the Universal Declaration of Human Rights, the concept of rights is very far from being universal, although the dominance of western law and individualism globally has caused the language of rights to appear with increasing frequency where it does not belong. The boldest expression of this is the anthropocentric term “rights of Nature.” I can imagine that Mother Nature finds this idea insulting.

A fundamental problem with rights of any sort is that they require a state to define and deliver them, whether it is the right to food or the right to land. As Lorenzo Cotula puts it, “legal rights

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<sup>3</sup> Hugh Brody, *The Other Side of Eden*, Douglas & McIntyre, 2000; Mahmood Mamdani, *Saviours and Survivors*, Pantheon, 2009; James Scott, *Seeing Like a State*, Yale, 1998

alone are not enough – adequate capacity is needed to exercise them in practice”.<sup>4</sup> What place is there, then, for customary, informal, tribal or communal landholding (and ‘management’) that precedes the state? Legality, after all, requires boundaries and clear definition of ownership.

Cotula rightly says that, “Much discussion about large-scale land acquisition has so far been led by players and processes based in the global North” by people who believe that the only hope for the hungry of the global South is ‘modernization’ of agriculture, meaning the transformation of ‘inefficient’ peasant agriculture into large-scale industrial agriculture. Of course this again means the imposition of a very particular notion of land as natural resource or commodity and the recolonization of peoples and their territories.

In saying that “The problem is that the customary rights of local people may have no or little recognition under national law,” Cotula overlooks the important point that it is not customary *rights*, but customary *uses* that, as in the case of pastoralists, are simply not amenable to the rule of western property law. Because they were not *legible*<sup>5</sup> to the colonial state, pastoral economies had to be replaced with sedentary agriculture. In Canada, the buffalo ranges, and the buffalo, were literally destroyed by the imposition of a giant grid of property and fence lines prohibiting the free movement of both the buffalo and the indigenous peoples dependent on them. The destruction of the thriving pastoral economy of sheep (Karakul) in Afghanistan was similarly destroyed by the western ‘modernization’ of Afghan agriculture as part of the U.S. Cold War against the Soviet Union.<sup>6</sup>

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<sup>4</sup> “Land deals in Africa: What is in the contracts?” by Lorenzo Cotula, IIED, Feb. 2011

<sup>5</sup> James Scott, *Seeing Like a State*, Yale, 1989

<sup>6</sup> Nick Cullather, *The Hungry World*, Harvard, 2010, pp.115-133