

# Land Grabbing and the Perplexities of Territorial Sovereignty

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## Abstract

The recent phenomenon of land grabbing—that is, the large-scale acquisition of private land rights by foreign investors—is an effect of increasing global demand for farmland, resources, and development opportunities. In 2008–2010 alone, land grabs covered approximately 56 million hectares of land, dispossessing and displacing inhabitants. This article proposes a philosophical framework for evaluating land grabbing as a practice of territorial alienation, whereby the private purchase of land can, under certain conditions, lead to a *de facto* alienation of territorial sovereignty. If land grabs alienate territorial sovereignty, it follows that inhabitants can claim a violation of the people’s right to “permanent sovereignty over natural resources.” However, because sovereignty is entangled in the historical and contemporary causes of land dispossession, I cast doubt on this strategy. Territorially sovereign regimes often undermine democratic land governance by obstructing participation in activities such as zoning, land use, property regulation, and environmental stewardship. These activities, which I theorize as practices of “world-building,” are key to democracy because they give occupants a say in the shape of their common home. The perplexities of sovereignty in matters of land governance suggest that establishing democratic participation in rule over land requires *fracturing* sovereignty.

## Keywords

land grabbing, sovereignty, territory, property, democracy, permanent sovereignty over natural resources, Locke, Kant, Arendt

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Today in Indonesia, more than 11 million hectares of land (approximately 42,500 square miles) are devoted to oil palm harvesting, most of which takes place on plantations. Tania Murray Li, who conducted field research in the province of West Kalimantan from 2010–2015, describes the world of the palm oil plantation:

Plantations in Indonesia . . . are intended to transform so-called underutilized land, held by millions of villagers under customary forms of tenure, into spaces of productivity. . . . Plantations begin with the production of a *tabula rasa*. Bulldozers (and sometimes fire) remove all tree cover, carve terraces into hillsides, and obliterate signs of former land use. . . . Material transformation extends to human settlements, as plantation concessions are seldom empty of prior habitation. . . . Smaller hamlets, rice fields, rubber and mango trees, and grave sites are destroyed. The new built forms are overwhelmingly linear: plantation roads are laid out in straight lines, carving plantations into regular blocks. The roads have no signposts, and no names, merely numbers written in code. Social relations are deliberately thinned out. Blocks of worker housing are isolated from each other, tucked away in the middle of the sea of palms. . . . On some plantations workers line up in rows for morning roll call. . . . Plantations have jurisdiction over workers' conduct, and small misdemeanors are handled "in house."<sup>1</sup>

This description of plantation life in a contemporary private agribusiness venture is remarkable yet unexceptional. It describes but one of many worlds created by increasing global demand for food, biofuels, and resources. Indeed, the number of large-scale agribusiness and extraction sites is sharply increasing in Southeast Asia, sub-Saharan Africa, South America, and even parts of the global North.

The large-scale capture and monopolization of land is by no means a new phenomenon; human history is rife with examples of dispossession via conquest, settlement, enclosure, and private acquisition. However, the 2007–2008 financial crisis and concomitant spike in world food prices caused a transformation in global land markets that led to the sharp increase in land deals we are seeing today. Land markets in the global south have been expanding at such a rapid pace that a new designation has emerged: "land grabbing," which refers to the large-scale (>10,000 hectares) private acquisition of land rights. In 2010, the World Bank reported that land grabs covering approximately 56 million hectares of land had been announced or transacted in 2008–2009, compared to an average 4 million hectares in previous years.<sup>2</sup> As a point of reference, 56 million hectares of land is larger than France. Land grabs often cover hundreds, even thousands, of square miles of land.<sup>3</sup> Many purchases are made by the sovereign wealth funds of net food

importers in need of arable land outside their own borders—China, the Gulf States, and South Korea. On their heels have come transnational agribusiness conglomerates, speculators, and hedge funds. The sellers of the land are states themselves, which work with investors to make favorable deals.

The contemporary land rush has been investigated thoroughly by social scientists, but it has not yet been subject to philosophical inquiry.<sup>4</sup> This essay combines insights from scholarship on land dispossession and primitive accumulation with the burgeoning literature on territorial right in order to bring philosophical clarity to land grabbing's ills and possible remedies.<sup>5</sup>

What is wrong with land grabbing? We might begin with grievances and strategies emerging on the ground. Environmental problems with land grabbing are glaring: razing forests to make way for monocropping threatens biodiversity, unleashes new pathogens, and diminishes carbon sinks. Residents of grabbed land experience upheaval in their land use, which is often based on subsistence practices. Many face displacement against which they have little recourse because investors target land where inhabitants live according to customary tenure—that is, without land titles. In response, lawyers and activists have suggested that inhabitants of land grabs should claim that their government, which has sold the land, has violated the principle of international law that gives peoples “permanent sovereignty over natural resources” (U.N. General Assembly, Resolution 1803 [XVII]). The claim takes this form: by selling large plots to foreign investors, the host state has diminished the people's resource sovereignty by alienating its governance of land.

For the permanent sovereignty over natural resources—from here on, PSNR—claim to make sense, it must be true that land grabs alienate territorial sovereignty. Sovereignty can only be reclaimed if it was lost in the first place. *Does land grabbing lead to the alienation of territorial sovereignty? If it does, should sovereignty be reclaimed?* Those are the questions taken up in this article. I have focused on the issue of sovereignty because it leads me to a counterintuitive conclusion—namely, that reestablishing lost territorial sovereignty via the PSNR claim will not help affected groups strengthen democratic control over land, and may actually do the opposite.

To be clear, this essay argues that many land grabs do, in fact, transfer key components of territorial rule to investors. If land grabs not only transfer property, but in fact *alienate rule*, then it follows that scholars who have called land grabbing a neocolonial practice have good reasons to do so. As I explore in Part I, land grabbing is continuous with colonial precedents for usurping territorial rule through private, contractually lawful channels.

Part II demonstrates how contemporary land grabs alienate territorial sovereignty. I argue that land grabs incur the alienation of territorial rule when they fulfill any of the following four conditions: (1) contract clauses override

domestic law or prevent the host state from regulating the investor, (2) inhabitants are neither consulted nor included as parties to the contract, (3) the purchaser gains unilateral control over resources and infrastructure, and (4) the purchaser mimics sovereign power (e.g., via private policing). Because domestic private ownership can meet any of the criteria, I conclude that land grabs need not be transnational to incur territorial alienation. While foreign ownership has consequences of its own, the salient direction of alienation is as much from public to private rule as it is from domestic to foreign rule.

Part III explains why territorial alienation is a problem. Territorial alienation is not a problem because it is an assault on sovereignty (though it is an assault); it is a problem because it makes democratic rule over the grabbed land impossible by violating occupancy rights, diminishing public space, and monopolizing control over land. Democratic rule is also undermined because land grabs obstruct occupant access to key “world-building” practices—zoning, regulation of resources, negotiation of the property regime—that allow people to have a say in the shape of the place where they live. The practices of world-building, I argue, are a key component of autonomy and self-determination and must be included in any robust theory of participatory democracy. Importantly, land grabs do not only occur in corrupt and kleptocratic regimes; they are also practiced in what we consider strong democracies, and in these cases they still severely undermine the democratic capacities of affected groups. An analysis of land grabbing thus illuminates why democrats should not only be interested in elections and discursive participation in the public sphere but participation in the material practices of land management as well.<sup>6</sup>

In Part IV, I extend my argument: reinstating lost sovereignty via the claim to PSNR may do more harm than good. I find that the exclusive prerogatives of state sovereignty enable land grabbing, and that invoking sovereignty to resist the phenomenon is therefore contradictory. Historically, both state sovereignty and popular sovereignty have been implicated in previous iterations of land dispossession. For reasons I discuss below, the reinstatement of territorial sovereignty is highly unlikely to bolster democratic participation in communities, often indigenous minorities, that are most vulnerable. I conclude that exclusive rule, which is the very essence of the sovereignty concept, is inimical to the good that victims of land grabbing seek: sustainable self-rule over land. The implication of my argument is that those invested in democratic rule over land should be suspicious of sovereignty, in all its guises. This conclusion raises questions about the contemporary literature on territorial right, which provides many arguments about where rightful sovereignty resides, but does not question the structural contradictions of Westphalian sovereignty itself.

## Part I: Historical Land Transfers between Property and Territory

In this section, I explore land grabbing's precedents and show that it belongs to a longer history of alienating rule over land via private, contractually lawful channels. Contemporary land grabs, which are private sales, alienate sovereignty by playing upon a slippage between the notions of property and territory. The land is sold as property, but through the practical alienation of jurisdictional powers, rule is often transferred *de facto* to a new authority. As I discuss in this section, this logic is a thread that runs through the history of colonialism.

The murky zone between property and territory, between ownership and rule, is as old as the concepts themselves. Both property rights and territorial rights are bundles of competences that bestow control of land either to the owner (property) or to the state (territory). According to A.M. Honoré's definition, the property rights bundle includes the right to exclude, the right to possess, the right to use, the right to manage, the right to the income of the thing, the rights of transmissibility, etc.<sup>7</sup> Territorial right, which I explore in more detail below, commonly includes competences over jurisdiction, resources, the property regime, and borders. If we consider these bundles closely, we find that their respective competences often echo each other and overlap. For example, the rights to use and manage property overlap with the territorial right to control resources. Or take the similarity between fences and borders: the proprietary right to exclusion mimics the territorial right to control borders.

Nevertheless, property and territory have been theoretically distinct since scholars of natural law drew up the distinction between private and public right. Recalling Hugo Grotius, a property right is the private right of possession (*dominium*), whereas territorial right is the public right of jurisdiction (*imperium*), or the right (*iuris*) to say (*dictio*) what is lawful.<sup>8</sup> The former is a right to own, and the latter the right to rule. This distinction is emphasized in contemporary theories of territorial right.

What, then, is the relationship between the two sets of rights? Which bundle governs the other? There have been competing theories. Immanuel Kant argued that property rights rely on the prior establishment of territorial right.<sup>9</sup> According to him, contracts and property titles are guaranteed and regulated by prior jurisdictions, which in turn emanate from the legitimacy of the state. John Locke theorized the relationship in reverse.<sup>10</sup> According to him, property rights are derived from a natural right to ownership, and territorial rights then derive from the contractual combination of individual property titles. In this model, property rights precede the establishment of territorial rule and are prepolitical, or "primitive."

The Lockean approach has been influential because it provides a metaphysical justification for property claims: mixing labor with the land adds something to it, improves it, and produces a claim to ownership. Locke's theory ties the activities of the owner to his/her property rights. There is also a practical reason why the Lockean approach has been influential, which is that establishing property claims is less burdensome than establishing territorial right. Property claims require contractual negotiations but not a political founding. Thus, private land ownership can offer a subtler route to power than outright conquest, because the purchaser makes no (initial) claim to rule. Historically, property rights have been established through purchase, occupation, or the mere presumption of land improvement. In many cases of colonial expansion, it was not initially a government that acquired private land titles and trading rights, but private companies like the British East India Company and the VOC. The early successes of private imperial expansion relied on a robust conception of private *dominium* rights, conceived by Grotius and others to include natural rights to acquire and defend private property and to establish trade abroad.<sup>11</sup> Settler colonial states also expanded via *dominium* (purchase). Recall, for example, that the Louisiana Purchase (1803), acquired from France, comprises 23.3% of the current territory of the United States. Alaska was purchased in 1867 from the Russian Empire for 7.2 million dollars.

As the examples of territorial expansion via purchase demonstrate, Grotius's attempt to distinguish between private expansion and territorial conquest often collapsed in practice. Private expansions of *dominium* have often paved the way for territorial annexation. This is because establishing dominion over land and trade routes gives the owner forms of effective control—over land usage and the mode of production, the ability to displace inhabitants, etc.—that crowd out other forms of governance over those lands and lay the groundwork for rule by the title holder. Take the case of the British East India Company. Over the course of centuries, the venture took on characteristics of territorial rule with the help of public British support—they employed a private military and engaged in battles, gained control over land and waterways, developed laws and jurisdictions, and produced currency. Eventually, private and public ventures formally merged into a colonial government, consolidating the *de jure* British rule of India in 1858. This case illustrates the slippery logic within the Lockean and Grotian approaches to private property in which ownership can transform into public, territorial rule without the consent of prior occupants. This logic, as I explore in Part II, appears again today in land grabs. These historical examples, though suggestive rather than dispositive, are meant to bring attention to the long history of ambiguity between property and

territorial claims and to suggest that the appearance of this ambiguity today in land grabbing is not without precedent.

Contemporary land grab contracts do not transfer *de jure* jurisdictional authority and therefore, in outward appearance, they do not challenge the territorial sovereignty of the host state. The host government, which retains jurisdictional rights, sells only property title to the investor. Host countries retain sovereignty, and their governments offer favorable contract conditions to spark investment through land deals. Thus in the simpler view, it would be easy to assume that today's Kantian regime, in which sovereign states are the arbiters of legitimate property transfers, has brought the imperial ambiguities of property and territory into order. However, the case of land grabbing suggests that things are not so simple, and that while we nominally live in a world of Kantian territories, the Lockean territorial imaginary, whereby private titles are transformed into public rule by owner, is still very much with us.

## Part II: Conditions Under Which Contemporary Land Grabs Alienate Territorial Rule

This section uses examples to demonstrate how contemporary land grabs exceed the bounds of private sale and alienate territorial sovereignty. To say that land grabbing alienates sovereignty is to say that a private land sale obstructs the state's exercise of the bundle of competences that comprise *territorial right*. Following A.J. Simmons's definition, I will assume that territorial right includes the following competences:<sup>12</sup>

- (a) rights to exercise jurisdiction (either full or partial) over those within the territory, and so to control and coerce in substantial ways even noncitizens within it;
- (b) rights to reasonably full control over land and resources within the territory that are not privately owned (*amended to: [b] the right to regulate the use of land and resources within the territory*);<sup>13</sup>
- (c) rights to tax and regulate uses of that which is privately owned within the state's claimed territory;
- (d) rights to control or prohibit movement across the borders of the territory; and
- (e) rights to limit or prohibit "dismemberment" of the state's territories.

When this complex set of activities is unified under the control of the state, as it is in the Westphalian model, the state achieves territorial sovereignty.

My claim is that when land deals transfer any of the competences of territorial right to a private owner, even if they do so *de facto* rather than *de jure*,

then the contract has alienated some degree of territorial sovereignty. Because territorial right is a differentiated bundle of competences, it can be parceled out bits at a time. Some land grabs alienate sovereignty more drastically than others, and some land grabs do not alienate territorial rule at all. No current land grabs alienate territorial sovereignty in its entirety because the host government always retains putative control over eminent domain. In extreme cases of territorial alienation, the purchased land becomes a *de facto* private jurisdiction, a space of rule suspended between property and territory where public authorities no longer have the capacity to carry out the business of rule.

In what follows, I suggest four criteria to help us determine when a private land sale has alienated territorial rule:

1. *Contract clauses prevent the host state from regulating the investor's use of the land.*

This first condition strongly signals territorial alienation. It is fulfilled when investment contract clauses override domestic law. If the contract overrides the law of the land, then the plot is no longer merely a piece of property, it is also a jurisdiction. In such cases, the state has alienated (a) the right to exercise jurisdiction.

Many land-grabbing contracts transfer jurisdictional powers via “stabilization clauses,” which are included to reassure investors that future changes in the political landscape will not undermine their investment.<sup>14</sup> Stabilization clauses require the host state to compensate the investor for future legislation that negatively affects the investment, such as environmental regulation. In many of the countries targeted for land grabs, governments cannot afford the compensation that would result from new regulations, and so political action that runs counter to investor interest is paralyzed. If the government and the people cannot employ political means to regulate the resources in a land investment, then the state has also alienated (b) the right to regulate resources. Beyond environmental regulation, stabilization clauses make conditions amenable to investors by overriding domestic legislation on labor practices and minimum wage, rights to free movement and protest, and rights to customary land tenure recognition. They may also interfere with key human rights—the right to food, the right to health—written into national constitutions or adopted in accordance with international treaties and conventions signed by the host state.<sup>15</sup>

In the contract for the SoSuMar sugarcane project in Mali, for example, a stabilization clause indicates that contract conditions shall prevail over national law. Moussa Djire explains,



According to article 7.3, the Malian government warrants that no law can nullify the agreement or any one of its terms, or cause it or any one of its provisions to cease to have effect . . . the terms of the agreement . . . “take precedence over any new law enacted after signature of the agreement.”<sup>16</sup>

Such law-freezing transforms a property into a jurisdictional dead-zone. The encroachment of private investment on public sovereignty can be found in many transnational development deals and is a phenomenon related to foreign direct investment (FDI) more broadly.

2. *Inhabitants with a moral right to occupancy dwell on the purchased land, and are not consulted or included as parties to the contract.*

According to The Land Matrix, the authoritative data source on land grabbing, 43% of the total area targeted by land grabs is inhabited. In a sample of 89 land grabs, 57 involved displacement of individuals and families from grabbed land.<sup>17</sup> A number of philosophical frameworks justify the idea that the inhabitants of land grabs have a moral right to occupancy that is violated when they are displaced. Anna Stilz bases this right on the idea of “located life plans,” understood as those individual goals, relationships, and projects that are embedded in and rely on a specific plot of land. She writes,

If occupancy of a particular place is fundamental to a person’s located life-plans, and if he has established these plans without wrongdoing, then he has a moral right to occupy it. Even people who lack legal institutions—like nonstate tribes—can have such moral claims to their territory, and it is for this reason that actions like removal, ethnic cleansing, and exile are wrong.<sup>18</sup>

If Stilz’s argument holds, and I will assume it does, then landowners do wrong when they displace individuals to make room for land grabs.<sup>19</sup> But do such actions also signify a transfer of territorial rule? I believe they do.

Because of the plot sizes required for agribusiness and extraction, deals often cover entire communities, including dwellings, infrastructure, and places of work (e.g., grazing lands). Many land grabs encompass the located life plans of inhabitants *in their entirety*. If inhabitants are not included as parties to the contract, are not given an opportunity to influence and consent to the terms of land management, then the landowner gains significant power to determine the fate of dwellings, public goods, and places of work. Moreover, the landowner often gains the discretion to “evict” (i.e., displace) inhabitants. With such unimpeded control over the lives of his tenants, the landowner has become more than a proprietor.

Where a private company gains broad discretion to control and upend the located life plans of the inhabitants without their consent, the state has alienated (a), the right to control and coerce inhabitants. Private coercion of residents in the form of displacement is an exercise of jurisdiction. One way that we know that displacement by private companies signifies a transfer of jurisdiction is that, when caught in the act, companies deny their role in removal exactly because, they claim, only a government has the right to displace people. For example, a 2011 Oxfam report details the displacement of 22,500 residents from Ugandan land acquired by the New Forests Company (NFC), a British enterprise. The NFC denied any role in displacing individuals by claiming, "It is the sole mandate of the National Forestry Authority to document, engage with, and peacefully vacate any individuals illegally settling on Central Forest Reserves."<sup>20</sup> Yet evidence from the field shows that NFC staff and private security participated in evictions and destroyed dwellings.

Second, where land grabs are inhabited, states often alienate (c), the right to regulate private property, by handing discretion over customary tenure to private companies. The idea that customary tenure should be recognized as legal ownership, and therefore as a form of private property, is increasingly recognized in the national legislation of states, and by international law in documents such as the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>21</sup> When private companies gain discretion over dispossession, they regulate a legal system of private property as if they ruled over a jurisdiction of their own.

The violations of occupancy rights that occur in land grabs, even those that do not directly displace inhabitants, are an assault on the *autonomy* of individuals and communities. In Stilz's language, our autonomy depends on our ability to create and revise our located life plans, to have a say in the shape and fate of the place we live our lives. For most people around the world, our experience of freedom is inextricably tied to the place we call home. To be free, therefore, inhabitants must have access to political decisions over their home instead of having those decisions imposed by an alien power. Below, I theorize the activities that determine the shape of our shared homes as practices of *world-building*. Through access to such practices, our autonomy and the capacity for self-determination are tightly linked. Stilz writes, "self-determination is a fundamental good, closely connected with our ability to lead lives we can appropriately see as our own."<sup>22</sup> Where occupancy rights are severely violated, individuals lose autonomy and groups lose self-determination (if they ever had it to begin with). As I discuss below, this is a problem for democracy.

3. *The purchaser gains unilateral discretion over infrastructural and environmental changes of public concern.*

What about uninhabited land? Territorial alienation may occur even where there are no inhabitants for a private landowner to govern, and this is because territorial right assigns competences not only over people, but also natural resources. With regard to discretion over land and resources, large land purchases are suspect. Some land grabs cover an entire region, giving the foreign investor considerable power over infrastructure and the environment, including water and irrigation, roads and transportation, forest management and biodiversity (which is diminished by monocropping), and resource extraction. The extent to which the landowner gains aspects of territorial rule depends, then, on the government's willingness or ability to regulate the parameters of investor land use.

In many cases, governments transfer (b) the right to regulate the use of land and resources within the territory. Take, for example, the Saudi Star Development Company, which currently owns 540 square miles of land in the Gambella region of Ethiopia. While displacement in the region has been widespread, just as remarkable is the extent to which the government has transferred discretion over water. Saudi Star lands are valuable because they include irrigation channels diverted from the Alwero River, a river that sustains life for numerous communities, including the indigenous Anuak people. Saudi Star is currently developing plans to further dam the river to irrigate its rice fields, which will divert water from these communities.

Fieldwork by the Oakland Institute (OI) reveals that the Ethiopian government has handed over blanket discretion over water and resources in Gambella: lease contracts are concluded without community consultation, kept confidential, and relevant government agencies that should have regulatory power do not have access to the contracts. One of the investors told OI "what we choose to do on the land for our own commercial intent is our own business. There are [*sic*] no governance, no constraints, no contracts, none of that."<sup>23</sup> Thus Saudi Star's unimpeded control of natural resources mimics sovereignty, morphing public prerogative into private rule. Importantly, it is not merely the size of the land grab that gives Saudi Star access to the river, but its strategic location. Therefore, while large land grabs are suspect, acquisitions do not have to be enormous to alienate the right to regulate important natural resources.

One might object that while the government chooses not to regulate Saudi Star lands, it still has the capacity to invoke its jurisdiction. However, in many land grabs, stabilization clauses obstruct political negotiations over regulation. Therefore, where the government so binds itself from reclaiming

sovereignty, the fulfillment of condition (1) may aggravate the degree of territorial alienation that occurs from fulfillment of conditions (2–4).

4. *Strategies to control purchased land—for example, use of force—mimic sovereign power.*

Finally, the passage from proprietorship to territorial rule is signaled when a landowner mimics sovereign power to control the boundaries and contents of his property. This condition overlaps with the previous three but is distinct because it focuses on the use of force. If, following Weber, the state is a monopoly on the legitimate use of violence within its territory, then the delegation of force to private actors, actors who are not regulated by state government or laws, may signal a derogation of sovereignty. In these cases, the state alienates (a) the right to jurisdiction and to control and coerce inhabitants.

Modes of land control that signal a jurisdictional transfer include but are not limited to the displacement of inhabitants, use of private security forces, and borderization of property lines. The mimicry of sovereign force is common in land grabs because investors target regions with weak state capacity and with rivals to state force. For example, in 2015 reports surfaced that paramilitary groups were working in cooperation with the Italian oil palm company Poligrow to provide security on the company's land holdings in Colombia. Journalists have found that nonstate military groups have been employed to intimidate and violently harass indigenous inhabitants who resist displacement.<sup>24</sup>

Sovereign mimicry via private policing is not restricted to transnational land grabs. Domestic vigilantes like Nevada's Cliven Bundy have used militaristic force against public officials to challenge sovereignty over land. Such tactics should draw our attention to ways in which *domestic* land practices can alienate territorial rule. Consider a type of sovereign mimicry, quite different from policing, which was once popular in company towns: scrip currency. Before being outlawed by the Fair Labor Standards Act (1938), it was common practice to concentrate workers on company-owned land and pay them with scrip currency, which could only be used at company stores and for rent in company-owned housing. Company towns replaced the coin of the realm, effectively subjugating workers to a private regime of governance with no corresponding status of citizenship. Scrip currency was outlawed in 1938, but attempts by private authorities to take on the characteristics of public government have not disappeared. Therefore, though transnational business contracts may present unique challenges, the problem of territorial alienation through private land ownership can be purely domestic.

According to my analysis so far, an analysis that I will complicate below, the salient direction of territorial alienation in land grabbing is from public to private authority. In cases of land acquisition that fulfill any of the above four (1–4) conditions, we can say that some degree of territorial sovereignty has been alienated.

### **Part III: Territorial Alienation and Democracy**

At this point, I hope I have convinced the reader that private land sales can alienate territorial sovereignty. However, the reader may not be convinced that territorial alienation is the primary problem with land grabbing. Because many land grabs occur in countries with kleptocratic, authoritarian, and democratically unresponsive regimes, the reader may reason that territorial alienation is beside the point and that the real problem is one of illegitimate governments exposing already dominated peoples to further domination. I agree that domination and injustice can help explain what is wrong with land grabbing, but I also believe that territorial alienation constitutes a distinct and important moral bad. And this is not because the loss of sovereignty is itself a problem, but because territorial alienation so undermines the occupancy rights and democratic capacities of affected inhabitants that it makes self-rule over grabbed land impossible. If we believe that democratic participation in rule is important, and for the sake of argument I will assume it is, then we should be worried about large-scale public-to-private land transfers.

Let me pose a counterfactual: If the primary ill of land grabbing is domination by illegitimate governments, then it should be the case that as long as a regime is legitimate—and let us stipulate democratic legitimacy here, that is, a government based on free and fair elections, open deliberation in the public sphere, and freedom of association—then the government may rightly alienate territory where such policies represent the will and good of the majority. Indeed, this is the justification governments give for land grabs. The Indonesian government, for example, has gone to great lengths to justify land grabs as a development strategy undertaken in the name of the people. Indonesia is the world's largest producer and exporter of palm oil. The export of palm oil is vital to Indonesia's GDP; it is also used domestically for food and biofuel. The UNDP estimates that 16 million jobs in Indonesia depend on palm oil.<sup>25</sup> Researchers in Indonesia find broad popular support for palm oil production, with the exception of indigenous groups.<sup>26</sup> If we use a standard of majority support, then territorial alienation for the sake of palm oil production may lead to injustice for indigenous groups but is democratically legitimate.

It is exactly this idea—that consent via national elections or majority support makes land grabbing democratically legitimate—that I would like to challenge. The problem with this line of reasoning, which equates democratic legitimacy with majoritarianism, is that it cannot account for the geographical dimensions of *participating in rule*, which is the aim of democracy in a simpler sense. As has been pointed out repeatedly in the vast of literature in democratic theory, the definition and intent of democracy—which is rule by the people (*demos*), that is, the people's participation in rule—escapes the facile equation of democracy and national elections. Scholars of participatory and deliberative democracy have long argued that discursive participation in the public sphere is a requirement of democratic legitimacy. Surely we can say that inhabitants affected by land grabs are denied proper participation in debates surrounding land policy, given the extreme secrecy surrounding these contracts, but discursive exclusion cannot fully capture how the affected groups are being blocked from participating in rule. To capture that, we need to think more carefully about the material dimensions of participatory democracy. The case of land grabbing can help us do that.

What would be required for inhabitants of grabbed land to participate in rule over land in which they have a moral right to occupancy?<sup>27</sup> As is evidenced by Indonesian support for palm oil land grabs, voting in national elections will not help affected inhabitants establish participation in land policy because the majority has stripped them of this power in the name of national interest. Yet to participate in rule, inhabitants need access to decisions over their shared land and their located life plans. In the case of land grabbing, this would require involvement in contract negotiations *at a bare minimum* (condition [2] from Part II above). Beyond contract negotiations, inhabitants should also be granted participation in activities like zoning, building infrastructure, regulating common land and usage rights, and managing the environment. These types of land-based activities belong to a process I call *world-building*.<sup>28</sup> Drawing on Hannah Arendt, I define world-building as encompassing the collective practices through which communities build, rebuild, negotiate, and govern their shared physical world.<sup>29</sup> Where world-building is monopolized by a private owner, occupants are denied a chance to influence essential decisions that will be made over their lives and homes. Because it is a way to take part in rule, participation in world-building transforms occupants of a piece of land into democratic citizens—that is, members of a political community that is defined by its location.

To understand the centrality of world-building in self-rule, take the case of the indigenous Saami people who have had to wage fierce political battles, especially with Norway, to retain their way of life (primarily reindeer herding) on their ancestral lands. It is an important case because theirs is a battle

for self-rule over land in one of the strongest democracies in the world. The northern Saami people were existentially threatened by the burgeoning Norwegian democracy in the early 1900s when measures designed by the majority stripped them of their land and forced their assimilation. It has required vast political effort beginning in the 1970s and continuing today to reestablish Saami rights to land practices, including jurisdictional rights as a recognized minority, and to protect the Saami approach to the land. For the Saami, control over land practices is a precondition of democracy. Their self-rule requires the ability to carry out herding and subsistence practices, and they have had to establish these over and against the Norwegian popular sovereign. Effective democracy for the Saami people thus requires the dispersal and fracture of popular sovereignty away from the Norwegian majority via self-determination and substate jurisdictional rights.

Thinking about the geographical aspects of robust democracy can help us theorize why democracy is threatened by violations of occupancy rights. Theorists of occupancy build on the intuition that to displace, dispossess, or endanger the safety of people's homes is a serious violation of human rights, and this is because our autonomy is dependent on the stability of our home.<sup>30</sup> Humans need a place in the world to be safe, be part of a community, and make plans. Theorists have defended various definitions of occupancy—some consider it an individual right (e.g., Stilz), and others a group right (e.g., Margaret Moore)—and have identified various ills that arise from denying these rights to those who deserve them. Stilz conceives of occupancy as the individual right “to reside permanently in that place, to participate in the social, cultural, and economic practices ongoing there; to be immune from expropriation or removal; and to return if they leave temporarily.”<sup>31</sup> Land grabs, as I reviewed in Part II, violate occupancy rights so conceived. And where land grabs violate occupancy rights, as they almost always do, there is a downstream effect on autonomy and self-determination. There are many parallels between the ideas of world-building, occupancy rights, and self-determination, but, as I discuss below, only the world-building concept is constructed on explicitly anti-sovereigntist grounds.

My basic claim, then, is that democratic self-rule requires that the inhabitants of a place have the opportunity to participate in determining and managing its shape. Territory-alienating land grabs obstruct democratic participation by preventing inhabitants from engaging in and making a difference in the governance of the grabbed land. They accomplish this by erecting obscure forms of private rule and by stipulating contractual conditions that make it difficult or impossible to regulate the investor through domestic legislation. By transferring rule to private investors, land grabs shield politics from inhabitants, and this shielding is often occurring in places where inhabitants



were already engaged in struggles with their own governments to participate in rule over land.<sup>32</sup> Furthermore, the alienation of rule over large swaths of land creates geographical obstacles to governing that land, especially where the landowner has used sovereign mimicry to border and police it. Thus even where national politics at large are democratic, territorial alienation in grabbed land can turn it into a jurisdictional dead-zone, a space immune to popular self-government.

The extreme privatization of public space that occurs in land grabbing also poses a threat to democracy, because democratic citizens need public focal points in order to share and negotiate their common life.<sup>33</sup> These focal points are not only discursive (i.e., the public sphere), but manifest geographically as public spaces, shared natural resources, and infrastructure. Town squares, village meeting places, roads, and freshwater sites are places where citizens appear to each other, share in the necessities of life, and negotiate a common reality. On the scale of the land grab, where the purchase is so large that inhabitants' lives are circumscribed by private ownership, they lose the contestability of shared spaces, and they may lose shared spaces altogether. Land grabs endanger democratic politics by taking political geography off the table for public negotiation and regulation. They diminish the public space of the world.

Scale and monopolization matter when it comes to diminishing public space. Small-scale private geographies, especially in the form of small-holdings, can contribute to freedom and provide protections for individuals and groups. Unlike large-scale private ownership that monopolizes land, small-holdings can diffuse political power among citizens. Because it runs against such diffusion of power, the monopolization of land, which is a way of concentrating power in the hands of the few—whether private or public—is at the heart of the problem with land grabbing.

It is important to emphasize that the most direct assault on democratic self-rule that emerges from land grabbing is displacement. In cases where inhabitants are removed from land to make way for monocropping and resource extraction, occupancy rights and democratic participation are violated *in extremis*. Displacement does more than prevent inhabitants from governing and shaping their home, it destroys the world as they know it. As Hannah Arendt might have put it, displacement makes individuals temporarily or permanently *worldless*, meaning that they are excluded from politics and the world shared by those who still have the capacity to engage in political action. Taking displacement seriously as a violation of human rights would likely require the codification of a right to place, which remains controversial. But if we believe that autonomy is a good that requires some ability to steer our fate, and our fate is wrapped up in our relationship to land, then we will have to enter such controversies.



To summarize, the fundamental problem with territory-alienating land grabs is *not* that they alienate the state's sovereignty but that they obstruct democratic participation in land governance by blocking access to world-building, violating occupancy rights, diminishing public space, and monopolizing control over land. Therefore, even where it is supported by a national majority, land grabbing poses a threat to democracy. Furthermore, current large-scale privatizations of public lands (e.g., for oil drilling) in the United States indicate that these dynamics are not restricted to authoritarian regimes. Neither is the problem only contemporary: settler colonial democracies like the United States, Canada, and Australia were at work in the 1600–1900s expanding democratic rights for settlers while simultaneously stripping indigenous peoples of their land, and therefore of their capacity to participate in rule. These struggles in democracies do not merely reflect corruption or a momentary flight from the norm; they are struggles, spanning all regime types, over what constitutes proper land use and who gets to decide. One thing is certain: inhabitants of land with a moral right to occupancy must have access to participation in these decisions if we are to live up to notions of democratic legitimacy.

#### Part IV: Sovereign Perplexities

In the last section, I weigh the costs of reasserting sovereignty to fight land grabs. This strategy has been suggested because international law grants peoples the right to PSNR.<sup>34</sup> My analysis of territorial alienation suggests that it is logically coherent to claim that land grabs alienate PSNR: where sovereignty is lost, it makes sense to reclaim it. However, I also find that sovereignty's implication in the history of land dispossessions troubles attempts to defend democracy with this strategy, even where sovereignty over natural resources is conceived in democratic terms as *popular* resource sovereignty.

To begin with, who is responsible for the loss of sovereignty that occurs in land grabbing? Activists, lawyers, and scholars suggest that the host state is at fault because, by selling the land, it has violated the PSNR principle. But whose sovereignty? The people's or the state's? Here we need to disentangle *popular sovereignty*, or "the idea that the people are subject and objects of the law, their author as well as their subject," and *state sovereignty*, which is "the capacity of . . . the modern nation-state to act as the final and indivisible seat of authority within a given territory."<sup>35</sup> While both conceptions are crucial to the legitimacy of the modern state, they come into conflict when "the sovereign state claims more prerogatives for itself and attempts to protect itself from the demands of popular sovereignty."<sup>36</sup> This logic is taken to the extreme in land grabbing, where the state has used its sovereign prerogative to

alienate what its constituencies claim for themselves: control of land. While jurisdictional powers fall to the state, the people may awaken and reclaim its authority when their everyday usage of the land is threatened. In conflicts over land grabbing, the ambiguity of sovereignty plays out on the ground, quite literally, as a conflict over legitimate rule of the soil.

The PSNR principle was developed in the 1960s–70s by leaders of decolonizing states. The architects of the principle rightly asserted that self-determination and equal sovereignty of states would be impossible without domestic control of resources in the postcolonial world. It is paradoxical, then, that sovereign prerogative also allows these states to sell land to foreign investors, which leads to the disappearance of sovereignty. Land grabs turn sovereignty in on itself and transform territory into something else—a commodity, a space of private rule, a nonterritory. As Saskia Sassen argues, land grabs display the predation of global capital on the edges of sovereign power, a process that “disassembles” national territories.<sup>37</sup> As parties to these transactions, sovereign states legitimize their own disassembling. Thus we are presented with a perplexing situation in which exclusive state sovereignty prevents outright conquest while enabling insidious forms of cooperation between capital and states that undermine domestic constituencies in their capacity to participate in rule. The invocation of PSNR inadvertently reinforces and legitimizes a model of authority that enables what the claim is meant to challenge: dispossession. If sovereignty, understood as exclusive prerogative over jurisdiction, is among the enabling conditions of land alienation, then its invocation in the guise of PSNR is a contradictory resistance strategy.

The logic according to which state sovereignty enables dispossession is not new. In both colonial ventures and metropole societies, the creation of sovereignty via state-building has justified the enclosure of commons and redistribution of land according to modern methods of surveying and title-holding.<sup>38</sup> The state has long played a key role in “primitive accumulation,” the Marxist account of the brutish extralegal acts of dispossession (of land and resources) that are necessary to sustain growth in a capitalist economy. The problem is not merely historical: it is now widely acknowledged that primitive accumulation continues today in the guises of land grabbing, land conflicts with indigenous communities, resource theft, and development projects.<sup>39</sup> As David Harvey argues, “the state, with its monopoly of violence and definitions of legality, plays a crucial role in both backing and promoting these processes [of primitive accumulation]. . . . The developmental role of the state goes back a long way, keeping the territorial and capitalistic logics of power always intertwined . . .”<sup>40</sup> Historically, communities whose survival depends on subsistence have been the most vulnerable

in the face of this logic. The more value their land has in capitalist markets, the more they are targeted.

Interestingly, the Leviathan's role in dispossession and primitive accumulation calls into question a problem I outlined above, where I argued that privatization obstructs democratic rule over land. Now it seems that the logic goes the other way: history shows us that inhabitants often lose control of land at the hand of *public* institutions, namely sovereign power. The publicness of land does not automatically make it democratically negotiable. Like the private agribusiness conglomerates of today, sovereigns have long had the capacity to monopolize control over land and block occupants from sharing in power. Moreover, once land is surveyed, made legible, and controlled by a sovereign state, it can more easily be commodified and packaged for sale in global land markets. Thus the historical development of sovereignty, which required the rationalization of land management, helped to set the stage for territorial alienation via land grabbing. When the opportunity of a booming land market appeared in 2007, sovereign states with large public land holdings were ready to act, ready to turn a profit. Ultimately, the dispossessions of our moment have emerged from, and are continuous with, a longer historical logic of dispossession. State sovereignty is embedded in that logic today as it was before.

The historical and contemporary connections between state sovereignty and dispossession present a problem for mainstream theorists of territory writing today.<sup>41</sup> These scholars have largely focused on how to conceptualize and correctly assign territorial sovereignty. They have not stepped back and questioned whether territorial sovereignty may be causing the problems they genuinely wish to solve. My analysis here suggests it is time to do so and that the mainstream territorial rights literature must enter into dialogue with those geographers, historians, and indigenous scholars who have worked to lay bare the historical nexus of sovereignty, capitalism, and dispossession.<sup>42</sup>

So far, I have pointed to problems with state sovereignty, but why not pose PSNR in terms of *popular* resource sovereignty, as Leif Wenar does in *Blood Oil*?<sup>43</sup> Why would the protection of popular resource sovereignty undermine democratic rule over land? For those worried about kleptocracy, the turn to popular resource sovereignty seems a straightforward solution: put the resources in the hands of the people. Wenar sees in PSNR a solution to resource theft because international law explicitly assigns this sovereignty to "peoples," not states, and therefore the real problem is that PSNR is exploited by corrupt regimes. His suggestion is to use tools of diplomacy and boycott to pressure regimes to adhere to the true intent of PSNR and allow their people to bring them to account on issues of land and resources. I agree with Wenar that using the PSNR principle to force greater accountability over land

and resources would be a great improvement over the state of land politics today. The problem with this strategy, and it is a big problem, is that it retains a dangerous ambiguity over the most central question of democratic theory: who is the people?

Wenar admits that the PSNR principle cannot provide an answer to this question, yet he bemoans “elite attempts to make mischief around the meaning of *people*.”<sup>44</sup> To him, the question of democratic membership can be put to bed with a simple definition “the people of an independent country consists of all its citizens.” He explicitly brushes aside questions of migration and statelessness as a “second-order problem of indeterminacy.”<sup>45</sup> I don’t want to struggle too hard with Wenar here because we agree on the urgency of democratic accountability over resources. However, I have been clear that the victims of land grabbing are most likely to belong to indigenous groups, national minorities, and dominated rural communities. These are the exact groups for which the question of effective citizenship and peoplehood cannot be taken for granted. Such groups are likely to suffer disempowerment vis-à-vis national majorities. It is therefore unacceptable that they are excluded from Wenar’s account, which, for example, makes no single mention of the Saami amid his excessive praise of Norway. A popular sovereign mobilized to protect its resource sovereignty in countries like Indonesia or Norway cannot be expected to empower democratic action in rural communities suffering from land grabs. It is exactly because of this ambiguity over peoplehood that we need a geographically dispersed understanding of participatory democracy, one that emphasizes the importance of minority, indigenous, and rural access to the activities of world-building.

Furthermore, the imaginary of popular sovereignty that Wenar champions as satisfying a universal “yearning for unity” has long been implicated in the domination of groups with desirable land. The popular sovereign has often and, in the case of settler colonial states, quite brutally played the role of land grabber.<sup>46</sup> Recently, Adam Dahl has uncovered the constitutive relationship between early American justifications for conquest and the American conception of democracy: the colonization of indigenous Americans was justified as a republican project and posed in the language of popular sovereignty.<sup>47</sup> Private conquests taken on in the name of the American people—that is, white settlers—were retroactively legitimized by the state, revealing twisted dynamics of collusion among the state, the popular sovereign, and private capital interests. Joanne Barker writes, “Congress and the courts have repeatedly retroactively legalized the criminal fraud and collusion that defined the federal, corporate, and private acquisition of Indigenous territories in the United States.”<sup>48</sup> These logics are implicated in imaginaries of popular sovereignty in Canada and Australia as well. And as I pointed out above,

contemporary justifications for expropriation in states like Indonesia, where land is being cleared for monocropping, are posed in terms of the will of the people. Both popular and state sovereignty, then, have played a role in dispossession and conquest across the modern era. The perplexities of pressing the sovereignty claim to resist land grabbing are persistent.

One answer to the problems of the majoritarian approach to popular resource sovereignty is to extend self-determination rights to subnational minorities. Margaret Moore and Anna Stilz, for instance, have both addressed this problem by emphasizing that many substate groups, including indigenous peoples, deserve self-determination rights and increased (though not absolute) control of their ancestral territories.<sup>49</sup> Their answer is to proliferate popular resource sovereignty. I agree with this approach. I also think *it departs from the real meaning of sovereignty*, which is meant to assign ultimate authority via exclusive jurisdictional right, in ways with which Stilz and Moore do not grapple. The proliferation of robust self-determination rights to indigenous minorities introduces overlapping sources of authority over resources, including international law (e.g., the 2007 UN Declaration on the Rights of Indigenous Peoples). I would therefore argue that the dispersal of self-determination rights away from the nation-state is in line with the suggestion I am making in this essay, which is to fracture the sovereignty of nation-states.

Stilz and I also converge because my theory of world-building mirrors her suggestion to disperse self-determination rights to protect located life plans. In my theory, a group of self-determining people is a people with access to (and engaged in) common practices of world-building. The difference between my approach and Stilz's is that my notion of world-building *explicitly* dispenses with sovereignty, while she remains nominally committed to the Westphalian order. This commitment positions her awkwardly to endorse a system whose sovereign principles she must violate in order to address its fundamental injustices. My approach, on the other hand, is founded on Arendt's exhortation to theorists to consider institutional configurations that "banish the sovereign."<sup>50</sup> Our fundamental disagreement, then, is whether the principle of self-determination can or should shed its association with sovereign politics.

One good reason to be suspicious of sovereign approaches to peoplehood is that indigenous peoples and subsistence communities are not the only groups vulnerable vis-à-vis the sovereign. Migrants, refugees, and the stateless also struggle within the Westphalian system to establish occupancy rights. It would be possible to take my analysis further to relate the struggles of migrants and indigenous peoples: the popular sovereign has been a friend to neither (and often an enemy of both), and both groups hover precariously

over dangerous gaps within a system that was not built to accommodate those who fall outside the Westphalian trinity of nation-state-territory. My analysis of the cooperation of capital and sovereigns in monopolizing power over land shows us that rather than focusing on what divides migrants and indigenous peoples as newcomers vs. natives, we might do well to think about how these groups share a common interest in diffusing power over land away from the Leviathan. This is not to say that migrants and indigenous groups face the same immediate dangers, but they both suffer from the perplexities of territorial sovereignty.

Before concluding, I want to address one more important problem with PSNR. Chris Armstrong argues that the principle is morally unjustifiable because permanent and exclusive authority over any natural resource blocks efforts to address environmental crises that have effects across borders.<sup>51</sup> He therefore calls for the dispersal of authority over natural resources across a range of local, national, and postnational organizations. Armstrong's suggestion is compelling because policies that regulate resources in one jurisdiction inevitably have effects on others. For example, dams in one territory have downstream effects on neighbors, as evidenced by the Southeast Asian droughts caused by China's extensive network of dams. Moreover, environmental effects extend beyond just neighbors: resource extraction and production affect ecosystems, biodiversity, air and water quality, and climate, so that resource policies can have regional and even global effects. Because environmental issues do not follow the dictates of territorial boundaries, forms of overlapping (i.e., nonsovereign) rule will be required to address the challenges produced by man's encounter with nature.

What, then, is to be done? What claim, if not PSNR, *should* be made by inhabitants affected by land grabs? For these individuals, territorial alienation is not experienced as a loss of sovereignty, but rather as a demolition of their located life plans, a loss of home, and an obstruction of their capacity to participate in world-building. Land grabbing today should not be understood merely in terms of foreign influence or privatization but as the manifestation of the logic of power acquisition via territoriality (i.e., spatial control), a logic that pits both sovereign states and capital against inhabitants who want a say over the fate of their home. Thus the answer to the problem of land grabbing is not to invoke sovereignty to stop the privatization of land, but to *fracture* sovereignty by reclaiming land control for occupants against the state's unilateral claim.

Indeed, there is evidence that the victims of land grabbing are interested in fracturing sovereignty: resistance claims often bypass states to draw on international law and claimants engage with transnational activist networks, signaling their interest in power-sharing and willingness to navigate overlapping sources

of authority. Efforts to fight dispossession are often bolstered by power-sharing and overlapping authority. Therefore, while it may make strategic sense in the short-term to invoke sovereignty, land grabbing resistance effectively abandons the core conceptual element of sovereignty, which is exclusivity.

But is it possible to dispense with territorial sovereignty? I think it is. To begin with, we do not need the framework of sovereignty to bound groups of occupants by territorial jurisdiction (i.e., to bound the demos). Jurisdictions need not be sovereign; they can be overlapping, as we see in institutional configurations such as federation, legal pluralism, and municipal cosmopolitanism. Territorial sovereignty provides a boundary for the demos but at such a scale that the demos becomes an imagined, exclusionary macrosubject, often in the guise of “the nation.” Shared occupancy and the shared practices of world-building, on the other hand, can be conceptualized on many scales without a macrosubject. The idea of shared occupancy is nonexclusionary; it simply conveys the fact that we live together. We do not necessarily live together because we have shared identity, though we might have that too; we live together because we have no other choice, because we use the same land.

What claim then, if not the reinstatement of territorial sovereignty, would better express inhabitants’ demand to reinstate what has been lost in land grabbing, or to establish what was often never there to begin with: democratic self-rule over land? International Human Rights Law provides a number of alternative claims that may help secure inhabitant’s rights to land, for example, norms geared toward indigenous rights (e.g., the UN Declaration on the Rights of Indigenous Peoples) or the right to food (subsistence farming is the most common prior use of grabbed land). Both of these have already been called upon by activists. However, my intuition is that we need to develop a new and enforceable human right to place, which would pose the most direct challenge to dispossession. Such a right would require specification as an individual rather than group right and would have to be differentiated from the right to property ownership. Establishing the right to place would be an uphill battle, because it would be understood by the powers-that-be for what it really is: a direct threat to state-backed dispossession and capital-driven private land accumulation. But as I said above, if we genuinely want to address the overwhelming loss of home suffered by so many around the world, it is a battle we must enter.

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### Notes

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  10. John Locke, *Second Treatise of Government* (Cambridge: Hackett, 1980 [1689]).
  11. Martti Koskenniemi, "Empire and International Law: The Real Spanish Contribution," *University of Toronto Law Journal* 61, no. 1 (2011), 32.
  12. A.J. Simmons, "On the Territorial Rights of States," *Philosophical Issues* 11 (2001): 306.
  13. Following a commonly accepted formulation of the state's competence to regulate resources, I have departed from Simmons' version of (b) by removing his qualification that the state's right to regulate resources is overridden by the discretion of private owners. That resources are a matter of public concern is commonly accepted among territorial theorists, including liberal nationalists (e.g. David Miller), Lockean (e.g. Cara Nine), and Kantian (e.g. Stilz).
  14. Lorenzo Cotula, *The Great African Land Grab?*, 116ff.
  15. Andrea Shemberg, "Stabilization Clauses and Human Rights" (Geneva: Office of the UN High Commissioner for Human Rights, 2009).
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  17. Kerstin Nolte et al., "International Land Deals for Agriculture: Fresh Insights from the Land Matrix: Analytical Report II" (Bern, Montpellier, Hamburg, Pretoria: The Land Matrix, 2016), 42.
  18. Stilz, "Occupancy Rights and the Wrong of Removal," 355–56.
  19. It is possible for morally worthy located life plans to clash with another, and these differences are best sorted out through robustly democratic procedures. However, some located life plans—e.g., conquest, colonization, or unaccountable resource depletion—are morally unworthy because they impinge on the autonomy of others.
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22. Stilz, *Territorial Sovereignty: A Philosophical Exploration*, 29. Stilz's notions of self-determination and autonomy are constructed on individualistic foundations. My own understanding of autonomy includes communicative and relational dimensions.
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27. The reader will notice that I use the language of "occupancy" and "inhabitants" because I want to leave open the possibility that noncitizens deserve the same place-based rights as citizens by virtue of living on a plot of land.
28. Anna Jurkevics, "Democracy in contested territory: on the legitimacy of global legal pluralism," *Critical Review of International Social and Political Philosophy* (2019), onlinefirst, doi: 10.1080/13698230.2019.1644584, 15–16.
29. On the concept of "world," see Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1998 [1958]).
30. By stability of home, I do not mean that humans must remain in one place but that they can count on a place (or a set of places and passage in between if there are nomadic) in order to build a life.
31. Stilz, *Territorial Sovereignty: A Philosophical Exploration*, 35.
32. Note that regimes can block democratic participation without transferring rule to private investors. Rule by private investor is but one of many ways that democracy is obstructed.
33. Bonnie Honig, *Public Things: Democracy in Disrepair* (New York: Fordham University Press, 2017).
34. See ICCPR (1966), ICESCR (1966), and UN General Assembly Resolution 1803 (XVII).
35. Seyla Benhabib, "The New Sovereignism and Transnational Law: Legal Utopianism, Democratic Skepticism and Statist Realism," *Global Constitutionalism* 5, no. 1 (2016): 134.
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  42. For example, Coulthard, *Red Skins, White Masks*; Paul Nadasdy, *Sovereignty's Entailments: First Nation State Formation in the Yukon* (Toronto: University of Toronto Press, 2017); Harvey, *Social Justice and the City*; Cocks, *On Sovereignty and Other Political Delusions*.
  43. Leif Wenar, *Blood Oil: Tyrants, Violence, and the Rules that Run the World* (Oxford: Oxford University Press, 2015).
  44. Wenar, *Blood Oil*, 198.
  45. *Ibid.*
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  47. Adam Dahl, *Empire of the People: Settler Colonialism and the Foundations of Modern Democratic Thought* (Lawrence, KS: University of Kansas Press, 2018).
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