THE NEW GLOBAL TRIANGULAR TRADE
Or the Analogies of Contemporary Land Ownership
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Food insecurity contributes to rising agricultural prices and is leading those in charge at the United Nations Food and Agriculture Organization (FAO) and the World Bank to increasingly sound the alarm. Another factor behind the increased pressure on land is the concern over energy security and biofuel production. Truly ambitious agro-industrial projects are being developed around palm oil, jatropha, sugar cane, and the like. Countries such as Brazil, Liberia, and Indonesia (to mention but a few) are the subject of considerable investments involving hundreds of thousands of hectares.

This policy of land acquisition has concrete repercussions, first of all on the lives of local populations, whom those responsible for the deals fairly regularly forget to consult. These populations assert their rights, receive support from activists, and, here and there, manage to limit or reverse the process. But how can the new principles beginning to be incorporated in international law (and some countries’ laws) be applied in relation to indigenous peoples and local communities? At the other extreme, another form of pressure is added to this commercial pressure, namely from defenders of the environment and the forests who campaign against deforestation for agriculture and against land speculation.

This paper aims to identify the new aspects that have emerged alongside more-traditional commercial and financial situations. The dominant factor in this is commonly the loss of geographical ties. Some foreign direct investments take on forms based on delocalization, and even on complete “dyslocalization,” meaning “dysfunctional localization,” i.e., something that is illogical in light of social and ecological geography and its constraints. Harvesting on
foreign soil what is needed by a country with a high population or no agricultural land, and doing it via a structure that involves dissociating the government and people of the host country, is a truly new idea in its implications for land tenure. What is troubling is that even with projects that could be said to have the opposite aim—like the Yasuni-ITT project, which aims to protect part of the Amazon Rainforest and prevent drilling for oil—we see a type of delocalized, trust company–like scheme put in place, with tenure becoming a component placed under international guarantee. Globalization thus takes on ageographical forms, and not without raising a few questions. Whether by investors or environmental activists, a structure is set up whereby both participate in the control and fate of a local space which they know next to nothing about, and which they will probably never visit.

To illustrate this emerging arrangement, I use the figure of the triangle, having observed that its shape lends itself to a range of existing analogies, whether it concerns imagining structures (the trust fund, for example) or developing rhetoric (e.g., on idleness and land vacancy). We therefore need to find analogies to help us understand what is happening. The theory of charter cities offers a utopian conceptual basis that allows us to take into account the “source-host-guarantor” triad. It provides the terms for a paradigm that, after analysis, can be called “neocolonial.”

With this fiduciarization of relations, are we not steering ourselves toward a form of de facto denial of responsibility due to the effects of delocalization? When one’s crops are grown in a country on another continent, there are no social or environmental consequences to manage. Some accept it, and it would be tragic if acquiescence is what allowed it to continue. Hence, when one acts as guarantor for the protection of land in Ecuador, even when this protection is financed by foreign governments or international NGOs, one acts out of a belief that certain matters are not within the competence of inhabitants and sovereign States, but very much within the competence of the world. Whether one “buys up” land in order to invest, or “sanctuarizes” it in order to protect, this amounts to deciding that certain legal forms of appropriation should be transferred to the international level. Indeed, these kinds of projects would be impossible if the land were subdivided into multiple freeholds, guaranteed by a title or certificate and carefully filed in a land register. Land sovereignty—to the extent that the concept exists in reality—is truly thwarted.

This paper outlines the contemporary land tenure paradigm: increasing pressure to delocalize the relationship to the soil via an ageographical and asocial form of the tenure relationship; the extent and the revival of the concept of State ownership, which allows for bulk negotiations and power games; the profound contradiction between the various participants, since the investors are acting to resolve a real problem of food or energy security, but in doing so are causing problems whose consequences are as yet incalculable; and, lastly, the reassessment and necessary shifting of analysis toward forms that up until now have been disregarded or insufficiently developed, namely the real, the geographical (in the cartographic and morphological rather than geopolitical sense of the term), the individual, and the local.

Under these conditions, recent and ongoing debates still seem too preoccupied with clearing up situations arising from the colonial or postcolonial past. Granted, it was justifiable
to highlight the extent to which the exclusive, European view of private ownership was not applicable in the rest of the world. It was also right to denounce the use of geometric divisions and corresponding forms of land registration when during the nineteenth and twentieth century it was a matter of appropriating colonial spaces for oneself. Today, however, reproducing these debates stunts analysis of what is currently happening, which is different from colonial situations. Hence, from a legal point of view, the “good fight” lies not in contesting the concept of exclusive private ownership, because the concept itself has changed in the light of the number of restrictions in public law: from this point forward, it is a matter of analyzing the use today of the concept of State ownership. From a geographic point of view, the “good fight” lies less in theorizing space than in reviving the practice of observing and analyzing shapes, which are the only way to map the spaces which are said to be vacant but which are, in fact, not.

**State Ownership Today:**
**The Missing Chapter**

**Beyond Traditional Public State Ownership**

In the usual sense of the term, the public domain refers to the system of goods belonging to public persons. According to this strict definition, this represents significant progress, to the extent that it means that States create economic and social conditions that allow services intended for all people to be established. This is not, however, exactly what was produced, or it was produced only recently in many countries in the Global South. The notion of State ownership has been the subject of extremely diverse social and legal constructions, much different from those in the public domain. These constructions go further with regard to sovereignty and power to the benefit of the property owners, as if it is the affirmation of power implied in the concept that is retained from its roots in the Latin word *dominium*. From this we may conclude that the concept of State ownership is a trap due to its function as an umbrella term, because it may contain contradictory definitions if the multiple meanings of the concept are not analyzed.

This paper is not the place for a historical overview, so let us simply say that over the course of European history and the history of former European colonies, State ownership took on various forms based on the nature of the rights that the public authority of the time had: the public domain of the Romans was typically colonial; the private *dominium* of Roman civil law typically belonged to the community; medieval State ownership was feudal; and State ownership became colonial after the great discoveries. All these forms had nothing to do with what we in Western democracies today call “the public domain.” The history of this typology, although well studied from many angles, does not yet serve as a connecting thread in the history of land tenure. This removes from the tenure paradigm a key element of its own story and makes it difficult to understand what is happening in various parts of the world, and especially in Africa, where we see a new use of the concept of State ownership emerging, making the need for clarification even more pressing.

Naturally, in many states, including in Africa, there is a “public domain” as understood by Western democracies. But the African
states\textsuperscript{1} do not appear to content themselves with the classic typology that distinguishes between a “public domain,” a “private domain of the State and local governments,” and a “private domain of individuals.” In essence, they invented new concepts for State ownership.\textsuperscript{2} This is particularly the case with the concept of “national ownership.”

**THE CONCEPT OF NATIONAL PROPERTY**

Although the appearance of the notion of “national property” (*domaine national* or *domaine foncier national*) in many African laws from the 1960s represented a major innovation, it was not uniform throughout. National property is the expression of a monopoly on land ownership by the State, or rather, by the Nation, which holds all or part of the land.

In general, the concept implies a regime of land concessions and use rights aimed at organizing the provision of land, mainly to individuals, who may use it as they please and exploit it to their own profit.

Two scenarios can be distinguished.

Some countries have opted for generalized State ownership of land. If we compare various countries, we can see the full ambiguity of the concept of “national property.” In Guinea-Bissau, land is “the property of the State and the common heritage of all its people.” To carry on production-related or social activities on the land, the State can grant individuals primitive use rights, particularly by means of common use or concession. In Mali, the Land Code of 2000 stipulates that national property includes all land, that is, the public and private property of the State, the public and private property of local governments, and the land heritage of both persons and institutions. Like in Mali, in Mozambique national property—as defined by the *Fundo estatal de terras*—is a broader category than the public domain (*domínio público*). There should be no confusion: there is a clearly claimed overall constitutional State ownership, and, within this overarching State ownership, a public domain that does not differ fundamentally from that which exists in many other countries in the world. However, in a certain number of other countries, the concept of “national property” does not refer to the totality of land in the country, and is distinct from public or private property of the State. Made up of land that has not been registered and is hence presumed vacant and ownerless, this national property or “partial State monopoly over land

\textsuperscript{1} As pointed out by André Teyssier (whom I would hereby like to thank), most laws governing the various types of domains in Africa were written shortly following independence, when some civil servants were still nationals of the former colonizing country. Responsibility for these texts naturally lies with the States themselves, who nonetheless were (and still are) broadly influenced by ideas developed elsewhere. With “national property” being a kind of “box” constituted by default, one could argue that it originated in the minds of French jurists posted in the Tropics who did not know how to classify these lands that were occupied without being entirely appropriated, that were sometimes used temporarily, sometimes shared, were subject to multiple land use rights, etc. “National property” might have been a catch-all concept that revealed the ignorance (or negation) by postcolonial officials of the subtlety of the resource laws that prevailed in the country to which they were posted. Of course, another hypothesis is that of socialist influence on countries with Marxist regimes.

\textsuperscript{2} Authors who have recently drawn attention to the significance of this domanial view of land ownership include Jean-Louis Halpérin (2008), Hubert Ouédraogo (2009), Joseph Comby (1995; 2008), Alain Rochegude and Caroline Plançon (2009).
tenure” exists in Senegal, Togo, Cameroon, Gabon, and others. Based on traditional principles of land management, its purpose is to put together some sort of national land reserves by including traditional lands that are unused, or that the State considers insufficiently developed, in national property intended for large rural development schemes. The concept of “insufficiently developed” should be highlighted here, because this is what allows land to pass from “State ownership” to “private ownership”—except that it has never been very clearly defined what is developed and what is not (e.g., the situation with pasture lands, agroforestry lands, and any mixed-use agricultural lands that are difficult to place in the usual geographic and agronomic categories).

In Senegal, which was the first West African country to introduce this concept in the Act of 1964, this national property includes as a separate category “all land that is not classified as public property, that is unregistered, or whose ownership has not been entered in the mortgage registry” at the time the law came into force. National property in Senegal thus includes land previously held by local populations based on traditional practices and that the State has held since then on behalf of the nation with a view to “ensuring their rational use and development in line with development plans.” In Togo, national property includes all land other than that appropriated by private individuals, and also includes public and private State land. In practical terms, the category of national property is intended as a residual category, made up in practice of land categories created by tradition in the past (unregistered land belonging to the State or individuals).

The use of the term “State ownership” or “State property” to refer to all these situations presents us with a collective term, and leads us to wonder what is implied but not explicitly stated in the concept of the State monopoly over land tenure. Hubert Ouédraogo (2009) writes:

Emerging from independence with dreams of an agriculture-based economic development boom, the states of the [West African] subregion preferred to have the land tenure maps in their own hands in order to redistribute land to actors considered to be in a position to undertake agricultural development of that land using modern production methods.

At the Heart of the Concept:
The Myth of Vacant Land

At its very origins, the concept of State ownership was unilateral in the sense that by using the notion of “vacant land” the State alone was entitled to decide how it was to be used. The classification of land as vacant and its subsequent incorporation into national property allowed governments to bypass the highly cumbersome procedures surrounding expropriation for public use. Naturally, this is an aftereffect of colonial procedures: the reasoning is based on the colonial system of land registration, the source of legality for land tenure. Everything is done as if the former colonial authorities regulated the status of land that was normally occupied, while all other land was considered to be free and vacant. It is said that if the populations with traditional rights to the land could present land titles, things would be different, but as they cannot (the land registration efforts launched during the colonial era having been a resounding failure), the State can by default apply the reasoning that all unregistered land
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belongs to the State. Nonetheless, the recognition of traditional land rights has begun to make inroads in several countries.

The categorization of land as vacant—whether or not it actually is—is the argument that leads to appropriation as national property. “State property” is a status attributed to land observed to be, or that one is content to believe is, unoccupied. There is thus the presumption of it being State property, because there is first of all a kind of presumption of vacancy which is often based on manipulation of the geographic or social reality. The use of the concept of State ownership or State property thus proves to be an extremely delicate matter.

It is not enough to say that this concerns the aftereffects of colonization, however. One might also ask whether the emergence of a kind of State ownership in stages in African states has not been about a tentative search for a way to produce sovereignty and to keep it between globalization and localization. African States today, whose democratic institutions are still under development and have not yet stabilized, are obliged to respond to this particularly sensitive question precisely at a time when countries that were dominant in the past give the impression of evolving toward less government, or towards a different form of government with different institutions. It is therefore highly likely that State ownership, among the range of uses outlined above, and despite the varied origins of the phenomenon (linked as much to colonial history as to “socialist” episodes in some countries, or to agrarian reform projects, as in Latin America), will be a way of imagining a world map in which Africa, Latin America, and a large part of Asia would form the focal points (Santos 2004). Based on history and principle, one might take the view that this response is clumsy, and that governments will, in the most absolute of contradictions, be tempted by practices that are irreconcilable with this image, as we shall see with Madagascar. This point is indisputable, and we agree with Monique Chemillier-Gendreau when she says that sovereignty is unfortunately not a good legal instrument for weak States.3

It is nonetheless a potential response to the risk of land seizures. In the African states, nationalism is latent and acts as much to legitimize specific land management decisions as to challenge attempts to manipulate land, used by those who oppose certain projects. In Madagascar, for example, opponents of the Daewoo and Varun projects felt that the State was selling off the country’s heritage cheaply and breaking a taboo by surrendering tanindrazana (the land of the ancestors) to foreigners.

MANIPULATION OF THE CONCEPT

The example of Madagascar has shown that by mixing political power with the land component of national wealth, the conception of political sovereignty in terms of State ownership can lead to ambiguities and crises. We recall the speech by President Ravalomanana at the Durban conference in

3. It is interesting to listen to her presentation of October 13, 2009 entitled, “Le droit international peut-il contribuer à une société mondiale plus équitable?” (Can International Law Contribute to a More Equitable Global Society?) on the invitation of the association AGTER. (See http://www.agter.asso.fr/spip.php?article292&lang=fr. For a summary in English, see http://www.agter.asso.fr/article677_en.html.)
2003, in which he stated that protected areas would be increased from 1.7 million to 6 million hectares in five years. Although it was unrealistic (Carrière-Buchsenschutz 2006), the aim was noble. It was the same president who a few years later envisaged selling sizeable tracts of land to the corporations Daewoo and Varun, which exacerbated the political crisis and ended up leading to his fall. Nonetheless, it was Ravalomanana’s government that launched a land reform program based on the decentralization of land management so as to allow widespread recognition of the rights of the occupants of “unregistered private properties,” which make up a large percentage of the land. The land that Daewoo Logistics spotted with the help of the Malagasy government was partly made up of “unregistered private properties” that were in the process of being certified by the “district land tenure offices” (guichets fonciers communaux), flexible institutions that were established to secure local land tenure without having to engage in cumbersome land registration or title issuance procedures.

Naturally, we should point out the blatant contradiction between the three projects, the first seeking to sanctuarize enormous areas of land, the second to develop agro-industry by placing large tracts of land on the real estate market, and the third seeking to secure land tenure. We should specify one point, though: apart from the contradictions between the aims of the first and second decisions and that of the third, the first two decisions show the extent to which those in power consider the country’s land to be the property of the State and freely disposable at will—and these governments have as many contradictions to manage as any government. One has to wonder why the Malagasy government did not fully trust the land tenure policy that it had itself put in place.4

**Using the Right Argument**

On the subject of the “coveted lands of Africa,” the weekly newspaper *Politis* of February 17, 2011, published the following lines by Patrick Piro:

> The concession-granting States, who put themselves in charge of the transactions, benefit from legal loopholes, if not deliberately create them. In general, it is a matter of using a “modern” law, based on property titles forged for the occasion, against rural populations, who often refer to an unwritten collective law.

This explanation, by implying that the adoption of modern law concerning private ownership is the cause of the problem, presents the argument poorly. On the contrary, for the concession-granting States, it is a matter of exploiting the colonial-era theory on State ownership that denies inhabitants “modern” land titles, providing the States with a legal basis and allowing them to disregard local populations. This author believes that a view of the legal question according to which this phenomenon can be explained by the use of a written property law to oppose a traditional collective law falls short, and may even be outright erroneous.

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4. André Teyssier pointed out that with the various attempts at “recentralization” of land tenure policy, one sees how difficult it is for a government like that of Madagascar to conceive of “losing” its ability to rule over the land by means of the concept of State ownership, even if it is obvious that its administrative services are no longer able to effectively manage access to land and land use.
If the States were dealing with populations whose collective and individual rights were better established and better certified, they would not be able to act in the place of occupants and depend on the incriminating discourse of vacancy. The States or concessionary corporations would then have to negotiate with thousands or tens of thousands of land owners, which would force them to take into account the complexity of local situations. This would relocalize the projects by drawing attention to the reality of both the social and the geographical aspects of the land tenure relationship.

We should also note that the perception of property law has changed (ADEF 1991). Just as the academic community has recently started critiquing concepts and subjects that had hitherto gone unquestioned, these topics have become exceedingly delicate to deal with. The critique has taken the form of an “archeology” of the legal bases for the concept of ownership in order to contest the quality of structures produced by modernity. Also, little remains of private ownership in the most absolute sense, given the growing number of restrictions in public law.

The contradictions between the European countries and their former colonies are also more apparent. We now know the extent to which the colonial powers—France and England in particular—did things in their colonies that they would never have tolerated at home. In these countries, ownership was produced “from below,” to use the very clear and useful image offered by Joseph Comby (1995), i.e., ownership is what private parties agree to in front of a notary. At most, the State organized registration of the mortgages, but in no case did a centralized service issue a title (except for historical reasons in the provinces of Alsace and part of Lorraine, where a land register of Germanic origin was used). To complete this reminder, let us add that in France the land register does not serve as a title of ownership, contrary to popular belief.

In order to manage their colonies, these European States made use of the manufacturing of land titles “from above,” using the procedure called “land registration” (which is often summarized in reference to the Torrens title system). We know that this procedure was a failure, because even after half a century or more of colonization, the percentage of registered land was pathetically small.5

We must, therefore, stress the fact that the colonial powers used modes of registration in their colonies in Africa and Asia that did not exist back home. The contradiction should not obscure the way of thinking at the time. While taxes were collected in the colonizing countries, in the colonies, in order to implement development programs, it was necessary to find means acceptable to the international community to evade rights claims. The contradiction remains, and one can only express astonishment at the fact that “new,” independent nations, some of them with experience of

5. The author does wonder whether this depiction of land registration should not itself be revised. Perhaps we should rather say that land registration was a success, because from the point of view of the colonizer, it considerably limited the number of cases of certified ownership by reserving them for colonial appropriations and left a complete lack of clarity as to the ownership of immense tracts of land, thereby allowing all the requisitions, present and future. Talking about the “failure” of land registration attributes noble intentions to the colonists, as if they really intended to give the local populations titles equivalent to those they issued to the colonial elites and concessionary firms.
socialism, keep these fundamental regulations that were imposed on them by the much-maligned colonizer.

The colonizing States (France, England, Belgium, etc.) thus returned to a feudal theory of State ownership from the Ancien Régime according to which the State is the lord of the land. It was already on the argument of “vacant and ownerless land” that everything was based. Nonetheless, as history and land tenure traditions differ from one country to the next, we should seriously qualify this statement. In short: before massive appropriation of land, the colonial powers practiced “massive expropriation of land” (Moyo 2010).

Land Tenure and a Relationship of Analogies

Before publishing a map on a sensitive subject, we should thoroughly reflect on its function, its orientation (metaphorically), and how it will be used.

Mapping Land Tenure

How, then, should we map land tenure? I propose that we start with an interesting map compiled by Stig Enemark (Figure 1) to reflect on what it teaches us and then to think of a different projection of land tenure.

Enemark’s map pertains to the systems of land registration and should not be read as a map of different families of legal systems. In yellow, he shows the systems based on notarized registration of ownership: these systems are used in the Latin countries and the United States, which have adopted civil law. In red, Enemark shows the countries that have adopted ownership according to English law, and which in the colonies developed the Torrens system. Finally, in blue he shows the countries that have adopted Germanic law, which is based on the use of a land register.

One glance is enough: the author has no choice but to show most of the world as falling outside his color scheme, using diagonal lines to depict what he calls countries with “mixed” systems. Globally, this map becomes difficult or impossible to draw if one is to depict the world in all its diversity—or otherwise spend a considerable amount of time establishing and discussing the legend, developing it to the extreme. As a result, the picture painted by Enemark’s map must inevitably change rapidly. By only applying the classifications by whole country, he makes himself guilty of the inevitable simplifications.

Now let us imagine a map of the various types of land tenure laws in which we take into account the realities of what we have just described for Africa and for other parts of the world where original conceptions of State

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6. We should, in fact, distinguish what is easily confused: the legal regime of land appropriation (civil law, common law, mixed systems, local laws, individual and collective laws); the method of registering land rights (systems of notarized deeds without registration with the State, deed systems, administrated systems, registration or title systems, land register, modes of derived registration like mortgages); the use of a land register (presence or absence of land register, plan-based register, digital register, register of public law restrictions like the CRDDPF in Switzerland); the purposes of the land register (establishing boundaries, levying taxes, securing, registering, controlling and managing land use, plot-level or generalized land register); and, finally, the original method of dividing up the land (traditional method passed down through history or colonial/planned methods like the Canadian “range” system, township, or various colonial grid systems).
ownership prevail (Figure 2). Let us imagine also introducing Sharia law, the laws of indigenous communities (which we know are now recognized in many countries [Deroche 2008]), private ownership, the particularities of Asia, etc.—doubtless the map will look very different.

We therefore need to invent maps with multiple systems of projection—in the metaphoric sense of the term, as used by Boaventura de Sousa Santos (2004)—in order to publish maps with multiple possible centers and that do not reduce reality to just one discourse.

Naturally, my attempt is in no way more universal than Stig Enemark’s (2010), but by restoring the major component made up by conceptions of State ownership, I would like to explain why Enemark’s map shows mainly mixed forms. Land registration is not the right classificatory point of departure for the very many countries where everything possible is done to avoid land being registered so that it can be disposed of in any way desired.

A Vision of the World as a Neoliberal Contract?

What makes the present time unique is the forms that globalization takes with regard to land tenure. The negotiations and intercontinental investment projects (large-scale appropriations, land grabs, “firm” agriculture⁷) are fairly good examples to the extent that some projects are not just agro-industrial and financial projects on a global scale, but are also underpinned by a vision of the world that should be examined more closely. We are witnessing the emergence of new forms of specialization and localization that are, ultimately, community-specific, particularized visions of the world that are in perfect contradiction to the globalized forms.

The Many Facets of the Problem

Before outlining the trends, let us first briefly describe the phenomenon.⁸ According to World Bank figures (2010), the expansion of agricultural land is not a recent development. Between 1990 and 2005, the surface area of cultivated land globally increased by 2.7 million hectares per year, totaling 1.5 billion hectares for the whole planet. The reduction in cultivated lands in industrialized nations and in transition economies (respectively, 0.9 and 2 million hectares per year) was more than offset by an increase of 5.5 million hectares per year in developing countries.

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⁷. Agriculture de firme: a term introduced by Bertrand Hervieu and François Purseigle (2009), meaning “corporate agriculture,” has been used to refer to a form of highly capitalistic agriculture that accumulates land in order to develop investments abroad and that “responds purely to financial, speculative, and commercial rationale.”

⁸. In order to study this phenomenon, there are many general studies and reports in addition to the websites of activist NGOs, such as GRAIN, ILC, AGTER, Hub Rural, etc.). See, for instance reports by the World Bank (“Rising Global Interest” [2011]), by United Nations special rapporteur Olivier De Schutter (“The Right to Food” [2010]). See also the study by the Technical Committee on Land Tenure and Development (“Large-Scale Land Appropriations: Analysis of the Phenomenon and Proposed Guidelines for Future Action” [2010]), as well the study by the German Federal Ministry for Economic Cooperation and Development (“Development Policy” [2009]). Let us also add the work edited by Laurent Delcourt (2010) and various presentations by Paul Mathieu, an expert at the FAO (2007; 2009).
What Is an “MCC Compact”?

This is the content of the contract that the Millennium Challenge Corporation (USA) concludes with a developing country singled out for its good governance. The aim is to finance its economic growth. It establishes conditions that will attract future investment by equipping the country and stabilizing it. This is based on three main pillars: ruling justly, investing in people, and promoting economic freedom. Land rights and land access form part of the “economic liberty” component of each compact.

The contract gives rise to a national body, the Millennium Challenge Account (MCA), which is tasked with drawing up an aid policy in collaboration with the country’s government. In Madagascar and Benin, land tenure is one of the strongest pillars of aid. For instance, the land tenure component of the MCA-Benin, signed in 2006, relates to the conversion of 30,000 urban residence licenses into land titles and to the implementation of 300 rural land tenure plans affecting around 83,000 land tenure certificates, some of which are intended to become titles. For implementing this land tenure policy, the MCA-Benin can depend on the Ministry of Urban Development (MUHRFLEC), an American real estate guarantee trust company (Steward), and local professionals, notaries, and surveyors.¹

This expansion has been concentrated in sub-Saharan Africa, Latin America, and South Asia. It is highly unlikely that we will see the process slow down.

The list of countries in which investors are interested include countries where land is thought to be abundant and, in parallel, where land governance is considered weak. According to the press, during the course of 2009, investors showed interest in around 42 million hectares, of which more than 75% (32 million hectares) were in sub-Saharan Africa.

With Madagascar and Benin, the MCC compact (see Box 1) was offered to countries with an original land tenure policy, and specifically a policy of recognizing local land rights and of securing land tenure by means of more flexible land registration procedures.\(^9\) It is therefore not always fair to state that investors only target countries without land governance because they make better targets ("targeted countries"). On the contrary, investors have every interest in investing in stable countries, where their activities will not risk incurring potentially ruinous litigation. Nonetheless, there are still many instances of thoughtless risk taking.

Investors can have four broad objectives: create social infrastructure; create jobs; help local producers to access markets and technology; or boost local or national tax revenue. The social impact of these approaches depends not just on the amounts allocated to the population, but also on the various ways of distributing the money.

Many observers are concerned about the risks associated with large-scale investment: random land tenure governance; an inability to compensate local communities for the loss of land rights; a lack of clarity in agreements; investments that are incompatible with the local situation; conflicts around access to resources; and an increase in inequality.

**The Three Corners of the Triangle**

I would here like to draw attention to a fundamental aspect of this land expansion, namely the departure from geographic coherence and the original differentiation of functions, and also to highlight that the literature is beginning to theorize this phenomenon.

The Daewoo and Varun affairs in Madagascar (Adrianirina Ratsianonana and Teyssier 2010; Burnod et al. 2010; Teyssier et al. 2010) are particularly revelatory of this emerging concept. It involves establishing in a country what in the past might have been known as a trading post or bridgehead, but which is now called a "gateway city." Like an airport terminal, this point of entry distributes throughout the country the principles and practices that are profitable to the globalized economy, bringing together "land without people and people without land," to borrow the expression that was used to promote programs for colonizing the interior of Brazil.

I will later mention the very different case of the Yasuni project, and will show that protecting the environment does not preclude the use of the same type of triangular scheme that applies to the projects in Madagascar.

This emerging concept is the use of a structure that is based on legal formal similarity in

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9. In Madagascar, the crisis due to the country’s political instability and lack of democracy brought an end to this aid process in July 2009, by which time 40,000 certificates or land titles had been restored. See http://www.mcc.gov/pages/press/release/release-051909-mccboardauthorizes.
that it looks like a contract concluded between three parties who are not on equal footing and are moreover not governed by a “law” that might constrain them. The new way of seeing urbanization and land investment is based on the association of three functions: “host,” assumed by the vacant land; “source,” assumed by the population and the financial assets where they are located; and “guarantor,” assumed by developed countries to guarantee the proper execution of the contract, which they do via various forms of financing and insurance institutions.

These functions, which are now thought of in global terms, are based on disparities in the distribution of the global population and in the distribution of wealth between countries. Based on an estimate of population density, which can easily be visualized using a satellite image of the world at night (Figure 3) where many developing countries do appear to be quite dark, and based on the alleged vacancy of land, one might offer a “voluntary” contract, guaranteed by an institutionally advanced country that is in a position to perform this function. Through its compacts, the MCC plays this role of guarantor in a preventative capacity.

The scheme can only be carried out if governments act on behalf of their constituents, because there is no question of them engaging in individual negotiations in the field on the reality of the land tenure situation. State ownership, as practiced in the South, has a rosy future ahead of it. We should therefore stop seeing it as nothing but an aftereffect of the colonial past (which it is, of course), but also a foretaste of the world as it will be in future. The concept of charter cities (see Box 2) emphasizes the voluntary nature of the approach. I present it here due to the triangular typology that it establishes between the countries: host, source, and guarantor. I make no judgment on the implementations of this plan, but the typology is perfectly clear in how it separates the functions according to global geographical zoning. Hence, by analogy, I directly apply these concepts to land negotiations on a global scale and note that this scheme applies (almost) perfectly, even when the three zones are not always as geographically distinct, and even when population displacement does not enter into the negotiations (Figure 3).

Lastly, to illustrate how this analogy came to mind, I must add that it was the concept of the “gateway city” in the exposé on Madagascar that suggested a connection between the utopian theory of charter cities and the phenomenon of massive land appropriations. André Teyssier et al. (2010, 58) write:

The Daewoo and Varun projects are not cogs in the machinery of a particularly ambitious development project. They form part of a broader vision inspired by the work of economists that favors the creation of “gateway cities” in an extraterritorial area, administered by an international authority, and assumed to concentrate foreign investment thanks to liberal tax and legal systems. Based on Hong Kong, which, with Dubai, is presented as a model, the development of a new city in an international zone created

10. This contractual aspect has been strongly emphasized in the document of the Technical Committee for Land Tenure and Development: “Large swathes of land are being appropriated through contracts that are supposedly accepted by the signatory parties, are apparently incontestable since they are based on contractual (often commercial) relations, and are presented as furthering development that entails the increasing liberalisation of trade” (2010, 23).
ex nihilo will bring about a dynamic economy. Agribusiness projects will be initiated in the hinterland of this hub, which will consume and export its agricultural production.

If the triangular scheme—source-host-guarantor—were to become generalized on a global scale, it would naturally be unable to respect the will of local populations, and it would be an easy transition from contract to force, which is happening in a number of cases. How, then, can one reconcile a scheme conceived on a global scale and driven by the needs of wealthy and/or populous countries, with the reality of local situations and the aspirations of their people? Moreover, globalized thinking inexorably excludes the possibility of thinking in terms of ecology or human habitation (Berque 2000), because, by geographically separating thinking in terms of the subject (like the constraints of land said to be vacant when it is not) from thinking in terms of the predicate (the dynamics of the sources and guarantors), responsibility is diluted. By remaining in their own country, the population that benefits from the land appropriation is exonerated from responsibility for and management of the places on which they are nonetheless often highly dependent. The local population, on the other hand, cannot escape it and does not have the resources to take ownership of it. They are subject to the constraints of a place whose advantages they exploit on behalf of others.

**THINKING OF LAND TENURE IN TERMS OF TRUSTS**

I would now like to offer a legal analogy to help understand this triangular relationship that is taking shape before our eyes and remains as yet unclassified. With the notion of universality (in the technical legal sense) in continental civil law, but especially with the concepts of fund and trust in English law, we see triangular relationships that function on the basis of a fiduciary relationship and involve an intermediary. In English property law (Papandréou-Deterville 2004), the old term “use,” or “feoffment,” is replaced by the “trust,” which always involves:

- An initiator: the “feoffor” or “settlor”;
- A beneficiary of the initiative: the “cestui que use,” or “cestui que trust,” and should be understood in the passive voice as the person on whose behalf one uses or trusts; and
- A guarantor: the intermediary who underpins the construction, the “feoffee to use” or “trustee,” and who one knows holds the property.

Moreover, English law abounds with words ending in -or and -ee, indicating the two most active of the three parties in the fiduciary relationship.11 This point would not be reason for an exceptional amount of attention if it were not for the fact that these are words that in every language and in every legal system are applied to contracts between two people. To be precise, in the English trust, the trustee is not the final beneficiary of the structure, but the intermediary that guarantees its execution. Let us also recall that although the initial purpose of these constructions was to escape the rigidity and inconsequence of common law, at the same time, they allowed one to evade charges

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11. These terms include: donor, donee; bailor, bailee; assignor, assignee; covenantor, covenantee; feoffor, feoffee; grantor, grantee; lessor, lessee; pledgor, pledgee; settlor, settlee; trustor, trustee. Based on the glossary by Marie-France Papandréou-Deterville (2004).
and to bypass laws that governed succession and the transfer of property (Papandréou-Deterville 2004).

If we transpose by analogy the particular nature of this triangular relationship to the land tenure question, it appears that what we can say is currently happening is that there is a utopian dream of complete fiduciarization of land tenure relationships on a global scale, with a “source” function (-or), a “guarantor” function (-ee), and a “host” (to whose detriment the arrangement is made, because it is done without their permission). In terms of the project, the triangle associates the investor (the initiating source country), the investee (the guarantor country), and the invested (the host country). To use the language of trust law, it associates the guarantor (the guaranteeing country), the guarantee (the beneficiary of the operations, the source country), and the guaranteee-less (the host country).

The use made of legal situations explains this zoning on a global level; that is, there are forms that exist in liberal Western law that offer a framework for this kind of structure, while in countries assumed to be empty there is a situation of de facto State ownership, passed down historically, that thus constitutes a major risk. Emerging economies would hope to take advantage of this State ownership to establish their sovereignty and, likewise, the country’s functioning at a national level. As the example of Madagascar shows, State ownership can just as easily be the point of entry for the new form of land tenure relationship. The encounter between these two legal forms is particularly dangerous, and this global perspective proves to be utopian.

Based on the typology proposed by Bertrand Hervieu and François Purseigle for commercial farming (2009), we can outline two types of triangular schemes. The first is truly international due to its multiple sources of financing and the fiduciarization of the investment, itself guaranteed by funds that replicate the initial arrangement. The second is binational, and the triangular scheme exists when there is a duality within the host country between the host function (often disputed locally) and the guarantee function—as with the Argentina project, which I will describe below.

The triangularization can also take place on the source country’s side when it acts via an intermediary company and/or fund. This is the case with the cultivation by Saudi Arabia (via the Bin Laden Group) of 500,000 hectares of rice fields in Indonesia, with the Bin Laden Group acting on behalf of the Middle East Foodstuff Consortium, a group of Saudi investors active in the Middle East and North Africa, in consort with Indonesian funds, which do not always have ties to agriculture (Figure 4).

There is also a fundamental contradiction between the contractual form and the underlying aim of universality. Globalization of land tenure leads countries and investment firms to demand tax and legal exemptions in order not to be subject to local laws if, by chance, those laws should harm their agro-industrial projects—like the laws that limit exports and could harm foreign direct investment (a delicate issue in the negotiations between Pakistan and the United Arab Emirates).

Monique Chemillier-Gendreau\(^\text{12}\) observes that, following the example of the right civil law theories, the contract applies only to those

\(^{12}\) See note 3.
The concept is very flexible, but three elements are common to all charter cities:
- An uninhabited piece of city-sized land, provided voluntarily by a host government;
- A charter that specifies the rules that will govern the new city;
- The freedom for would-be charter city residents to move in or out of the reform zone.

Charter cities are based entirely on voluntary actions—no person, employer, investor, or country can be coerced into participating. Only countries that want to charter new cities will free up the land to do so. The use of unoccupied land ensures that only the people who want to live and work under the new rules will move to the reform zone.

The charter itself is a foundational legal document, not an exhaustive city plan. The charter will set forth the process by which rules and regulations will be established in the city. The charter might also initiate a legal framework on which the city can grow and prosper, establishing some early rules to foster long-term investment and ensure the safety and security of residents. The residents, employers, and investors will follow, attracted by the chance to work together under the rules of the charter.

There are three basic roles that countries can assume when chartering a new city in a special reform zone:
- Land comes from a host country;
- People come from a source country;
- The assurance that the charter will be respected comes from a guarantor country.

1. http://www.chartercities.org/home
who sign it. The contract alone therefore does not offer a satisfactory format in itself. In the case of a dispute where a contract has been signed between a source country (or company from that country, to be precise), a host country (or one of its regions), and a guarantor country (or institution)—whose law should be applied? Who would have jurisdiction to rule on the matter? Which would be the regulating body? Can we imagine Mozambican or Malagasy farmers who want to dispute the arrangement bringing the case before the local courts, knowing that their case could be dismissed because they are not named on the contract? Experience shows that the absence of regulation by law is counterbalanced by the agreements being disputed, which is based on a different aspect of globalization, namely the network of activist NGOs, the Internet, and the diasporas, who act as conduits for information.

This way of thinking is also on the way out. In light of the realities outlined above (the intercontinental forms of appropriation, the control over or management of production and the tenure and social basis of production) and in light of the utopias used to justify them (simplistically dividing up the world into land, human resources, and guarantees), we risk ending up with a patchwork of geographic ontologies. In seeing the world in this way, we participate in a triangularization of relationships based on deterministic relations dictated by geography (Figure 5).

“Look,” the imbalances in the world say to us, “over here is empty land with no serious plans; over there are immense reserves of human resources; and elsewhere there are concentrations of financial resources.” We find ourselves with the map carved up between these three terms and hence with the need to organize circulation between three geographical spaces. It is a short leap from the evidence (“Look at the map, at the inequalities in the world!”) to ideology (“So you see, some regions of the world are destined to feed, while others are destined to be fed, while yet others act as guarantors”). We are most likely witnessing an attempt at creating new and supposed determinist situations that are to reshape the world.

**IDENTIFYING THE POLES AND ANALYZING DELocalization**

One of the most troubling aspects of the pressures on land is that they occur because they can exploit not only international pressures but also tensions between central government and regions. For a triangular scheme to work, the parties need to identify who in the host location could have an interest in joining the scheme, which is sometimes done by taking advantage of the host country’s internal contradictions.

The example of China is troubling, because what is happening inside that country bears similarities to what happens when it invests abroad.

In China, land pressure is exerted by large-scale requisition of land reserves for urbanization and industrialization, while making those land reserves a source of profit through speculative practices (Bochuan 2007). Millions of peasants have been left destitute, completely dispossessed, provoking riots, which are sometimes violently suppressed. There is a contradiction between the central government, which is fully aware of the seriousness of this phenomenon of land requisitions and seeks to control and check it using laws and recommendations, and the regional and local authorities who are developing and managing it.
Figure 1: Systems of land registration according to Stig Enemark
Figure 2: A different projection of land tenure: State ownership
Figure 3: The utopian vision of the new triangular trade
Figure 4: Triangular scheme of the agreement between Saudi Arabia and Indonesia

Arabie Saoudite

PARTENAIRES FINANCIERS
Middle East Food
Groupe Bin Laden

SOURCE
Arabie Saoudite

HÔTE
Indonésie

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Figure 5: The utopia of a fully fiduciarized world
Figure 6: Double triangular scheme between China and Argentina

ARGENTINE

GARANT
Gouvernement régional de Rio Negro

HÔTE
Province de Rio Negro

SOURCE
Chine

Groupe Beidahuang

Strong Energy SA

PARTENAIRES FINANCIERS

© G. Chouquer 2011
Figure 7: Double triangular scheme of the Yasuni-ITT project

GARANTS

GARANT FIDUCIAIRE
PNUD

GARANTS FINANCIERS
Chili, Espagne, Allemagne
Région de Wallonie (Belgique)
ONG Avina
Autres....

SOURCE
Protocole de Kyoto
Mouvements sociaux
ONG environnementalistes

HÔTE
État de l’Équateur
Parc Yasuni

© G. Chouquer 2011
In June 2004, there were 6,741 requisition projects throughout China (apart from Mongolia), of which just 52 were approved by the central government. These thousands of projects cover 3,750,000 hectares, which are not included in statistics on commercial land pressure, because they are domestic projects and not foreign investment. But there is an even more sinister motivation for land speculation: it is one way that local and regional authorities have found to obtain an operating budget that property tax should normally provide (Bochuan 2007; Feizhou 2007).

Land pressure and the movements it generates are therefore profoundly disruptive elements that affect even the internal equilibrium of sovereign states.

We can cite many instances of foreign direct investment by China today that take advantage of the same type of contradiction between the national and the regional level (see Figure 6). In Argentina, for instance (Montenegro 2010), the Chinese Beidahuang group, which specializes in growing and trading soya, managed to disrupt the country’s internal equilibrium by relaying the desires of the provincial government of Rio Negro. To be precise, Beidahuang acted through an intermediary company called Strong energy SA. The province of Rio Negro intended the Chinese group to pay for investments in irrigation that the Argentinian government could not or would not finance. The agreement, which was made public at the end of 2010 after it was signed, included some clauses that are relevant here. The regional government acted as guarantor for the process, made available “uncultivated land with irrigation channels” free of charge, granted Beidahuang exemption from taxation, and authorized the construction of a port terminal for importing and exporting agricultural raw materials. At first, the agreement concerned 2,000 hectares of land, then 20,000 hectares, and in the end covered 320,000 hectares.

What is not clear is whether the regional government, as the guarantor of the legal basis for the land transfers—which was based on an assumption of State ownership—will also be responsible for maintaining order among the people, because it appears that the local population was not consulted and that they resolutely intend to oppose the project. Moreover, the regional government clearly does not intend to keep them informed, as the agreement has yet to be translated into Spanish.

THE DOUBLE TRIANGULAR SCHEME OF THE YASUNI PROJECT

With the Yasuni Project, we leave the field of foreign direct investments in industrial agriculture to examine a case that, on the face of it, appears quite different; in fact, from a social and ecological point of view, it could even be said to be the diametric opposite of massive land acquisition for agro-industrial purposes—but the triangular scheme works the same way, adding a further analogy to a collection that seems to grow by the day.

In order to obtain foreign currency, Ecuador could exploit the large oil and coal deposits in the east of the country in the three oilfields Ishpingo, Tambococha, and Tiputina. The Yasuni-ITT project could involve 850 million barrels of oil worth US$7 billion, but the fact that these reserves are located under the Amazon-rainforest-covered Yasuni National Park, which is home to an extremely rich biodiversity, poses a serious problem. Extracting the oil would mean contributing to climate...
change and would have a serious impact on the biodiversity of the area. After debating the issue, the country’s political authorities indicated that, as they shared responsibility for the environment, Ecuador could leave the oil in the ground—on condition that the international community offers the country compensation to the value of 50% of what the country would lose by not extracting the oil.

The situation at present is the following: the Ecuadorian government has given itself until the end of 2011 to collect contributions. If this should fail, it will proceed with oil extraction.

Matthieu Le Quang (2010), an expert on the project, provides a good explanation of the ideology underpinning it:

With the ITT project, the Ecuadorian government wants to demonstrate the new development model for the country to follow. This model is based on respecting the rights of nature (recognized in the country’s new constitution of 2008), social equality, and the sustainable use of resources. This new vision implies a break with the anthropocentric view of development and uses concepts originating primarily from the Indigenous Movement, particularly “sumak kawsay” (“buen vivir” in Spanish). On August 3 [2010], a crucial step was taken for the implementation of the Yasuni-ITT Initiative: the signing of an agreement between the Ecuadorian government and the UNDP that created the trust fund that would make this utopia a reality. The capital of the Yasuni-ITT Fund will be invested exclusively in developing renewable energy sources—hydraulic, geothermal, wind, and solar—with the aim of changing the energy production and supply matrix, and hence reducing the use of fossil fuels. In turn, the Fund’s interests will revolve mainly around the following projects: avoiding deforestation and effectively protecting 44 protected areas totaling 4.8 million hectares, or 20% of Ecuador’s national territory; the reforestation and natural regeneration of a million hectares of forest on land where the soil is currently threatened by degradation (reducing the rate of deforestation in Ecuador, which has one of the highest deforestation rates in the world); social development of the Initiative’s zones of influence with investment in education, health, housing, and technology with the medium-to-long-term aim of changing the development model to move toward a society of biocognition [living in harmony with nature].

At the time of writing, the international guarantee fund had the pledged participation of Chile, Spain, Wallonia (Belgium), and the Latin American Avina Foundation. Other countries have expressed interest: Japan, Norway, Portugal, Canada, Germany, Italy, Peru, Turkey, and the United Arab Emirates. The UNDP is acting as guarantor.

The fiduciary arrangement of this project is the result of a double triangularization of relations (Figure 7). The first triangle reproduces the scheme of “source-host-guarantor.” The source is the multifaceted pressure (domestic and international) to simultaneously respect the rights of indigenous populations, protect biodiversity, and combat climate change. The host is naturally the land of the Yasuni National Park, which is the object of the international pressure, and that the Ecuadorian government is skillfully exploiting by promoting the alternative nature of the solution that it proposes. Finally, the guarantors are the countries and NGOs that are committing themselves financially to capitalize the fund to the amount set by Ecuador.

In parallel, however, there is a second triangle: the guarantee of the guarantee. It involves
donors (who in this new triangle represent the source), the fund for using this sum in Ecuador (the host in the new triangle), and the UNDP (the guarantor), which offers its patronage in line with the agreement it signed with the government of Ecuador.

ANOTHER ANALOGY: IDLENESS

In Europe of the eighteenth and nineteenth centuries fallow land was instrumentalized to support the concept of division and sharing of a communal good (Morlon and Sigaut 2008). In traditional systems, land was left fallow for a year in order to prepare the soil for a new cycle, which involved plowing it multiple times. Leaving land fallow meant working the land, and not leaving it to rest, and for the farmer was even less synonymous with rest. However, we know that polemically the meaning of the term has gradually reversed, as today “fallow” has come to be synonymous with rest, an ideologizing of a rural reality that will have been needed to combat it.

This is exactly what is now happening with the use of the concept of “idle land” or “waste land” on continents believed to be empty. “Idle land” is a term that—apart from realities that need to be mapped in order to be recognized—implies an insidious denunciation of land said to be “vacant and ownerless”; this is how its appropriation is justified. With this concept applied on a global scale we see the replication of a process from the past.

Alternatives?

Are there alternatives? There are, but they are complicated. The difficulty lies in the fact that decentralized land management—a well-used solution in many parts of the world—must take into account the plurality of rights and usually in the context of an ambiguous relationship with central government: both owing its existence to the State (due to decentralization laws), and in opposition to it (given the institutional corruption and misuse of land). As regards plurality of rights, we should recall, as does Joseph Comby (2008, 2), that the obstacle of exclusive ownership has been overcome:

Land ownership is, in effect, an illusion—or at least a simplification. One cannot own land in the same way that one owns a hat or a tractor. There is no country in which a land owner has every right over his land in the same way that he has every right over his tractor. There is always at the very least the collective rights of the nation that supersede the owner’s rights (see the opening article of the French Urban Planning Code, which states that “the territory is the common heritage of the nation”; and in other countries the concepts of “eminent domain,” etc.). China has understood this well, creating private property in the form of temporary, then permanent leases, without having to break the taboo of “socialist ownership.” What difference is there between a city that rents out the land, collecting rent on it, and a city that collects taxes on private property?

Under these conditions, recognizing the plurality of rights no longer poses an intellectual difficulty.

13. In my column in Études Rurales (Chouquer 2009; 2010) I emphasize the extent to which the views of researchers have (understandably) vacillated between recalling that nothing could be done without the State and wisely keeping a distance from it.
Moreover, it should be noted that decentralized land management is currently one of the most interesting responses that can be offered. The concept is particularly rich in meaning. What is important in this experiment is not just the geographical scale (local) or the administrative scale (the right level of decentralization), but also the scale of the experimentation and the content. Expressions such as “experimental management” or “participatory land use management” give rise to isomorphisms that are useful for reconstructing the land tenure paradigm (as we seek to do) at multiple geographical scales, including the local scale, and at multiple scales or levels of content. However, the concept still needs to systematically integrate a cartographic dimension, geographic as much as metaphorical, in order to fully function as a paradigm. Inevitably, decentralized land management is just one projection among many.

According to Michel Merlet and Clara Jamart (2009), in order to recognize the situation of a plurality of rights, the solution would be to use the structure of the trust. The two authors suggest it, taking into account that (as jurists would say) trust structure can lead to opacity and allow laws to be circumvented. However, fiduciarization leads to geographical and social transfers of responsibilities and profits, to triangular schemes, and to even more complex structures that dilute interests and displace responsibility. This delocalization—or dys-localization, in the sense of “disordered or anomalous localization”—by geographically dispersing the elements that usually constitute a whole, is the most critical aspect of the present situation.

The reductive nature of the land title is deplored, especially when it is based on an exclusive conception of ownership, under the pretext that it is not adapted to plurality situations. This is true. But here we arrive at what to this author appears to get to the heart of the reflection, namely, that what is important is to propose a geographically coherent solution rather than one that is deterritorialized and dematerialized in the extreme. The solution can be found not so much in the form of the structure (universality or trust), or in the competition (or substitution) between civil law and English conceptions of the law, as in territorial coherence, and hence in the production of cartographic, geographic, and geosystemic tools. The solution is not the trust, but a system of information on land tenure; it is not so much this or that type of law as locally bringing together the management of land and its use. The trust does not resolve the problem, but risks exacerbating it. Territorial coherence forces one to make use of a geography of the rematerialization of facts. This assumes more general levels of coherence that are able to offer protection from the excessive fluidity and fundamental inequality between the parties to the contract. This allows the action of each party to be defined. The professional orders and bodies (magistrates, notaries, surveyors, civil servants, etc.), governments who seek to establish the rule of law and territorial coherence, associations and NGOs that promote the right level for experimentation,


15 It would be better to point out the interest of the approach, as seen in Mathieu 2007.
various experimental bodies—all of them may offer a counterbalance. Each is the bearer of one part of the reality; and each is the bearer of an aspect of the geographic and social way of thinking.

The current way of functioning of many States that only exist thanks to international aid is already problematic. With globalization, the shock of scale becomes caricatured: the fate of the smallest local land tenure office is decided in Washington, DC, at a meeting of the board of directors of the MCC, presided over by Hillary Clinton! Is the main risk not to become accustomed to the absence of a central government?

**Knowledge and Acknowledgement of the Land**

Poor knowledge of the surface of the earth leads to imperfect assessments which people use to justify questionable decisions. The last section of this paper relates to this point.

We would, nonetheless, like to contextualize the problem accurately. The mistrust that land registration and the resulting land registers elicit often cause one to minimize the cartographic approach. However, looking for alleged outlines of plat maps—as UN Habitat, the UN body for housing and urban planning, and the International Federation of Surveyors do—is one thing, but it is quite another to neglect to develop geographic and cartographic knowledge, thus leaving the door open for the manipulation of a supposed vacancy of land.

This knowledge is conveyed via the geographic information portals and the portals that assist in reading and interpreting the data, and among the benefits that one might expect from these observatories, this knowledge is a particularly important one. We have seen that governments that speculate on investments on a very large scale base this on the assumption of vacancy, which, as we have seen with the example of Madagascar, is sustained by a questionable framework. Thus, the FAO data on land in Madagascar could be exploited by those promoting investment projects, because the statistics only surveyed 5 to 8 percent of arable land that was effectively cultivated, leading to an assumed vacancy rate of 92 to 95 percent.

Nevertheless, as André Teyssier, Landry Ramarojohn, and Rivo Andrianirina Ratsialonana (2010) note, observation of rural landscapes testifies to the ability of local societies to occupy and develop geographical space, and the figures cited above reflect both a vagueness in the concepts and a real shortcoming in the depiction of the agrarian reality. Moreover, in the Varun episode in the Madagascan crisis, the Indian corporation had to acknowledge that three-quarters of the 232,000 hectares they coveted were already occupied, and that they had to negotiate with the farmers. Nevertheless, Varun did not envisage individual negotiations, but collective negotiations with 13 territorial bodies called “plaines,” whose presidents had to negotiate on behalf of all the other land occupants. One can easily imagine the effects of this: the immediate formation of an intermediary group made up of local representatives of the new social/land tenure body. It seems impossible to not see in this a new way of existing, with the individual counting not so much for who they are as for what is expected of them; and moreover that any form of accounting and mapping of the reality of land division and the social reality can help one to avoid these dangerous shortcuts.
Conclusions

Land tenure analyses based on knowledge of local rights are indispensable for penetrating complex social and land tenure situations and talking about the plurality of land rights. Alas, they are overlooked, because the new triangular relations bypass the social and land tenure reality, the local geographic situations, and individual people to target only entities. The analysis needs to be developed at the level of the problem, and we need to think on several different scales.

At the same time, defenders of the environment and indigenous peoples are fighting for recognition of collective rights for entities and groups, and not for individuals. Apart from the radical differences in their aims, there is a major similarity with the likewise collective form of large-scale land negotiations, and with the form of development projects conceived remotely.

That which contributes to developing and guaranteeing the rights of the individual should not be neglected, even if (and especially if) restrictions are increasing and limiting individual ownership a little more every day; and even if local collective rights should continue to be defended. This is the role that the forms of “securization” with which we surround free ownership can play. Moreover, private ownership has become a tool (neither unique nor exclusive) that manufactures local counterpoints that fight against those who have the means to take advantage of the flexibility in the form of global contracts.

One contradiction should be highlighted: although the new triangular trade in land is based on a neoliberal conception, the companies that practice this form of trade depend on the powers of State ownership held by political authorities with regard to land tenure, which are contrary to liberalism. Far from any kind of ideology, these powers easily put up with collective appropriation and State ownership when it is a matter of negotiating advantageous contracts that spare them from having to negotiating directly with the population.

Unfortunately, as the land requisitions amply demonstrate (Thireau and Linshan 2007), apart from ideological objections, there is a convergence of interests between the speculators and the instigators, who use State ownership to requisition the land, sell it to corporations after having already sold it to real estate agents. However, apart from speculation and embezzlement, it is equally regrettable to note that the land requisitions also represent the means that local governments have found to boost their coffers.

We conclude with two main ideas that underpin this paper: the first is that no project can be conceived, set up, and carried out outside the region concerned without producing forms that one can this time call “neocolonial”; the second is that knowledge of the world is necessary in order to oppose the myth of land vacancy using the geographic reality.
The New Global Triangular Trade

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The New Global Triangular Trade

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Abstract

Contemporary land tenure, which often takes the form of large-scale international land grabbing, is currently undergoing significant changes; yet very little research has been done on the issue. In particular, scholars have shown very little interest in the highly diverse forms of State ownership. In parallel with large-scale land negotiations and acquisitions and the sanctuarization of protected areas, a utopia of a world in which relations are entirely fiduciary in nature has emerged in recent years. In the new utopia, a global contract connects those with food needs, those with potentialities (i.e., lands that can be cultivated or areas that need to be protected), and those with the power or in a position to act as financiers or guarantors. A new global triangular trade has emerged based on the delocalization of functions and has taken forms analogous to trust, idleness, and land vacancy. This paper analyzes these new relations and considers alternatives. It concludes by suggesting that we need to challenge and refute the myth of vacant land on which this vision is based.