



UNDERSTANDING FRAGMENTATION IN GLOBAL GOVERNANCE ARCHITECTURES

The case of global land governance

Master thesis

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Statutory Declaration

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I declare that I have developed and written the enclosed Master Thesis completely by myself, and have not used sources or means without declaration in the text. Any thoughts from others or literal quotations are clearly marked. The Master Thesis was not used in the same or in a similar version to achieve an academic grading or is being published elsewhere.

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I. List of Acronyms

ADA – Argumentative Discourse Analysis

DI – Discursive Institutionalism

EPFI – Equator Principles Financial Institutions

EU – European Union

FAO – Food and Agriculture Organisation of the United Nations

FPIC – Principle of Free, Prior and Informed Consent

G20 – Group of 20 most wealthy industrial states

G7 – Group of the 7 most wealthy industrial states, formerly G8

G77 – Group of 77 developing countries, organized within the UN voting structure(s)

GDPRD – Global Donor Platform for Rural Development

GDWGL – Global Donor Working Group on Land

GGA – Global Governance Architecture

GLG – Global Land Governance

GLTN – Global Land Tool Network

HLTF – High Level Task Force on the Food Security Crisis

IAFN – International Agri-Food Network

ICCPR – International Covenant on Civil and Political Rights

ICESCR – International Covenant on Economic, Social and Cultural Rights

IFAD – International Fund for Agricultural Development

ILC – International Land Coalition

IMF – International Monetary Fund

IPC – International Planning Committee for Food Sovereignty

LSLBI – Large-Scale Land-Based Investment

OECD – Organisation for Economic Cooperation and Development

PAA – Policy Arrangement Approach

PRAI – Principles for Responsible Investment in Agriculture and Food Systems

RAI - Principles for Responsible Agricultural Investment

RSB – Roundtable for Sustainable Biomaterials

SDG – Sustainable Development Goal

UDHR – Universal Declaration on Human Rights

UN – United Nations

UNCTAD – United Nations Conference on Trade and Development

VGGT/Voluntary Guidelines – Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

WTO – World Trade Organisation

1. Introduction

1.1. Background

Human societies have always given a particular important value to land, as it is needed to sustain food production, offers space to construct houses and homes and has an inherently cultural value. Conflicts around land, may they be of social, political, economic or environmental nature have existed since the emergence of human societies and have been dealt with through different systems, politically, socially and legally. In a further globalized world, in which cross-cutting issues, such as the economy, the environment, and more specifically our oceans, our forests and our climate are dealt with at a global level, land is no exception. The need to address land issues at a global level, is however a more recent development and is due to the global rush for land (Anseeuw *et al.*, 2011; Wolford *et al.*, 2013) which arguably was triggered by three global crises; the economic crisis, the energy crisis and the food crisis.

As land grabbing and its governance has risen to global levels at the latest following the aftermath of those crises, understanding the fragmentation of its governance architecture is a valid objective for research. Social sciences offer a variety of options to look at this problem and I have chosen to apply a global governance lens while undertaking the analysis. I believe that putting land grabbing at the centre of globalisation is useful, as so far scholars of globalization have been relatively absent from the academic debate on land grabbing (Margulis, McKeon and Borras, 2013). As the global rush for land and consequently initiatives addressing land governance at global fora indicate, the issue deeply reflects local-global entanglements and a significant relation to the global political economy, which make it an ideal case to study from the afore-mentioned angle.

1.2. Research Aim and Problem Statement

Land grabbing and its governance at the global scale raises a variety of questions on power, participation, equity which are embedded in a global political economy logic. The governance of particular issue areas at the global level has caused academia to respond by thinking of tools to understand new units of analysis, as the sheer focus on one unit such as the state does not offer satisfying answers to the observed reality. The term global governance architectures (GGA) has therefore risen to prominence and been conceptualized by a variety of authors (Biermann *et al.*, 2009; Zelli, 2011; Dias *et al.*, 2015; Duncan, 2015, to name but a few). The acceptance and rise of the concept and its usage in the particular context of land grabbing (McKeon, 2013: 114) are proof of the relevance of such an approach and its application in this thesis. The particularity of those architectures is the fact they should be considered very lenient constructs. They are subject to change and are highly influenced by agents who engage within the fora institutionalized through the architecture. This makes studying the nature of the particular GGA for land such an interesting subject to study. To formulate a definition of GGA I would like to cite Biermann *et al.* (2009), who define GGA as:

“[...] the overarching system of public and private institutions that are valid or active in a given issue area of world politics. This system comprises organisations, regimes, and other forms of principles, norms, regulations, and decision-making procedures”(Biermann *et al.*, 2009: 15)

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This definition will serve as the understanding framework of GGA in this thesis, and will be explained in further details in the next section. GGAs are reflective of structure and agency compositions, which has also influenced the choice of theories and methodology in this thesis. Furthermore, GGA can and should be considered from different point of views, and in this thesis the focus will lie on institutions, actors, norms (such as rules of the game or *practices*) and discourses, each of them may be characterized by differing degrees of fragmentation.

A detailed understanding of the degree of fragmentation of the global governance architecture for the issue area of land will ideally contribute to a better overall understanding of the contemporary global governance architecture and is therefore a very important research aim.

The two main areas of research of this thesis – global land governance and fragmentation of global governance architectures – will support an understanding of the problem. As it is quite obvious from developments in the past ten years, global actors have been concerned about the gravity of the problem, that is large scale land acquisitions. Those are reflective of power imbalances between *buyers* and *sellers*, and those imbalances are driven by multiple instances at local, national, international and global levels. Moreover, solutions appear to rely upon international efforts, as localized efforts to address the inequalities of land deals have repeatedly failed, hence various efforts at global governance have emerged. It seems that there is a consensus among the major stakeholders, no matter whether it is governments, multilateral organisations, transnational civil society movements, and private initiatives, that land governance needs to be addressed at global fora, in order to agree upon rule-making frameworks that are universally valid and which can ultimately transcend into regional, national and local legal frameworks (De Schutter, ICAR and Global Witness, 2016).

The underlying problem that is at the heart of this thesis is the fact that there is a low degree of understanding of fragmentation regarding the global land governance architecture. However, as has been highlighted by studies conducted by authors such as Biermann et al. (2009) and Pattberg et al. (2014), understanding and being able to categorise the degree of fragmentation, supports an interpretation of discursive interaction, norm-building and the constellation of actors. This in turn, could support – in separate studies – comparisons with GGA for other issue-areas, as well as the analysis of potential advantages and disadvantages of fragmentation (Biermann *et al.*, 2009).

The thesis will proceed according to the following plan; in the next sub-section the research objectives and questions will be presented and briefly discussed. After that, in chapter two, the theoretical framework will be outlined, first the main concepts applied in this thesis, followed by the main theories, that together constitute the thought process behind the analysis undertaken in this thesis. In chapter three, the methodology that is applied in this thesis will be discussed, including an explanation of the choice of certain methods. This will be followed by a screening exercise of the global land governance architecture in chapter four, which will constitute the basis of the fragmentation analysis in chapter five. Chapter six constitutes of a discussion of the results showed in sections four and five and chapter seven will conclude this thesis.

1.3. Research Objectives & Research Questions

The research problem outlined in the section above leads to the following research objective, which will be addressed by a research question and several sub-questions.

The research objective is split in two sections; the first part is to map the global land governance architecture. While land governance in general may address a variety of legal, social, economic and cultural issues, the focus of this thesis lies on what is termed by some as *land grabbing* and by others as large scale-land acquisitions or also as large-scale land-based investments (Margulis, McKeon and Borrás, 2013: 16)¹. In order to undertake the mapping exercise for the issue area of land governance with particular respect to land grabbing, the analysis needs to include, institutions, actors, norms and discourses that address land grabbing at a global scale, hence, regional, national or local governance arrangements are excluded from the analysis, as this would be impossible to cover in the context of this thesis. However, local-global connections will be touched upon as they regularly inspire positions and more importantly discourses taken by actors within the global arena; this is particular often the case with transnational advocacy movements.

The second objective is to assess the overall degree of fragmentation that can be attributed to the global land governance architecture. This will be done by applying Biermann et al.'s (2009) model as well as adding the dimension of discourses as suggested by Pattberg et al (2014). Hence, fragmentation will be assessed with respect to institutions, norms, actors (and actor-coalitions) as well as discourses (and discourse-coalitions). According to both papers, fragmentation may be categorized as either *conflictive*, *cooperative* or *synergistic*. Defining the degree of fragmentation for each dimension, as well as for the overall architecture, constitutes the second research objective.

Based on this research objective, the following research question has been established:

What is the nature and what are the underlying causes of fragmentation in the architecture for global land governance (GLG)?

The following sub-research questions contribute to answer the main research question:

1. *What characterises the nature of fragmentation of the architecture for GLG?*
2. *Which particularities are observable in the institutions, norms and actor-landscape in the architecture for GLG?*
3. *Which power-relations are reflected by identifiable discourses and discourse-coalitions?*

To understand a *nature* or the underlying causes of a type of fragmentation with respect to its meaning in the context of global governance, it is necessary to understand inherent power-relations, as governance and power are intrinsically linked. Understanding power-relations leads to comprehending current governance compositions, hence it is important to study power-relations, that can be identified through discursive interactions – as we will see in this thesis – as those power relations constitute one characteristic of the nature of the type of fragmentation. Furthermore, as implied by the terminology of *power relation*, power should be looked at in the context of the relationships of the actors that have a stake in the governance architecture;

¹ A more detailed discussion on terminology of the phenomenon will be undertaken in the section on discourses.

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power relationships also refer to the structure-agency phenomenon as will be highlighted at a later stage in this thesis.

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2.1. Main Concepts

The theoretical framework is what represents the thinking process behind this thesis and what supports an approach to answer the research questions and the sub-research questions. It is characterized by choices, made beforehand and some underlying assumptions of a variety of concepts that lack an unchallenged definition, and is therefore used to explain the choices made and to highlight that these choices, from the point of view of the authors, offer the best possible alternatives to answer the raised questions and contribute to the academic debate in the field of global land governance.

2.1.1. Global Governance Architecture

The term global governance architecture may carry a descriptive or normative notion. While some authors argue that the concept is now used to 'depoliticise' the debate of the world order and thus aiming to accommodate various arguments under one roof, thus ultimately increasing the legitimacy of the neo-liberal globalization (Overbeek *et al.*, 2010), others tend to attribute a much more descriptive terminology with respect to global governance, and perceive it as a useful framework to understand the interplay between institutions, actors and norms that shape rule-making initiatives at the global level (Biermann *et al.*, 2009; Zelli, 2011; Pattberg *et al.*, 2014).

For the first part of analysis that is undertaken in this thesis, namely – mapping the degree of fragmentation in the architecture for global land governance – the use of global governance architecture (hereafter, GGA) as a value-neutral term appears to be the straightforward choice. Furthermore, as I am looking particularly at the *problem* of fragmentation in GGAs, it seems logical to use the definition of GGA proposed by Biermann *et al.* (2009: 15) in their paper 'The fragmentation of global governance architectures'. They describe it as

“the overarching system of public and private institutions that are valid or active in a given issue area of world politics. This system comprises organisations, regimes, and other forms of principles, norms, regulations and decision-making procedures.”

At this point, it is important to note that architecture, as it is used in the analysis, is not, per se underlined by a strong normative reflection on global order, but rather as a purely descriptive one.

2.1.2. Fragmentation

Fragmentation in the global governance of transnational issues appears to be a straight-forward concept, as the participation of a variety of actors with different interests, goals, mandates and bottom-lines in an increasing amount of governance fora naturally creates varieties of constellations between institutions, actors, norms or discourses, that are using the different possibilities of governance at the global level, thus creating a *fragmented* governance landscape. Academia has investigated fragmentation on various accounts, while particularly authors such as Falkner, Biermann, Gupta, Van Asselt and Zelli (among many others) have featured in-depths accounts of concepts such as institutional *interlinkages*, *overlaps*,

2. Theoretical Framework

interactions and interplay that all relate back to the idea of fragmentation (Biermann *et al.*, 2009: 17). The concept of fragmentation of global governance architectures goes a step further and focuses on the overall setting in which institutions are embedded and therefore offers a more comprehensive account of how a particular issue area is dealt with at the global level, which institutions are present, which norms are dominant, which actors are participating and which discourses characterize actions within this environment.

Pattberg *et al.* (2014) suggest an inclusion of discourses when it comes to understanding fragmentation in global governance architectures. They have identified four dimensions that should be studied, if one is to understand fragmentation in global governance architectures; institutions, norms, actors and discourses.

2.1.2.1. Institutions

They understand institutions in the tradition of world politics scholarship, as “relatively stable sets of norms, rules and decision-making procedures that guide social practices of actors in the international system” (Young, 1994: 3, as quoted by Pattberg *et al.*, 2014: 15). As a starting point, I would entertain the same operationalization of institutions as Pattberg *et al.* who classify three necessary variables for something to be identified as an institution, namely;

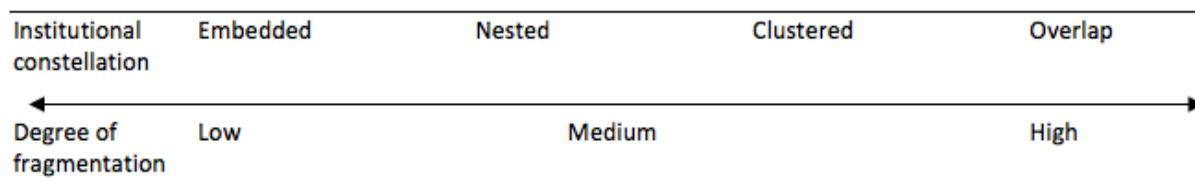
1. *A normative framework to which actors ought to abide;*
2. *Decision-making procedures to create, implement and change provisions under the normative-framework; and,*
3. *Actors that adhere to the normative framework that together have the intention, potential and capacity to carry out governance functions in a global issue area.* (Pattberg *et al.*, 2014: 16)

Institutional fragmentation can be low, medium or high. This depends on institutional constellations within the issue-area. We will see towards which category the institutional fragmentation of the global governance architecture for land grabbing can be attributed.

Pattberg *et al.* 2014: 17 have developed a scale in order to classify institutional fragmentation. According to their classification, low level of fragmentation is ideally represented by ***embedded*** regimes, meaning regimes that display a consistent architecture in which goals, norms, rules and decision-making procedures of the relevant institutions are clear and hierarchically assigned. A lower level of integration or a slightly higher degree of fragmentation is distinguishable when we speak of ***nested*** institutional constellations, meaning when institutions are “[...] part of an architecture that address the same general issue but provide less detailed principles and rules for behaviour” (Young, 1996: 3 as cited in Pattberg *et al.*, 2014: 17). We speak of ***clustering*** when different governance initiatives are combining their efforts into an institutional ensemble. The highest degree of fragmentation can be perceived in a situation of ***overlap***; meaning when several regimes overlap causing (adverse) impacts on the other regimes governance functions, without having a common goal (see *Ibid*, 2014: 16-17).

*Figure 1: Institutional constellation and degree of fragmentation (Pattberg *et al.*, 2014: 17)*

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The analysis of the institutions identified in the issue area of land-grabbing will reveal institutional constellations and following that the degree of institutional fragmentation as typified in Figure 1.

As will be shown in the following sections, the GGA of land grabbing reveals a variety of constellations at the institutional level that would probably not be covered by a traditional institutional analysis. Therefore, it is useful to broaden the definition of international institutions to include international regimes, organisations, implicit and explicit norms as well as principles. This is useful, because it allows for the consideration of non-state actors and initiatives, which, as we shall see, take a prominent role within the architecture.

Furthermore, to properly conduct an analysis of institutional constellations within a global governance architecture it is important to make a distinction between the roles of the institutions and their position within the policy cycle. This will enable me to structure the identified fragmentation into distinct segments (Pattberg *et al.*, 2014: 17).

2.1.2.2. Norms

In order to operationalise the concept of norms, it is necessary to find a suitable definition. The definition needs to be able to address the issue of fragmentation in norms at the global governance architecture level. Steven Bernstein offers a useful definition for the particular context of the thesis, as he describes norms as

“[...] shared conceptions of appropriate behaviour or action. In the context of global governance, they define, regulate, and legitimate state (and other key actors’) identities, interests and behaviour.” (Bernstein, 2002: 2)

In order to cover other issues linked to norms, particularly in the context of the architecture for GLG, the definition by Martha Finnemore is quite useful, despite it being over twenty years old;

“The fact that we live in an international society means that what we want and, in some ways, who we are, are shaped by the social norms, rules, understandings, and relationships we have with others. These social realities are as influential as material realities in determining behaviours. Indeed, they are what we endow material with meaning and purpose.

In political terms, it is these social realities that provide us with the ends to which power and wealth can be used.” (Finnemore, 1996:128)

It is important to look at norms when it comes to the analysis of fragmentation of a governance architecture, because norms are inherent to the structure-agency phenomenon. Not only do norms influence a certain outcome within a governance architecture, because they constitute a structure on which discussions and actions are based; but also, may norms, and consequently the outcome, change because of the influence of certain actors. In many international agreements, the results of final documents are based on norm conflicts to which a solution had

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to be reached through compromise. Norms are also linked to relations of power; the more powerful an actor or a group of actors, the most likely that the norms this actor/group adheres to will be dominating in the final agreement.

Moreover, it seems important to distinguish between norms; at one side, there are norms that have transcended into actual rules, of which a violation is followed by legal sanctions. Those are not very likely to exist in the issue area of land-grabbing, as the definition of a legal framework on land is traditionally the prerogative of nation-states and it is unlikely that legally binding rules are adopted, which we will see in the analysis in chapter 5. However, a norm can also be seen as some overlapping criteria that several actors perceive as rule-making framework on which they can agree upon, and therefore give legitimacy to certain norms. Example of such norms can be the perception that in order to provide food security, there is a need for (international) investment in agricultural sectors of developing countries, a position defended by a variety of international players, such as the World Bank, the OECD and the G20 but also by non-state players such as Oxfam. Another example in the context of the issue-area of land grabbing would be the principle of free, prior and informed consent, a principle that is now widely assumed by states, multilateral agencies as well as international civil society organisations.

The analysis will reveal the fragmentation of norms, and how that has led to the instruments and rule-making proposals currently discussed by the stake-holders involved.

2.1.2.3. Actors

In this thesis actor fragmentation, refers to the different coalitions that are shaped by the major actors present in the global governance architecture. For scope and limitations reasons it will not be possible to cover all actors present in the global governance process, as this would have to include local and regional actors. The actors that will be covered are the most prominent in the global land governance debate, namely the *World Bank* and the *Food and Agriculture Organization of the United Nations*, as they represent the two institutions that first and foremost understood it as their responsibility to initiate global rule-making to address the issue of land grabbing. Furthermore, the positions of the *G20*, *G7*, *OECD*, but also the ones of the *EU*, *G77* will be under scrutiny, as they represent the influence of states at the global level. Furthermore, governance initiatives have emerged from the initiative of transnational private sectors, as is indicated by the emergence of the *Equator Principles* and the *Roundtable on Sustainable Biofuels*. It will be interesting to see how they are integrated in the global governance architecture. And lastly, the positions of the major non-state, civil society actors will be analysed to understand the role that they are playing in the architecture. It will be interesting to see which actor constellations can be observed and which norms are dominating in their discourses. It can be presumed that norm and actor fragmentation will feature similar characteristics.

2.1.2.4. Discourses

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Discourses in global governance architectures are an important variable to focus on, when it comes to understanding the fragmentation as they play a pivotal role in grasping outcomes and degrees of effectiveness of governance arrangements (Pattberg *et al.*, 2014: 23).

In order to analyse a discursive structure in a given governance arena, Maarten Hajer's (Hajer, 1995) *Argumentative Discourse Analysis (ADA)* seems useful, as it enables me to depict dominant discourses and show how the discursive fragmentation is characteristic with respect to the overall fragmentation of the GGA.

ADA is based on a variety of assumptions that I would like to explain in the following section. First and foremost, Hajer defines discourses as

“a specific ensemble of ideas, concepts and categorizations that are produced, reproduced and transformed in a particular set of practices and through which meaning is given to physical and social realities.” (Hajer, 1995: 44)

This definition of discourses reflects the importance of both agency and structure in the process of production and reproduction of discourses within a particular issue area. We shall see this importance reflected in the issue area of land governance. Another important concept brought up by Hajer as part of his argumentative approach is the one of *story-lines* which have the role of providing closure to an appearing problem by reducing its discursive complexity. Furthermore, story-lines are essential when it comes to aggregating knowledge, the situated position of actors and, for our case most importantly, the creation of coalitions amongst stakeholders within a particular domain (Hajer, 1995: 63).

The second major idea of the argumentative approach is the one of *discourse coalitions*, which are constituted of a set of story-lines, and consequently the actors who articulate those story-lines and the practices in which the discursive activity is situated (*ibid*: 65).

As a consequence, in this thesis, the focus of the analysis will lie particularly on those story-lines and on the discourse-coalitions that spread the story-lines in particular fora through the agency of particular actors. I argue that the debate on land governance at the global level, is characterized by particularly strong story-lines around which actor groups rally to form discourse coalitions in order to impose their view of reality on the other actors present in those particular fora, used to determine policy for land governance that has universal applicability (Hajer, 1993: 47).

To summarize, the argumentative discourse analysis by Hajer, enables us to understand the different story-lines that have evolved around the issue of the *global land grab* and to see which discourse-coalition has managed to transcend and represent the dominant or hegemonic discourse coalition as it is put to evidence by current institutional arrangements. To answer the question of discursive dominance, it is necessary to first identify the various discourse coalitions and in a second step, look at current institutional arrangements and from that, deduct which discourse coalition has had most success in transcending its positions into *status quo* institutional agreements.

Understanding discourse and discourse-coalitions and their fragmentation, enables us to understand the socially constructed cleavages that resolve around the issue area of land at the global level. We will see in the following section, that this issue area offers a variety of perspectives.

2.1.2.5. Power Relations

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This section is dedicated to highlight a particularly important aspect with respect to discourses and discourse coalitions; power relations. Power has been widely conceptualised by global governance scholars, and this thesis will draw particularly from the school of thought that has dealt with theorising structural power, as this refers back to the structure-agency phenomenon, that has an important role in this thesis.

Structural power as theorised by global governance scholars, is based on two ideas;

“One, structural positions do not generate equal social privileges; instead structures allocate differential capacities, and typically differential advantages, to different positions. [...] Two, the social structure not only constitutes actors and their capacities; it also shapes their self-understanding and subjective interests.” (Barnett and Duvall, 2005: 18)

Those assumptions about structural power are useful for the purpose of this thesis, because they reveal motives for certain discourses and actions of actors that have taken place in the more recent history of global land governance and that are occurring today. It suggests that behaviour of actors, including discourses and the building of discourse coalitions is inspired to say the least by the structure in which those actors are capable to operate. However, as suggested by structure-agency logic, agents may very well be capable to alter the structure, hence the second argument brought forward by Barnett and Duvall, should be evaluated against the empirical evidence gathered in this thesis for the particular case of the GLG architecture.

In order to cope for a possible lack of explanatory value of structural power, it is useful to bring the concept of *productive* power forward. It is concerned with going beyond overemphasizing the role of structure in how agents produce and reproduce power relations and hierarchy and suggests that power is “the constitution of all social subjects with various social powers through systems of knowledge and discursive practices of broad and general social scope” (Ibid: 20).

Furthermore, the concept of productive power has an articulate position on the role and relevance of discourses in the formation of power as “discursive process and practices produce social identities and capacities as they give meaning to them” (Ibid: 21). This puts discourses at the centre of productive power, which is why this conceptualisation is very appealing for the purpose of this thesis. It reveals that discursive action (i.e. the building of discourse coalition based on a common narrative) potentially has implications on power relations, and hence may be capable to alter existing structures (or reinforce them), whereas the structural power concept argues that historically shaped structures are what defines power relations within global governance settings (Ibid: 20).

This brief discussion highlights the importance of the concept of power in global governance research, and particularly that power should not be considered as an isolated entity but within its relational context. Both the concepts of structural as well as productive power are useful to contextualise the results from the analysis of discourses and discourse-coalitions.

2.1.3. Issue Area of Global Land Grabbing

It is necessary to contextualize the domain of study, from a point of view of time and scope. When I talk about the issue area of land grabbing in the global context, I am referring to the emergence of the topic at the global scale, usually referred to as the *global land grab*, that can be quite precisely situated back to 2008, following an array of media reports on the spike of land deals, in the context of a triple of global crises, the global financial crisis, a food price

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crisis and a fuel crisis. This so-called global land grab – as put by Borras and Franco – serves as a

“catch-all to describe the explosion of (trans)national commercial land transactions (and land speculation) that has been occurring in recent years around the large-scale production, sale, and export of food and biofuels.”(Borras Jr. and Franco, 2010: 2)

It is possible to make a direct connection to the surge of land deals with respect to all three crises; for the financial market; land is considered a commodity with a high speculative value, considering the importance (and consequently the monetary value) of land will only rise in the context of rapidly growing populations and climate change, among other variables having influence on land use (Duncan, 2015: 63).

Another pressure on land use is arguably directly linked to the fuel crisis. As a result of price volatility of fossil fuels and a hope to respond to climate change, biofuels have risen to prominence and enjoy great support by powerful states and states groups. This support resulted in mandates for biofuel production in EU, US and more than 30 other states (GRAIN, 2013: 4). However, the growing demand for biofuels and consequently, its industry, has been linked by the World Bank to significant land uses changes and by researchers and activist directly to land grabbing practices. (Shepard and Anuradha, 2010: 32; Deininger and Byerlee, 2011: 13; GRAIN, 2013). Others have argued that the evidence of already occurred land deals, does not point to biofuels as being a particular important driver of land grabbing (Hamelinck, 2013).

Lastly, the food price crisis has caused for an international response by globally active stake holders for different reasons and those responses can be linked to the up rise of large-scale land deals. One major driver is linked to the Gulf States, who, deeply struggling to supply steady food imports in the aftermath of the global food crisis, as many of their reliable food providers imposed food export restrictions (Woertz, 2013: 88), started to massively invest in land deals in developing countries that would ensure them a steady flow of food supply, without being dependent on imports. More generally, it is argued by very influential actors in the debate, that investment in agriculture is paramount in improving food security, as stated for example in principle number two of the *Principles of Responsible Agricultural Investment that respects rights, livelihoods and resources (PRAI)* (FAO, IFAD, UNCTAD and Group, 2010). The PRAI are until today endorsed by the G20, however, were never endorsed by more participatory fora and particularly never by civil society organizations who, at times, have fiercely criticized their underlying logic, namely the assumed causal relationship that investment in agriculture is needed to enhance food security (Kay, 2014).

This discussion was supposed to give an introduction to the *problematique* and show how the drivers of land grabbing, land deals/investments or large-scale land acquisitions² are reflective of developments that occur globally and which have therefore sparked the demand for global governance arrangements in order to address those various issues in a comprehensive manner. The sheer amount of those grabs has resulted in an

“extraordinary development in the historical trajectory and practice of land politics and governance with the explicit reframing of land as a governance issue at the global scale.” (Margulis, McKeon and Borras, 2013: 18)

² The exact wording will be subject of analysis in another section of this thesis, as it is already part of the discursive fragmentation that can be noted in the global fora dealing with the issue area of land.

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Going forward, it is important to understand what aspect of global land governance is the focal point of this thesis. As touched upon in this section, global land governance includes a variety of issues, and the global land grab is only one important aspect of the field. Covering global land governance in a comprehensive fashion would not be a possible endeavour in the context of a master thesis, hence the focus on the global land grab phenomenon. What this precisely means, is a phenomenon that dates back to the food price rise of 2008, which was triggered by several crises, as indicated earlier. This date is often named, as there has been an extreme rise of agricultural expansion, compared from 4 million hectares before, to 56 million hectares worth of large-scale land deals by the end of 2009 (Deininger and Byerlee, 2011: XIV). The causes are manifold, however, most publications attribute this rise not only to the rising food prices, that motivated import-dependent countries to seek mitigation strategies against their food vulnerability, i.e. leasing land in food producing countries (for a detailed analysis of this phenomenon see: Woertz, 2013) but also to policies in the US and the European Union, related to the energy crises – such as the US's American Clean Energy and Security Act and the EU's Renewable Energy Directive (RED) – mandating higher biofuel-production (Franco *et al.*, 2013: 17). And lastly, another contributing factor to the global land grab phenomenon is the global financial crises, because it has arguably led financial investors to direct their attention and financial resources towards the land sector, as traditional investments had proven a shocking failure (Deininger and Byerlee, 2011: 1). Hence, to summarize, the global land grab phenomenon in *this* thesis refers to the global rise of land acquisitions following the food, energy and financial crises of the late 2000s.

For practical and stylistic matters, whenever global land governance is referred to, it actually refers to global governance of the global land grab.

2.2. Theoretical Approach

While section 2.1. gave detailed accounts of concepts that will be applied in this thesis, the following section will focus on the theoretical approach applied in this thesis. In addition to the theoretical concept of fragmented global governance architectures, accounted for in the previous section, three theories were selected to the analysis undertaken in the thesis. As the main aim is to understand fragmentation in the global governance architecture within the issue area of land, and as previously discussed, according to fragmentation literature, it is useful to look at the four different categories (*institutions, norms, actors* and *discourses*) the theories of *discursive institutionalism* and the *policy arrangement approach* were chosen in order to understand the fragmentation with respect to the afore-mentioned categorisation. The theories are used as support for understanding and contextualising the results of the analysis within current academic debates.

2.2.1. Discursive Institutionalism

Discursive institutionalism (hereafter DI) looks at the power of discourses and how they transcend into institutions, thus building the basis for change in policy-making. Therefore, DI looks at two of the categories that were established in the last section; namely *discourses* and *institutions*. The question that needs to be asked is how DI explains change and continuity? As Vivien Schmidt puts it,

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“Discursive institutionalism is an umbrella concept for approaches that concern themselves with the substantive content of ideas and the interactive processes of discourse in institutional context.” (Schmidt, 2015: 1)

This particular definition highlights DI’s applicability for the research undertaken in this thesis. It is the interactive processes when looking at discourses that are interesting to look at when studying the global land governance architecture. Schmidt highlights the importance of agency and structure in discourses. She argues that one should consider two *abilities* when looking at actors in a discursive institutionalist context; *background ideational ability* as well as *foreground discursive ability*. While the former refers to an agents’ capacity to act in a given context, according to the ideational rules of that context, the latter refers to his/her capacity to communicate, argue and deliberate in order to take collective action to change an institutional setting and consequently its ideational rules (Schmidt, 2015: 5). The foreground discursive abilities are the enablers of change in the institutional context, and are therefore a crucial object of study. Discourse allows the agents to gain distance from the prevailing institutional context, and through that distance, to *“dissociate themselves from [the institutions] to critique them, even as they continue to use them”* (Ibid: 6).

Discourse can therefore be considered as the practice through which agents can exert change within certain institutional settings. As outlined in the sub-section on discursive fragmentation, an analysis of prevailing discourse and discourse coalitions will support a strong understanding of the structure and agency that characterizes the global policy making on the issue area of land. DI makes a distinction between two domains of the public sphere in which discursive interactions generally take place; the *policy* sphere as well as the *political* sphere. The former is characterized by a *coordinative* discourse among policy actors – such as government officials, policy consultants, experts, lobbyists and business and union leaders, among others – that are involved with creating, deliberating, arguing bargaining and reaching agreements on policies (Ibid: 8-9). The latter is characterized by a *communicative* discourse between the aforementioned political actors and the public involved with the issues that were agreed upon in the coordinative discourse. The focus of my analysis will be the policy sphere, as documents produced by the mentioned actors as well as expert interviews - who are either participants of the negotiations on the GGA on land or have knowledge about processes - will be under scrutiny. However, it is important to note that the interplay between the two spheres, influences agency and structure within the discursive setting.

Interestingly, Schmidt, as well as Hajer, highlights the relevance of discourse coalitions, as they *“may be engaged in constant argumentation in their efforts to develop the ideas that they hope policy actors will ultimately take as their own as they generate policies”* (Ibid: 9).

2.2.2. Policy Arrangement Approach

The policy arrangement approach (hereafter PAA) should be considered an additive theoretical element to discursive institutionalism. This next section will be used to give a comprehensive explanation of PAA and show its relevance in contributing to the theoretical framework of this thesis.

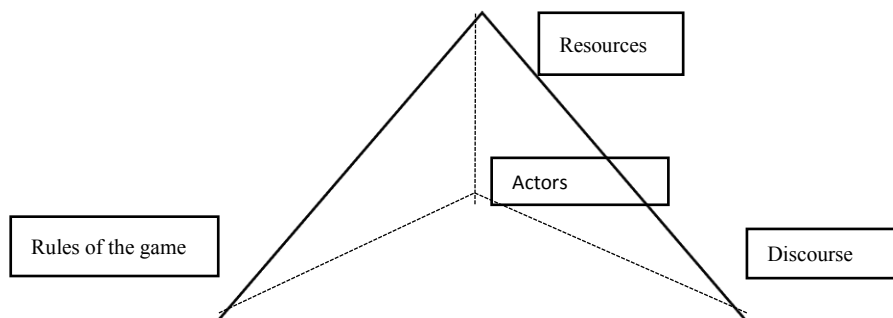
The PAA was initially developed to support an understanding of the integration of stability and dynamism in (environmental) policy settings (Arts, Leroy and van Tatenhove, 2006: 96). That

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said, *policy arrangements* refer to the temporary stabilisation of the content and organisation of a particular policy domain.

The founders of the PAA define four dimensions of a policy domain; first the actors and their coalitions involved in the domain, second the division of power and influence between these actors, while power refers to the mobilisation, division and deployment of resources and influence refers to who determines the policy and how this actor/actor coalition is doing it. The third dimension are the rules of the game currently in operation, which are constituted by actual rules for interaction and formal procedures for the pursuit of policy and decision-making; examples being norms, conventions, procedures, laws, etc. (Arts and Buizer, 2009: 342). And lastly, the fourth dimension relates to the current policy discourses and programs, while discourses refer to the views and narratives of the actors involved and programs refer to the specific content of policy documents and measures. The tetrahedron of policy dimensions (Figure 2) supports a visualisation of the connections between the dimensions of an arrangement (Ibid: 99).

Figure 2: Tetrahedron of policy dimensions (Arts, Leroy and van Tatenhove, 2006: 99)



The first three dimensions refer to the idea of organisations, which according to Arts and van Tatenhove should be conceptualised as social systems, being sets of *agents* which are deep-seated in structures of *rules* and *resources* (Arts and Tatenhove, 2004: 4). The fourth dimension – (policy) discourses – refers to *substance*. A policy arrangement is therefore referring to a state of temporary stabilisation between the substance, or content and the organisation, which is why it is necessary to study the four dimensions in order to fully comprehend a policy arrangement in a given policy domain. Those four dimensions are intrinsically linked and should not be considered apart from one another, but as perpetually co-influential of one another.

To understand discourse coalitions, the application of the Policy Arrangement Approach (PAA) is useful, as it “*aims to do justice to policy dynamics caused by both strategic and structural factors*” (Arts, Leroy and van Tatenhove, 2006). This approach aims to understand the roles of agency and structure within a certain policy domain. While it may be confusing that discourses and discourse-coalitions are looked at separately, this separation follows the logic of the PAA;

“Overall, it is assumed that policy arrangements ‘contain’ more than one discourse that differ and may compete. This difference and competition causes actors to group together in coalitions to enhance certain discourses and constrain others. The second dimension of the PAA – actors – can therefore be labelled ‘discourse coalitions’ (Hajer, 1995 as cited in Arts and Buizer, 2009: 343)”

When it comes to comparing the PAA with DI and understanding the added value of the PAA, it is first important to state that PAA reduces the level of abstraction of DI to the level of policy

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analysis (Arts and Buizer, 2009: 341), and more precisely enables an analysis of a particular policy field, such as, in our cases, global land governance. Interestingly, PAA also applies the concept of discourse coalitions in a similar fashion as applied by Hajer; discourses are used by actors in a policy arrangement to convey a certain idea of a policy and convince the partaking stakeholders to adhere to this idea. To improve the odds of shaping the dominant discourse that ideally transforms into a policy, actors engage in discourse coalitions, that are assumed to contend for a hegemonic position within an arrangement with the goal to realize the discourse coalition's preferred policies (Ibid: 343).

To summarise, the policy arrangement approach allows a discursive-institutionalist analysis for the policy domain of global land governance, focusing on three institutional dimensions, namely actors (discourse coalitions), rules of the game, and resources and one discursive dimension, namely discourses. Such an analysis allows for an understanding of the interrelatedness of agency and structural factors on the one hand as well as the interrelatedness of discursive and institutional practise on the other hand (Ibid: 344).

Understanding the interplay of discursive-institutionalist dynamics within the particular policy domain of global land governance allows an understanding of existent fragmentation and an application of Biermann's model of fragmented governance architectures.

2. 3. Summary

To summarize, the theoretical framework is built on the application of the two concepts, global governance architecture and fragmentation and supported by two theories, namely discursive institutionalism and policy arrangements approach. The combination of the concepts and theories enables us to use the theoretical framework to conduct a thorough analysis of the existing governance composition at the global level with respect to the phenomenon that is often labelled as the global land grab.

In the following chapter, the methodology of data collection and analysis will be explained in further detail, as to ensure a high degree of academic quality for this thesis.

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3.1. Research Design

The research design is based on the entirety of issues raised in the problem statement and theoretical framework.

As highlighted before, the aim is to, in a first step, outline and delineate the global governance architecture for land. In order to grasp a comprehensive picture of the global land governance architecture, it is necessary to screen the existing architecture, in order to understand its structure, function and actor constellations within. This screening process will be undertaken by creating a historical time-line of the development of the architecture and highlight events that have led to the current composition. In order to grasp the essence of the architecture it is necessary to look at the constellation at the international institutional level, such as the *Committee on World Food Security (CFS)* of the *Food and Agriculture Organization of the United Nations (FAO)*. This will be followed by an analysis of the positions of the major actors involved in the debate, such as the World Bank, which policies and involvement in the global land sector are a clear sign of its assumed role as standard-setter and investor itself (Oxfam, 2012).

Currently, there is a variety of governance tools that have been developed by various, sometimes fundamentally, different actors and with different motives. Understanding the nature of those motives, lead to the understanding of fragmentation, which is the main goal of this thesis. An understanding of the motives will be supported

As mentioned in section 2.1.2 fragmentation will be evaluated according to four categories (institutions, actors, norms and discourses), hence for each analysis, a method needs to be defined properly.

Regarding the analysis of institutional fragmentation, it is first necessary to delineate what is meant by institutions in the context of this thesis, namely the global land governance architecture. For that purpose, the operationalisation of Pattberg et al. (2014) will be used, as it is outlined in section 2.1.2.1. Following that logic, institutions under observation need abide to the three necessary variables. The CFS and its *Voluntary Guidelines* as well as its *Principles for Responsible Agricultural Investment* can certainly be described as such an institution, furthermore the World Banks Principles for Agricultural Investment, endorsed by the G8 and G20, can also be counted as an institution. Moreover, private governance initiatives, such as the *Equator Principles*, as well as the *Roundtable on Sustainable Biomaterials* contribute to the fragmentation of the institutional landscape and will therefore be part of the analysis.

Norms play a crucial role in the analysis of the GGA for land, as different norms inherently shape the variety of institutional constellations. Understanding the norms behind which actors and their discourses are rallied, means understanding the degree of fragmentation. Norms inspire an actors/actor coalitions position and discourses within an institutional setting. They are positions that have received wide support (or even consensus) among a group of influential actors, and often form the basis of discussion for particular coalitions, for instance, almost exclusively all actors participating in the GGA for land, agree that transparency is key towards improving sustainable use of land, no matter whether its Via Campesina which is a transnational agrarian movement and therefore advocating for the rights of farmers, or whether it is a big multinational company, such as the Coca Cola Company, whose interests, when it comes to

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large-scale land-based investments, are predominantly driven by the idea of maximising profits. Looking at the detailed motives behind the emergence and strengths of certain norms is what is going to contribute to the broader understanding of the fragmentation of the GGA.

When it comes to actor fragmentation, it is necessary to understand which actors are participating in the governance fora and for what purpose. The purpose is closely linked to the analysis of discourses, which is why, the concept of discourse coalitions will have such a paramount role in this thesis.

The fragmentation analysis will be completed by an in-depth analysis of discourses, to understand which actor or actor coalition is framing the issue in what way, and to what purpose. Understanding discursive interaction in the context of the global land governance debate, enables us to interpret the current status quo of global policy making, particularly with respect to the problem of land grabbing. Furthermore, it enables us to further explain the influence of fragmentation on policy outcomes in the context of global governance architectures.

3.2. Data Collection

Data will be collected by several means; first and foremost an extensive document analysis will be undertaken. As the main point of interest, is to understand how actors with different background, interests and agendas frame the problems and opportunities of land grabbing or large-scale land acquisitions, it is important to thoroughly analyse the main publications, that highlight those particular interests and agendas. A comprehensive list of the publications under scrutiny is added to the annex of this thesis.

Publications from major actors, such as the very influential report published by the World Bank in 2011, entitled “Rising Global Interest in Farmland” but also “Our Land, Our Lives” (2012) by Oxfam International are examples of such documents, that constitute a major building block of the documents under scrutiny for the analysis. Furthermore, policy statements from countries particularly involved with global policy making will be analysed in order to depict their positions as well as to analyse their affiliations with particular discourses and consequently according policies. The global donor working group for land (GDWGL) is one of those constellations that will be important to analyse, as major donor countries, such as the United States, France and Germany among others are members and aim to align their positions with respect to land governance in this particular forum in order to speak as a united front in other fora, such as the CFS.

Most importantly though, as those documents majorly contribute to an understanding of the dominant norms and discourses within the architecture, the main regulatory frameworks will be under scrutiny; namely the *Principles for Responsible Agricultural Investment* (2010), the *Voluntary Guidelines on the Responsible Governance of Tenure* (2012) and the *Principles for Responsible Investment in Agriculture and Food Systems* (2014).

The second means of data collection is through undertaking a thorough scan of the current literature, both on the governance of land grabbing, as well as on fragmentation of global governance architecture. Combining insights of the two, is what this thesis is aiming to do, in order to contribute knowledge to a specific issue that has not yet been thoroughly researched.

3.3. Data Analysis

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The purpose of data analysis is to answer the research question and the sub-research question. To recapitulate, the research question aims to answer the question about the nature of fragmentation within the global land governance architecture. I have explained the concept of fragmentation of global governance architectures and its contribution to science in section 2.1. To answer the research question, sub-research questions are asked, which will ultimately lead to a detailed and comprehensive overview of the nature of fragmentation.

The first thing to do when it comes to investigating a nature of something, is to define its characteristics, hence sub-research question 1:

What characterises the nature of fragmentation of the architecture for GLG?

As I showed in section 2.1.2., four dimensions can, and should be attributed to the concept of fragmentation of GGA, and that these four dimensions can subsequently be analysed for fragmentation as well. Those four dimensions are *institutions, norms, actors* and discourses, hence sub-research questions 2 and 3:

Which particularities are observable in the institutions, norms and actor-landscape in the architecture for GLG?

Which power-relations are reflected by identifiable discourses and discourse-coalitions?

The main analytical tool that will be applied in this thesis, next to the screening and mapping exercise is (political) discourse analysis. Discourse and discourse-coalitions will be analysed according to their context (how was the discourse held; is it a speech, an official document, a public statement, an information-brochure, etc.?) their aim, who and what they address and for what reason, as all those questions matter.

With respect to sub-research question 2, particularities have different meaning, depending on the dimension that is under scrutiny, namely institutions, norms and actors. In order to do this systematically, the typology of Biermann et al. will be followed, who argue that fragmentation should be looked at from a point of view of *institutional integration, norm conflicts* and *actor constellations*. For each of those categories, one of the following values will be attributed; *synergistic, cooperative* or *conflictive* (Biermann et al., 2009: 20) ³.

Power relations are operationalised according to the definition established in the previous chapter. In order to understand the relative power of different actors and how those varying degrees of relative power shape the degree of fragmentation within the architecture, it is necessary to contextualise actions and discourses of those actors. Without wanting to get into too much detail at this stage of this thesis, it is for instance interesting to analyse direct reactions of civil society to decisions taken by multilateral agencies without prior consulting of civil society, such as the establishment of the PRAI in 2010. Another interesting example is the opposition to the G8's New Alliance for Food Security and Nutrition. The analysis of power relations will be done in chapters five and six of this thesis.

The argumentative discourse analysis is based on an extensive document analysis. Many publications, particularly those published by transnational civil society organisations, are clearly outlining the storyline narrated by an organisation, and hence reveal the motives of that

³ It should be noted however, that those values are presented as approximate value, rather than a definitive value. Biermann et al. acknowledge that empirical results rarely represent the occasion to clearly being able to attribute solely one value, without elements of the other values present at the same time (Biermann et al., 2009: 20). This thesis accounts for this problem.

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very organisation, one example being the publication by Oxfam International *Our Land, Our Lives* which calls for a moratorium on large-scale land deals. Therefore, the analysis of publications like the one from Oxfam will greatly contribute to drawing a picture of discursive interactions between the actors involved with global land governance.

4. Screening and Mapping of the Global Governance Architecture

The following section will lead to a comprehensive understanding of the current global governance architecture for land governance, with particular respect to dealing with *land grabbing*, *large-scale land acquisitions* or *large-scale land-based investments* as the three terms frequently used. A screening of the current architectural structure will lead to an in-depth understanding of the *structural* aspects of governance, which, as was discussed in the theoretical framework section, takes an important role with respect to a discursive-institutionalist analysis as well as with respect to the analysis of a policy arrangement. Structure, as well as agency – which will be discussed in the section about actor constellations – are important, shape-giving dimensions, when it comes to discourses.

In order to draw a precise picture of the current composition that characterizes the GGA for land, it is important to understand historical development with respect to global governance addressing the issue area of land. Therefore, this section will start by a brief account of the history of global governance, followed by a thorough analysis of current constellations, leading to an ideal basis for the analysis of fragmentation, which will be undertaken in chapter five.

4.1. A history of global land governance

The World Conference on Agrarian Reform and Rural Development (WCARRD), which was held in Rome in 1979 and hosted by the FAO, arguably represents the first global attempt to regulate land issues at the level of international governance. However, the second principle of the final declaration states that

“the right of every State to exercise full and permanent sovereignty over its natural resources and economic activities and to adopt the necessary measures of the planning and management of its resources is of vital importance to rural development” (The World Conference on Agrarian Reform and Rural Development, 1979)

This principle of sovereignty, which generally takes a paramount role in international norms and legal framework, is particularly characteristic of the issue of land and this principle is dominating discourses until today, which will be shown in detail at a later stage.

Moreover, what was agreed upon during the WCARRD and what could have led to an international land reform, had very little influence in the 1980s as this was later labelled the structural adjustment program period, during which agriculture was only considered a marginal sector with respect to being a factor for development (McKeon, 2013: 106). Land issues then only resurfaced as a priority on the global agenda, in what some scholars call a neoliberal context; it was obvious that (farm)land could very well be integrated in the global economy, characterized by a growing commodification, and dominated by the ideas of market-led economic growth and integration of global markets as the one solution towards global prosperity. In this context, in the 1990's, the World Bank promoted a Market-Led Agrarian Reform (MLAR) approach, which had the aim of promoting formal private landed property rights (Ibid: 106). This approach, basically building on some very fundamental neo-liberal ideas, such as the right to private property as well as the self-regulation of markets, which was inherent to the MLAR approach, still feeds into a great many discourses at the time being.

In opposition to this dominating idea of market-led economic principles, promoted by the World Bank practically building on the Washington consensus, counter and opposition-

4. Screening and Mapping of the Global Governance Architecture

movements developed and gained influence, mainly initiated by civil society groups and promoting alternatives to the paradigm of private property rights trumping other principles, as basically promoted by the Bank, such as *the right to food, food sovereignty, and agro-ecology*, among others (Ibid, 106). Some groups, such as the very influential La Via Campesina movement, were formed as early as the 1980's as a direct reaction to the World Bank's and the International Monetary Fund's (IMF) structural adjustment programs⁴, as they argued that those had devastating impact on agricultural production and on the livelihoods of the people inhabiting the rural areas. The group argued that such a movement had become necessary in the context of the foundation of the World Trade Organization in 1993, which, in consequence, meant that any significant agrarian reform would hereafter be decided upon at a global level, hence the need to be present at the same level.

As global policy makers were more and more concerned with the issue of world food systems (and their connection to land), as shown by regular global policy-making-events such as the World Summit on Food Security hosted by FAO in 1996 and 2009 and the World Food Summit hosted in 2002 (FAO, 2017), transnational civil society movements rallied together and in parallel organised other events, to find answers that would suit the rural populations and none that come directly from the global elite, dominated by market-based solutions. Derived from such motivations, the *principle of food sovereignty* was born, which was marshalled by Via Campesina and launched at the World Summit on Food Security in 1996, is defined as

“the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations.” (Forum for Food Sovereignty, 2007)

This principle adds to the principle of food security, in a way that it also includes the importance of societal power relations, which need to be considered, when it comes to ensuring a right to adequate and appropriate food for everyone.

La Via Campesina continued to expand its substantial influence at the global governance level, when, together with FIAN (food first information and action network), it launched the Global Campaign for Agrarian Reform (GCAR) in 1999 (McKeon, 2013: 107). Generally spoken, it appears that La Via Campesina, as well as FIAN are advocating the GCAR as a direct opposition and a desirable alternative for rural people to programs, policies and strategies designed by the World Bank. It is argued that with its land and rural poverty alleviation strategy, the Bank is aiming to use similar medicine as it recommended with the structural adjustment programs, only for the rural areas;

“On the contrary, this strategy advocates the strengthening of the already implemented liberalisation and privatisation policies which have had harmful effects on living conditions of rural communities” (La Via Campesina and FIAN, 2004: 5)

Both argue that the structural adjustment programs have had detrimental effects on rural

⁴ The review of the structural adjustment programs (SAPs) and in particular its consequences for the rural people is a very much explored field within academia, which is why it will not be part of this thesis. It is, however, important to note that those SAPs had as main consequence a major reduction of services usually supplied by the state in regions, in which the rural population very much relied on those services, such as Latin America, Africa and Asia.

4. Screening and Mapping of the Global Governance Architecture

populations, such as decreased market access, and exclusion from access to land and loans, as studies – even those initially funded by the Bank had shown (Ibid: 5). The GCAR campaign led to a resurgence of the topic of agrarian reform at the international agenda, particularly at the FAO in Rome. It arguably contributed to the organisation of the International Conference on Agrarian Reform and Rural Development (ICARRD) held in 2006 in Rio de Janeiro. Simultaneously, La Via Campesina and other transnational rural movements organised an “*autonomous civil society forum with well-defined opportunities to interact with the official deliberations.*” (McKeon, 2013: 107) Organising this “side event” gave them the opportunity to exert a certain influence over the official negotiations at the ICARRD without formally participating and therefore being politically linked to any possible negative outcome. This strategy proved quite successful.

That said, the position of the World Bank, backed by major donor countries as well as the private sector and the position of transnational rural activist movements are at two opposite ends. Today’s discourses are inspired by this long history of global top-down policy making led by the Bretton Woods institutions and bottom-up opposition against such policies by organisations such as FIAN and La Via Campesina whose influence has steadily grown. The majority of discourses resolve around two fundamentally different paradigms that inspire formulated policy suggestions; on the one hand, the *growth for development* paradigm, which supports the idea that (large-scale) investment in land will strengthen the livelihoods of rural people and on the other hand, the *human rights* paradigm, which supports the idea that all decision-making power with respect to land should be given to the people inhabiting the land, and that large-scale investments are the opposite of a solution towards supporting rural livelihoods (La Via Campesina and GRAIN, 2014).

An increased need for global governance

Global land governance became increasingly important following the three global crises of 2008; the financial crisis, the energy crisis and the food crisis, as each of them had a direct impact and were considered relevant exogenous factors with respect to land governance.

Food prices were increasing, which not only led to a higher state-interest in protecting agricultural resources but also triggered global capital to increasingly focus on land as an object of financial speculation, following the logic that increasing food prices would consequently lead to an increasing (speculative) value of farm land, particularly in development countries in which this land was far from fully accessed by the private sector.

Hence, (farm) land in development countries was and still is considered a financial asset with a very high speculative value. As companies and investors needed to find new commodities as an object for financial investments, the increasing commodification of land was a very welcome development.

Other factors that contributed to the stark rise of demand in land, were on the one hand the reply of the United States and the European Union to once again rising oil prices (Anseeuw *et al.*, 2011: 24), by mandating an increase of the production of biofuels, which obviously rely on vast amounts of land for production to be used for industrialised countries, and on the other hand, the increased importance of land-use for ecosystem services as a reaction to the increased threat of climate change, consequently meaning an increase in “land grabs” with the idea to transform

4. Screening and Mapping of the Global Governance Architecture

the ceased lands into forests and areas that pay particular attention to the protection of biodiversity, a policy that is frequently linked to the UNREDD+ program (HLPE, 2011: 8). At this point, I believe that it is important to note that a consensus had emerged in the aftermath of the three crises that the issue of large-scale land-based investments, acquisitions, often referred to as land grabbing by influential civil society actors as well as academics and the media, had become an issue of relevance and concern for global governance (Anseeuw *et al.*, 2011; Deininger and Byerlee, 2011; Oxfam, 2012, to name but a few).

The experiences of building opposition against World Bank policies in the 80s and 90s prepared the transnational social movements to capitalize on an important political opportunity following the aftermath of the global food (price) crisis in 2007. The neoliberal paradigm witnessed some serious opposition and many principles that were believed to be undoubtedly true, such as that a free market would offer more safety than protectionist policies with respect to food provision, was seriously put in doubt. The social movements came up with alternative solutions⁵ and as the free market had failed to provide food security, particularly for developing countries, those alternatives are since entertained and discussed in global policy fora (McKeon, 2013: 108).

Moreover, the impacts of the global food crisis caused a chronology of events that ultimately led to the reform of the Committee for World Food Security and to its governance mandate that it exhibits until today.

Before that crisis, it was up to international institutions such as the World Trade Organization (WTO) and the World Bank to shape policies relevant to global food security, such as trade regulations WTOs core activity and credit lines for investments in the agricultural sector as well as other sector with less explicit connections to food security policy as part of the World Bank's portfolio. However, there was no clear mandate for either of those institutions to steer global policies that explicitly dealt with food security, hence a power vacuum with respect to that issue-area became apparent.

The aftermath of the crisis revealed a need to fill this global policy gap, and a variety of actors had different approaches and ambitions as to how this problem should and could be resolved. On the one hand, in April 2008, the *High Level Task Force on the Food Security Crisis* (HLTF) was initiated by the office of the UNSG (United Nations Secretary General). It was composed of the secretariats of several UN offices, the WTO, the IMF and the World Bank. The main point of criticism that it faced, is concerning its structure, as it is a purely administrative initiative – unilaterally put into place by the UNSG's office – and as that, has no intergovernmental oversight (Ibid: 108).

At the same time, the Group of Eight (G8) initiated the Global Partnership on Agriculture, Food Security and Nutrition (GPAFS), which included committing to new investments worth billions of dollars, dedicated to the agricultural sector in countries most hit by the current crisis.

Furthermore, the G8 emphasised that this new global partnership should build on existing institutions embedded in the UN system;

“This partnership, strengthening and building on existing UN and other international

⁵ Those „alternatives” include moving back towards more traditional farming practices and more precisely give the power over agricultural resources -including the right to land- back to small-scale farmers and away from multinational corporations (La Via Campesina, 2009).

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institutions, could provide efficient and effective support for country-led processes and institutions and for local leadership, draw on the expertise in existing international organisations and, in particular, ensure monitoring and assessment on progress. The UN should facilitate and provide coordination (G8, 2008: para 4).”

The reformed Committee on World Food Security, the PRAI and the Voluntary Guidelines

As direct response to the GPAFS, governments from the G77, together with CSOs and transnational rural movements as well as the FAO called for an alternative, which would consist of reforming the current Committee on World Food Security (CFS). At this time, the CFS consisted merely of creating knowledge to support the FAO and their member states with policy decisions. However, the initiative wanted to reform it towards an

“inclusive global policy forum deliberating on food security in the name of ensuring the right to food of the world’s population” (McKeon, 2013: 108).

The motivation from CSOs was mainly to not only create a forum for discussion in which CSO can negotiate with equal footing as the governments (and the private sector), but also to build on a decision-making body that is emancipated from the traditional decision-making institutions such as the World Bank, IMF, WTO and OECD, highly dominated by the G8, who has earned the reputation of fostering neoliberal policies, strictly opposed by the CSOs.

The G77, a group of 77 developing countries, all part of the UN system, which was formed in order to defend the economic interests of those countries vis-à-vis the traditional powerhouses such as the US and the EU, as well as to create a stronger negotiating power at UN institutions, welcomed the reform of the CFS, because it meant a stronger chance of influencing global food security related policies than they had within the traditional system.

The private sector also welcomed the reform of the CFS, as it would give them a seat at the table, not only at the general meetings but also in the advisory group, in which the private sector is represented by the International Agri-Food Network (IAFN) and the Bill and Melinda Gates Foundation. The fact, that it is involved in all the relevant negotiations, gives the private sector the chance to advocate for regulations and guidelines that are not representing serious impediments to the financial interests, as well as to engage in new – economically and financially fruitful – partnerships with countries and development agencies. Ultimately the reform went through in October 2009 and led to the CFS being the “foremost inclusive international and intergovernmental platform” (FAO, 2009: II. A.) charged with the issue of food security, thus giving it the political power to take decision regarding global food policy issues, of which land governance is a crucial aspect.

The particular environment of three global crises that have been proven to substantially having increased the amount of international large-scale land deals, often referred to as the global rush for land, has led to a number of direct consequences.

One of those was the launch of the Principles for Responsible Agricultural Investment that respects rights, livelihoods and resources (RAI), by the World Bank, FAO, IFAD and UNCTAD in January 2010. Those principles can be considered as a direct response to the growing amount of international media attention to the phenomenon of *land grabbing*, which most trace back to the day, when GRAIN published its report *Seized!* in October 2008. The report was the first to supply evidence that the global rush for land could be linked to the

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financial and food crisis and unveiled a general strategy that would benefit foreign or very wealthy domestic investors at the detriment of rural farmers and subsistence land owners. Hence the launch of the PRAI, 18 months later. As already entailed in the name of the PRAI, they represent guidelines to make investments in the agricultural sector more responsible and are therefore addressed towards the private sector. Therefore, they do not condone investments as such, quite the contrary, which caused opposition with the civil society sector, who argued that those principles would give legitimacy to land grabs and were therefore considered “illegitimate and inadequate to address the phenomenon” (La Via Campesina, 2011).

While the PRAI were developed unilaterally by a committee constituted of UN institutions as well as the World Bank, negotiations took place at the reformed CFS, involving those very same organisations, member states of the FAO, think tanks, the private sector and transnational CSOs. Considering the constitution of stakeholder’s present, it is not surprising that deliberations took some time. However, ultimately, those deliberations led to the endorsement of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security* (hereafter Voluntary Guidelines or VGGT) in 2012. Those guidelines can be considered a one of a kind compromise between traditional donors, recipient countries, multilateral organisations, development finance, the private sector as well as the organised civil society, and is therefore an impressive achievement of modern day diplomacy. Obviously the VGGT were not developed out of thin air, but are building not only on precedent international legal documents such as the Universal Declaration of Human Rights (UDHR) in the first place but also on existing soft law instruments, such as the Voluntary Guidelines on the Right to Food. It is therefore important to state, that the Voluntary Guidelines on Tenure should be considered as a human rights-based instrument (Palmer *et al.*, 2012). Ever since the VGGT’s endorsement, its implementation is what has been subject of discussions and policy decisions at the CFS and is what remains the biggest challenge and concern of the global land governance architecture until this point in time.

An important aspect of land governance that has not yet been touched upon, is its linkage to existing human rights. While there is no explicit universal human right to land provided by international legal frameworks, there are human rights relevant to land governance, in a variety of ways. The following table summarises those interlinkages and gives a brief overview of relevant human rights with respect to land governance.

Table 1: Human rights and land governance (Wehrmann, 2017: 2-4)

Human rights relevant to the access to land		Human rights relevant to decisions made about land		Human rights relevant to dealing with competing interests	
Right to own property	UDHR art. 17	Equality / Gender equality	UDHR art. 1	Right to life	UDHR art. 3 ICCPR 6.1
Right to freedom of movement and residence	UDHR art. 13	Non-discrimination	UDHR art. 2	Right to recognition as a person before the law	UDHR art. 6
Right to adequate standard of living (food, housing, sanitation)	UDHR art. 25, ICESCR art. 11.1	Rule of law	ICCPR art. 2, ICESCR art. 2	Equality before the law	UDHR art. 7, ICCPR art. 14.1, art. 26.
Right to freedom	UDHR art. 18,	Right to freedom	UDHR art. 19,	Right to effective	UDHR art. 8,

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of religion	ICESCR art 18.	of opinion and expression	ICESCR art. 19	judiciary / remedy	ICCPR 2.3 (a)
Right to take part in cultural life	UDHR art. 27, ICESCR art. 15	Right to freedom of assembly and association	UDHR art. 20, ICESCR art. 21 & 22	Ban on arbitrary detention	UDHR art. 9
Right to self determination	ICESCR art. 1	Right to information	UDHR art. 19, ICCPR art. 19	Right to public hearing	UDHR art. 10, ICCPR art. 14.1
Right of Indigenous Peoples to their traditional lands [...]	ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989, arts. 14 & 15.	Participation	UDHR art. 21	Right to the presumption of innocence	UDHR art. 11 See also: ICCPR art. 14.2

These human rights constitute, what UN agencies, countries and civil society actors have termed a human rights approach to land governance, which takes a fundamental position in today's global land governance deliberations, as it is illustrated by the following statement;

“pursuing a human rights-based approach to land issues enables rights-holders to claim their rights while simultaneously enjoining duty-bearers – mainly states, but also non-state actors, including business enterprises and international organisations – to comply with their obligations and responsibilities.” (United Nations Economic and Social Council, 2014: paragraph 63)

This sub-chapter drew a timeline of global land governance since 1979 and the WCARRD, which represents the first conference during which land governance was portrayed as a problem of a global dimension until the creation of the VGGT in 2012, as this is now the benchmark document, that is referred to when it comes to global governance of land. This part of the thesis is very important, as history and historical events are defining characteristics of today's discourses as we will find out in chapter 5. The next section will go into more detail with respect to the international institutional landscape today and will provide an overview of the status quo.

4.2. The global land governance architecture – the status quo

“[...] the overarching system of public and private institutions that are valid or active in a given issue area of world politics. This system comprises organisations, regimes, and other forms of principles, norms, regulations, and decision-making procedures” (Biermann et al., 2009: 15)

In order to understand the status quo of global land governance, it is necessary to put current factors influencing the institutional and norms landscape into the right context. The literature on the topic offers a variety of phenomenon to consider when it comes to contextualising this issue; one important aspect is the rise of flex crops and commodities. So-called flex crops, which refers to crops with various uses with respect to feed, feed and biofuels, among others, are meeting a rising international demand on the global agricultural markets. Four of those flex crops are dominating international production, namely, maize, palm oil, soybean and sugarcane. These crops are mainly produced in the so-called BRICS countries (Brasil, Russia, India, China and South Africa), as well as in Indonesia and China when it comes to palm oil (Borras, Franco and Wang, 2013: 166).

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At this point in time, almost ten years after the perceived surge in global land grab numbers, numerous attempts of governance have taken place and some have risen to quite some institutional prominence. The particularity with global land governance is that not only that a variety of relatively important private governance initiatives have emerged, but also that arguably the most influential governance body, the World Committee on Food Security (CFS) and its membership composed of multilateral agencies, nation-states but also transnational civil society activist groups/networks and private sector organisations, is the only institution in the world in which CSOs as well as private sector groups have an institutionalised right of participation alongside nation-states and international multi-lateral agencies. While member-states do have a full membership, including a right to participate in voting procedures, CSO, foundations and private sector organisations do not have membership status but participant status, which allows them to participate in negotiations, and therefore to make sure that their concerns are taken into account when it comes to a vote of the member states (Committee on World Food Security, 2017).

4.2.1. Private Governance

A variety of private governance instruments have emerged in the past years, and can be considered an answer of the private sector to the increasing pressure, created by media reports, as well as testimonials supported by transnational activist group, that made the urgency to adopt frameworks for large-scale land-based transactions evident. Not all of those frameworks can be looked at in the context of this thesis, therefore, the most prominent were selected, as they are representative for the logic behind private governance instruments in the context of the land grabbing debate.

The Equator Principles

The Equator Principles, are a project-finance/financial industry governance benchmark, to determine, assess and manage environmental and social risks in projects. 91 financial institutions have adopted those principles and can call themselves Equator Principles Financial Institutions (EPFI), among them institutions that have been known to have financial relations to companies involved in land grabbing controversies, such as the Dutch *ABN-Amro*, the French *Société Générale*, and particularly the British *HSBC* (Gregory, 2016: 16). They were initiated by financial institutions that wanted to, on the one hand, hold themselves accountable to their social and environmental commitments and on the other hand reply to the criticism of NGOs and media and show that sustainability commitments were taken seriously (UNEP, 2016: 10).

The Principles apply to four kinds of financial products; 1) Project Finance Advisory Services, 2) Project Finance, 3) Project-Related Corporate Loans, 4) Bridge Loans (Equator Principles, 2013). The nature of the principles' applicability causes for the first controversy; namely that all kind of financial involvements of EPFI in companies involved in large-scale land acquisitions with adverse social and environmental effects that are not falling under the four above-mentioned financial products, do *not* fall under the applicability of the Equator Principles. Such kind of involvement could look like an equity loan, purchase of shares, among

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a large variety of others. Hence, there is quite a bit of room for EPFI's in case they aim to make an investment that they want to be technically excluded from the application of the Equator Principles.

The Principles are based on the IFC's (International Finance Corporation) Performance Standards on Environmental and Social Sustainability, which are demanding their clients to meet certain standards in the following areas:

- Assessment and management of environmental and social risks and impacts
- Labour and working conditions
- Resource efficiency and pollution prevention
- Community health, safety and security
- Land acquisition and involuntary resettlement
- Biodiversity conservation and sustainable management of living natural resources
- Indigenous peoples
- Cultural heritage.

The Equator Principles are in nature very similar to the PRAI, as they are a voluntary transnational private regulation instrument, but instead of regulating institutional investors, such as the PRAI, they are ought to regulate project finance. Similar to the PRAI, the EPs contain very specific instructions with respect to land use and access. The relevant principles are principle 3 – *Applicable Environmental and Social Standards*, 5 – *Stakeholder engagement* and principle 6 – *Grievance mechanism*. *Principle 3* establishes the reference to the IFC performance standards and establishes those as the benchmark for the EPFIs, hence showing the Equator Principles' embeddedness in the existing global governance architecture and also the high relevance that standards developed by the IFC in particular and the World Bank in general, achieve beyond those institutions. *Principle 5* refers to the engagement of stakeholders, and one particular interesting clause is the one concerning indigenous peoples, as it is stated that;

“Projects with adverse impacts on indigenous people will require their Free, Prior and Informed Consent (FPIC) (Equator Principles, 2013: 8).”

The Principle of free, prior and informed consent is a principle that originates from international law, more precisely from the Convention Concerning Indigenous and Tribal Peoples in Independent Countries, that was adopted by the International Organisation in 1989, and is legally binding for all states that have ratified it (Cotula, 2012: 76).

More importantly, the principle of FPIC is widely represented in all other principles, guidelines and regulatory instruments that are being discussed in the land governance debate, hence showing that the Equator Principles represent a complimentary tool and can very well be considered integrated into the existing norms and value landscape.

They contribute greatly to the current global governance architecture on the regulation of land grabs, as they directly address financial institutions potentially invested in the very projects relevant in the land grabbing debate (Goetz, 2013: 201).

The Roundtable on Sustainable Biomaterials

The Roundtable on Sustainable Biomaterials (RSB), initially called the Roundtable on Sustainable Biofuels was created in 2007, as a response to the growing concern that the production of biofuels and related products would cause important adverse socio-ecological

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effects that needed to be addressed (Goetz, 2013: 201). The RSB represents an innovative governance approach, as it enables interaction between an array of different parties, from INGOs such as the National Resource Defence Council (NRDC) and the World Wildlife Fund (WWF), as well as UN organisations such as the United Nations Environmental Programme (UNEP), the FAO and the United Nations Conference on Trade and Development (UNCTAD). Most importantly, membership is open to growers and producers as well as end users of biomaterial-products. Those include major companies, such as Airbus, Boeing and the Royal Dutch Shell (RSB, 2016a). Technically membership is open to anyone, wishing to adhere to the RSB and willing to pay the annual fee, however it is contingent on the fact that members “endorse RSB objectives and commit to allocate sufficient time and resources towards the development and implementation of the RSB Standard (RSB, 2016a)”. As indicated in Box 1, the RSB Standard is comprised of twelve principles, that form the basis of the RSB certificate

Box 1: The 12 RSB Principles (RSB, 2016b)

Principle 1 (Legality) – Operations follow all applicable laws and regulations.

Principle 2 (Planning, Monitoring and Continuous Improvement) – Sustainable operations are planned, implemented, and continuously improved through an open, transparent, and consultative impact assessment and management process and an economic viability analysis.

Principle 3 (Greenhouse Gas Emissions) - Biofuels contribute to climate change mitigation by significantly reducing life-cycle GHG emissions as compared to fossil fuels.

Principle 4 (Human and Labour Rights) - Operations do not violate human rights or labour rights, and promote decent work and the well-being of workers.

Principle 5 (Rural and Social Development) - In regions of poverty, operations contribute to the social and economic development of local, rural and indigenous people and communities.

Principle 6 (Local Food Security) - Operations ensure the human right to adequate food and improve food security in food insecure regions.

Principle 7 (Conservation) - Operations avoid negative impacts on biodiversity, ecosystems, and conservation values.

Principle 8 (Soil) - Operations implement practices that seek to reverse soil degradation and/or maintain soil health.

Principle 9 (Water) - Operations maintain or enhance the quality and quantity of surface and groundwater resources, and respect prior formal or customary water rights.

Principle 10 (Air Quality) - Air pollution shall be minimised along the whole supply chain.

Principle 11 (Use of Technology, Inputs, and Management of Waste) -The use of technologies shall seek to maximise production efficiency and social and environmental performance, and minimise the risk of damages to the environment and people.

Principle 12 (Land Rights) - Operations shall respect land rights and land use rights.

Interestingly, Principle 6 refers to the *human right to adequate food*, which is quite a strong statement for a private certification scheme, furthermore it requires operations that wish to receive RSB certification to improve food security in food insecure regions. Furthermore, principle 12 is very relevant for the context of the analysis, as it states that operations are ought to respect land rights and land use rights.

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It is furthermore important to notice, that membership at RSB does not automatically indicate compliance with the RSB Principles & Criteria, as compliance will only be demonstrated via certification. Certification is an emergent global governance instrument, that has been frequently used by non-public actors, such as the industry and NGOs as a response to address social and environmental issues, particularly with products of the global supply chain, such as forest-based products, coffee, cocoa, soy fish and also biomaterials. While this development has led to a lot of impactful certification schemes, such as the Forest Stewardship Council (FSC), the Aquaculture and Marine Stewardship Council (ASC, MSC) as well as the Roundtable for Sustainable Palm Oil (RSPO) and last, but not least the RSB, certification is still met with heavy criticism. As Graeme Auld puts it in his influential publication *Constructing Private Governance*;

“At worst, certification may be a form of greenwashing that undermines effective government policies to address social and environmental issues while potentially rewarding companies for doing nothing more than they were already doing.” (Auld, 2014)

This unique constellation of actors, from both the public as well as the private side is necessary to ensure the efficiency and also very characteristic of such a “roundtable” constellation, particularly considering the scope and the ambition of the RSB.

Generally spoken, the problem with those private governance tools is missing accountability towards the people who are actually most affected by potential investments and the effects those may cause. Up to date there is no widely acknowledged, private governance tool that has been created in cooperation with affected people or organisations representing and speaking for them.

4.2.2. Multilateral Governance

As opposed to private governance tools, multilateral governance led by nation-states may lead to international frameworks that are legally binding for states and may lead to previously agreed (legal) penalties in case of non-compliance. As observable in the previous section, there is no universal human right to land, hence, land grabbing is not directly punishable by any international law. However, in most cases, those land grabs are simultaneously causing severe human right violations, which in theory could have serious repercussion, although often enough they have not, hence the efforts from the international community to prevent such cases.

G8/G20

As seen in the previous section, the G8 and G20 respectively, have been proponents of multilateral efforts to address land governance. The G8 endorsed both the World Bank’s PRAI as well as CFS’s VGGT. Furthermore, the fact that parts of the G8 initiated the Global Donor Working Group on Land (GDWGL) in 2013 as part as the Global Donor Platform for Rural Development (GDPRD), shows strong unity among the most powerful states in this particular issue. Currently the GDWGL strongly advocates for the implementation of the VGGT as well as for the implementation of land indicators, with a particular focus on global tenure security within the Sustainable Development agenda. The GDWGL is currently comprised of twenty-four agencies, including ministries in charge of development, such as the German *Bundesministerium für Wirtschaftliche Zusammenarbeit* (Ministry for economic development,

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BMZ), the French *Agence Française de Développement* (French Development Agency, AFD), but also DFID and USAID and multilateral organisations such as FAO, UNHABITAT and the World Bank. Its agenda is therefore quite comprehensive, and not limited to particular countries' political interests. It also contributes to new information about the issue and helps mapping the progress with respect to the implementation of the VGGT. The GDWGL created the *Land Governance Programme Map & Database*, which is a key towards enhancing strengthened and coordinated land reporting and monitoring. It is a global map that shows what development agencies and donors are doing with respect to land governance all over the globe, it therefore enables building synergies and preventing an overuse of funds/activities in a particular region to the detriment of other affected regions (GDWGL, 2017b).

FAO/IFAD/CFS

Box 2: Objectives of the Voluntary Guidelines

1. Improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to use, manage, and control land, fisheries and forests.
2. Contribute to the improvement and development of the policy, legal and organizational frameworks, regulating the range of tenure rights that exist over these resources.
3. Enhance the transparency and improve the functioning of tenure systems.
4. Strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; organisations of farmers and small-scale producers, of fishers, and of forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

As the creation of the CFS was largely discussed in the previous section, this part will be held quite briefly, and rather focus on the most important governance aspect of today; the implementation of the Voluntary Guidelines. The implementation of those guidelines is now considered fundamental by a consensus of those involved in the field of global land governance. At last year's CFS 43rd annual meeting in Rome, implementation of the VGGTs was at the heart of the agenda. The GDWGL published a policy brief that indicates certain achievements, that mostly consist of the following (GDWGL, 2016):

- *Graphical Representation of VGGT-Related Programming*
- *GDWGL Commitment to Foster On-The-Ground Coordination and Training on VGGT implementation*
- *Workshop on the side-lines of CFS 42 on VGGT promotion*
- *GDWGL Commitment on Responsible Land-Based Investments*

Those achievements indicate that much is still in planning with respect to the VGGT, at least when one is looking at the involvement of the major donors, arguably the ones whose involvement has the most impact on the eventual realisation of the Guidelines' recommendations. They represent a framework with four main objectives (as indicated in box 2), however, it is quite open how those objectives will be reached.

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As the word *guideline* entails, not once in the document will you find the word mandatory or similar terms. Instead, the usage of the term *should* is very frequent, as it is indicated by 425 word counts. However, it would be too easy to say that this is yet another paper tiger, which only pleases the conscience of states and non-state parties with a significant interest in that matter and contributes to a further *business as usual* conduct. It includes several general principles for state behaviour, for instance, that they should “*recognize and respect all legitimate tenure right holders and their rights*” and also “[...] *safeguard legitimate tenure rights against threats and infringements*”; “[...] *promote and facilitate the enjoyment of legitimate tenure rights*”; [...] *provide access to justice to deal with infringements of legitimate tenure rights*” and lastly [...] *prevent tenure disputes, violent conflicts and corruption*” (FAO, 2012: 3-4).

Furthermore, and this is ground-breaking for such an international regulative framework, it includes a section that requires a certain behaviour from non-state actors (including business enterprises). It is demanded specifically from non-state actors that they establish and apply “*appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights*” (Ibid). Hence, non-state actors are formally included and mentioned as crucial actors in the aim to improve global land governance and achieve recognition and respect for all legitimate tenure right holders and their rights.

Moreover, the Voluntary Guidelines are built on ten implementation principles (VGGT: 4-5);

1. Human Dignity
2. Non-discrimination
3. Equity and justice
4. Gender equality
5. Holistic and sustainable approach
6. Consultation and participation
7. Rule of law
8. Transparency
9. Accountability
10. Continuous improvement

These principles constitute the basis for the definition of responsible practices for the use and control of land (and fisheries and forests). The principles are not new inventions but often derive from a long tradition of international law and human rights; as is demonstrated by the principles 1, 2, 3, 4, 7, 8 and 9. Principle 5 refers to a sustainability approach, as it emphasises the recognition that “*natural resources and their uses are interconnected*” and that an “*integrated and sustainable approach*” should be adopted with respect to their administration (VGGT: Principle 5).

Interestingly the principle of free prior and informed consent is limited to Indigenous Peoples in the VGGT. Principle 6, entitled *consultation and participation* only stipulates that “*active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes*” (VGGT, Principle 6) is ensured. This wording is probably symptomatic of the constellations of actors that negotiated the VGGT, as arguably not every state, nor every business enterprise/financial institution would encourage the inclusion of the FPIC principle as one of the foundations of such a guideline, may it be voluntary or not. Instead

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of including the FPIC principle in a more general fashion, the Voluntary Guidelines recommend that states

“*should provide safeguards to protect legitimate tenure rights, human rights, livelihoods, food security and the environment from risks that could arise from large-scale transactions in tenure rights.*” (VGGT: 12.6)

The wording *provide safeguards* remains vague and inconclusive, as it is frequent in such non-mandatory regulatory frameworks.

It is, however, striking to exclude a principal that has not only risen to prominence particularly in cases of tenure rights but also been at the forefront of demands from advocacy movements (FIAN *et al.*, 2014; Devarajan, 2017) from a document that is specifically aiming to globally improve tenure security. Interestingly enough, 2 years after the emergence of the VGGT, the FAO published a guide with reference to the Voluntary Guidelines entitled “Respecting Free, Prior and Informed Consent” for governments, companies, NGOs, Indigenous Peoples and local communities with specific reference to cases of land acquisition (FAO, 2014). It can be assumed that via this strategy of non-inclusion of the FPIC principle, it was possible to reach an agreement during the negotiations prior to the consensus agreement on the VGGT, while still showing the paramount importance of that principle related to land acquisitions by publishing this practical guide.

The VGGT and its implementation remain up to today the most important rule-making initiative with respect to (not exclusively) land tenure governance, as they were not only initiated by such an inclusive multilateral governance body like the CFS, which, as seen beforehand, has an absolutely unique membership composition, but also do the composed efforts of governments, private sector organisations, civil society, academia and think tanks aim to execute the recommendations given by the Guidelines. The in-depth analysis of this document will be undertaken in the next chapter, when norm constellations are the subject.

Sustainable Development Goals (SDGs)

Land and issues related to it, hold a significant role within the SDGs, mainly because of action involving the Global Donor Working Group on Land (GDWGL), which advocated strongly for the inclusion of targets and indicators related to land within the SDG framework. Land is featured in five Sustainable Development Goals, namely 1 (*No Poverty*), 2 (*Zero Hunger*), 5 (*Gender Equality*), 11 (*Sustainable Cities and Communities*) and 15 (*Life on Land*) (GDWGL, 2017a).

Putting land indicators and targets at the heart of the SDGs, arguably the most important agenda for cooperation and planning of the common future at the global level, is a great deal and gives paramount importance to land and its governance. Key objectives of land governance, such as the security of tenure – meaning that no individual can be dispossessed, without prior consent and acceptable compensation – and sustainable use of land are included explicitly and in detail. Moreover, those objectives are embedded in the global overall development agenda and this agenda applies to all countries, regardless whether developing- or high-income countries. Hence, the SDGS support a sense of urgency with regards to global land governance, which is supposed to be met by all governments (Wehrmann, 2017: 14).

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This can be considered an achievement for those who have been fighting for this issue to be put at the heart of global questions that decision-makers have to find solutions for and goes back to the fight of transnational social advocacy movements such as La Via Campesina.

One could argue, that an inclusion of those issues within the SDG agenda makes land governance a high priority for all governments, moreover, since in this particular case, it is linked to specific targets and includes indicators to monitor progress. On the other hand, the SDGs are a voluntary framework and lacking serious financial contributions to that particular cause. It is yet to see, whether and how substantially, the SDGs will lead to an overall improvement of global land governance.

The World Bank

The World Bank is arguably the most influential actor, aside of national governments acting in the global land governance architecture. It was the organisation that is widely acknowledged to have driven the process of the first regulatory framework as a response to the rising concern with respect to large-scale land acquisitions. The RAI are testament of the World Banks policies, clearly aimed at expanding investment into the agricultural sector, while concerned with the risks, hence aiming at giving blueprints for mitigation strategies.

From the point of view of civil society, the World Bank is leading the coalition of those that are not concerned with *actual* rural development, with the well-being of small-scale farmers and with the protection of biodiversity and the environment.

The World Bank, together with the G8/G20 is believed to have contributed towards a paradigm shift in global agricultural policy making. As a response to the food price crisis and the consequences, particularly felt in developing countries, policies should now contribute to agricultural investment-led poverty reduction which was one of the major components of the response strategy to the crisis of 2008 (Margulis and Porter, 2013: 71). From the sound of it, this would imply an involvement of small-scale agricultural practices in investment plans, however, the strategy has been clearly a different one; towards intensification of farms, in order to enable production of crops suited for export.

4.2.3. Non-Governmental Multilateral Governance

The IPC

The International Planning Committee for Food Security (IPC) has published a report in 2016 entitled the “*People’s Manual on the Guidelines of Governance of Land, Fisheries and Forests*” with clear reference to the VGGT. The IPC is a global platform, that works autonomously and in a self-organised fashion and is constituted by more than 800 organisations, representing small-scale food producers and rural communities and its goal is to advance the Food Sovereignty agenda at the global and regional levels (International Planning Committee for Food Sovereignty, 2016). This structure allows smaller and regional organisations the chance to participate, at least by proxy, at important conferences and hence exercise some governance authority, that would not be accessible without such a constellation.

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As the title reveals, the publication is another manual – similar to the practical guide published by the FAO – that is ought to be support people, and policy makers representing those people in using the VGGT to their advantage. Its goal is to

“transform the Guidelines into an instrument with which to enforce the respect of human rights” and further “to trigger a multiplier effect in people taking ownership of the Guidelines and to contribute to a political project of economic and social justice, and the respect of human rights” (Ibid: 9).

Hence, it is quite obvious from the point of view of the IPC that the Guidelines do not constitute the final answer to the problem of governance of tenure, but rather should be considered as the departure point towards individual solutions for all kinds of cases related to human rights violations caused by tenure insecurity.

As already mentioned at an earlier stage, a principle often proclaimed by the organised civil society, is food sovereignty, a principle that refers to

“the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems” (Forum for Food Sovereignty, 2007).

This term is explicitly not used in the Guidelines, as it may contain too much political value to be part of a consensus document such as the VGGT.

According to the IPC, several other topics are absent from the Guidelines, it is thus noteworthy that civil society is not satisfied beyond doubts with the final document that are the VGGT. We will discuss this in more detail, when analysing the discourses.

Land Matrix

The Land Matrix also takes a quite substantial role in the governance debate, as it is a project that has the ambition to map all land transaction and create reliable data, that is obviously used in the debate. Therefore, it is serving as a scientific database to fuel arguments and discourses. The approach of the land matrix is quite unconventional, because, rather than receiving its data from official sources from countries or investors, it is open to contributions from a community of citizens, researchers, policy-makers and technology specialists, which is supposed to make the received data as unbiased as possible. The rationale behind this is to give the greater public an opportunity to get involved in those critical decisions that affect the livelihoods of land-users worldwide (Land Matrix, 2017b). The land matrix collects data on large-scale land transactions, and aims to list the (primary) investor and its host country, the target country, the area-size of the investment, as well as the nature of the deal – whether it is *intended*, i.e. there is an expression of interest or the deal is still under negotiation, or *concluded*, i.e. there is an oral agreement or a contract signed, or whether it has failed, i.e. the negotiations over the deal have failed or the contract has been cancelled (Ibid). Furthermore, if possible, the land matrix monitors the implementation status of a deal and attributes four different categories:

- *Project not started*
- *Start-up phase (no production)*
- *In operation (no production)*
- *Project abandoned*

This classification and evaluation of deals, allows the land matrix to draw a quite comprehensive picture of global land transaction activities. However, and this is important, it

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is noted that the data should not be taken as a reliable representation of reality. Nevertheless, the land matrix and the data that it produces is the most cited data repository when it comes to land transaction and is therefore an important actor to take into consideration when screening the global land governance architecture. The land matrix currently has information about almost fourteen hundred concluded deals with a total size of almost fifty million hectares, as well as a bit more than two hundred intended deals, with a size of about twenty million hectares (Land Matrix, 2017a).

International Land Coalition (ILC)

The ILC is an organisation comprised of more than 207 member organisations. It was originally found in November 1995 during the Conference on Hunger and Poverty, by civil society, multilateral institutions and governments as the *Popular Coalition to Eradicate Hunger and Poverty* and was later renamed the ILC (International Land Coalition, 2016). Members of the coalition at the global level include multilateral organisations such as FAO, IFAD and the World Bank, international research institutes such as the International Institute of Environment and Development (IIED), the World Resources Institute (WRI) and the International Food Policy Research Institute (IFPRI), but also international NGOs such as Oxfam International, the World Wildlife Fund (WWF) and Transparency International (TI), which makes it a coalition representing a wide array of influential organisations, hence giving it strong political legitimacy. What probably does not come as a surprise, is that the ILC has favoured the endorsement of the VGGT and is a proponent of its objectives. Besides the Voluntary Guidelines the ILC also actively supports the Framework and Guidelines for Land Policy in Africa (F&G) as well as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and of course the Agenda 2030. The ILC stress the fact that it is “non-partisan and independent of governments, donors, political parties, and corporations” (International Land Coalition, 2016: 14). To reach their goal, the ILC has agreed to reach ten commitments, towards each member has to contribute individually and collectively (See Box 3 (Personal representation, following: International Land Coalition, 2016: 16)).

With those commitments, the ILC contributes towards the implementation of the VGGT but also goes beyond its recommendations, particularly with commitment 8 and 9, which relate to specific cases of land grabbing, frequently involving cases of extreme human rights violations, including the assassination of those who are aiming to defend land rights (Forst, 2016; Global Witness, 2016; Frontline Defenders, 2017; Rights and Resources Initiative, 2017).

The fact that such relevant actors are engaged in a coalition and agreed to commit to substantial changes, indicates that there is a momentum for change with respect to global land governance. Moreover, it is an indicator, that for those organisations, what the VGGT consist of, does not go far enough, and it is also quite logical that it is easier to find a consensus for stronger action in the particular constellation that is the International Land Coalition compared to a forum like the CFS, where all member states had to agree in a consensus decision. This confirms a typical *problem* of global governance, namely that international agreements among states not only take a substantial amount of time, but also that all of to agree to the smallest common denominator, and most states are usually quite averse to committing to action that has substantial financial, economic, political and social implications without being substantially compensated for such action.

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Box 3: ILCs 10 commitments to jointly realise people-centred land governance at the country level

1. Secure Tenure Rights
2. Strong Small-Scale Farming Systems
3. Diverse Tenure Systems
4. Equal Land Rights for Women
5. Secure Territorial Rights for Indigenous Peoples
6. Locally Managed Ecosystems
7. Inclusive Decision-Making
8. Transparent and Accessible Information
9. Effective Actions against Land Grabbing
10. Protection for Land Rights Defenders

Global Land Tool Network (GLTN)

The GLTN is an organisation initiated by the UN programme UNHABITAT, that is in charge of contributing towards a better urban future. It was started in response to several official demands from governments and local communities to UNHABITAT. Its overall goal is to ensure that rural and urban poor have improved to land and better security of tenure. To achieve this goal the GLTN has developed a strategy based on four components;

- 1) Knowledge Management
- 2) Advocacy
- 3) Tool development and capacity development
- 4) Institutional capacity (UN-HABITAT, IIRR, & GLTN, 2011)

The partners of the GLTN include the usual suspects that were already discussed in the previous sections, such as the FAO, IFAD, BMZ and the World Bank Group, but also private foundations like the Bill and Melinda Gates Foundation. Furthermore, to contribute to its technical expertise, that is need for the third component, GLTN is partnering with universities and research institutions with expertise in questions with respect to land governance and tenure security, including institutions representing, social, economic, environmental and technical sciences. While doing a lot of localised work at the country level, including training and capacity building, the GLTN also greatly contributes to advancements at the global level, by sharing the knowledge gathered from all kinds of data contributed by partners and own research projects, and advocating for improvements in governance of tenure security. Its latest report “Land Governance – A review and analysis of key international frameworks” from 2017 is proof of such advocacy work.

4.3. Conclusion

This section aimed to draw a comprehensive image of the current status of the global governance architecture. To do that, a timeline was created, to show which events lead to the current situation, particularly the groundbreaking year for GLG, 2012, with the embracement of the VGGT by the global community, including major private sector and civil society initiatives. To come back to the initial research question, and how this chapter contributed to

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answering that, it is important to understand that, global land governance is dominated by decision taken by nation-states. However, and this is characteristic for the issue area of land, due to its usage from a variety of sectors, there are very powerful non-state actors who influence governance arrangements; as is indicated by private governance initiatives, as well as transnational civil-society activism, as described in this chapter. Actors have developed different strategies according to their interests and agendas but also according to their resources. Civil society organisations, for instance, have used the means of protests and opposition against global policies designed by the World Bank, and created fora to discuss governance for the people, paying particular attention to rights of the marginalised, such as Indigenous Peoples and women, and thanks to that strategy, have achieved a right to participate in a policy-designing body such as the reformed CFS. Furthermore, a striking feature in this architecture, is the fact that those who really depend on land and its related resources for their livelihoods, have the least say in any governance arrangement. Their advocates are civil society organisations, whose power is relatively limited. The side defending investments favouring large-scale solutions is clearly dominating, as indicated by the final frameworks that are supportive of an intensification of investments, as long as those are mitigating risks.

This chapter was ought to show which actor plays which role and for what reason. Those roles and motivations behind it, are relevant for the analysis of fragmentation undertaken in the next chapter, during which we will dig deeper into understanding constellations between actors, discourses, norms and institutions.

5. Measuring Degrees of Fragmentation

The previous chapter has not only uncovered a brief historical timeline but also drawn a picture of the current status quo. It is necessary to understand the history of GLG, because it reveals that efforts to regulate land questions and in particular land grabbing activities only materialised in the past 10 years, which can be linked to the spike in large-scale land transactions and the following campaign led by CSOs and the media demanding stronger regulations or rather moratoria. The analysis of the status quo revealed the great complexity of constellations, between institutions and their underlying particular norms as well as the actors adhering to those institutions.

Coming back to the research questions, the following chapter will complement the picture that was drawn in the previous chapter and give a comprehensive idea of the nature of fragmentation – sub-research question one is included in that, as the characteristics of this particular architecture will be uncovered. As discussed in the introduction, ultimately the idea is to find answers with respect to inherent power-relations distinguishable in the architecture. The concept of fragmentation – once it has been assessed through an in-depth analysis – will give answers to those questions.

In order to continue the analysis on fragmentation of the GLG architecture, we will look at the four previously established dimensions; and through that aim to measure the degrees of fragmentation following the conceptualisation of Biermann et al. and Pattberg et al. Furthermore, the results of a discourse analysis will be presented which will further support an answer to the research question. The Policy Arrangement Approach showcases the importance of discourses when looking at a particular policy domain, as they are testimonies of both agency and structure, and the storylines give an idea of the arguments actors are using to manifest influence and exert power.

To understand the architecture, it is very valuable to understand the institutional, norm, actor and discourse constellations. This is particularly important for an architecture as complex as the GLG architecture, with a multitude of actors and normative ideas underlying the status quo in terms of the achieved regulative frameworks

5.1. Institutional constellations

The context in which global land governance takes place is characterised by an increasing complexity. Not only is the issue of land grabbing linked to a variety of global governance issues, such as biodiversity, climate change, as well as food security and more recently and increasingly to migration issues, the context of global governance is changing. New global forces have emerged, such as the BRICS countries, while traditional forces are also largely involved, as the US and the United Kingdom are listed as the part of the top ten of the most important investor countries involved in large-scale land acquisitions (US at number one, UK at number 6, via Land Matrix, 2017). Furthermore, complexity is added through the different motives behind large-scale land transactions; the surge in the number and size of deals is particularly due to a focus on alternative energy sources, namely biofuels and also to food security considerations of regional forces, such as the Arab nations of the Gulf and lastly to an interest of international finance in new high-reward promising products. This complexity of the

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land/agricultural production sector includes an important involvement of the private sector, which, as seen in the previous chapter, is significantly involved in governance efforts.

To summarise, the complexity as well as scope of the issue has created the need for governance at a global level. Analysing the fragmentation of the overall institutional setting will support a better understanding of this architecture. Biermann et al. suggest that fragmentation should be looked at from three point of views. This section will focus on the dimension of *institutional integration*. The following will focus on *norm constellations* (or conflicts), followed by *actor constellations* and finally *discourse constellations*, as suggested by Pattberg et al.

Institutional Integration

Following Biermann et al.'s typology, the global land governance architecture may be labelled as *cooperative*, meaning that there are distinguishable “core institutions with other institutions that are loosely integrated”.

As seen in the previous chapter, the global governance of land grabbing is characterised by a particular institutional constellation. While it is important to understand, that with respect to land usage rights, supranational/non-governmental influence is limited from a point of view of actual binding regulation (land-laws), it is quite obvious that the World Bank and the FAO have had particularly influential roles in the past and up until today. While the World Bank has influenced global land policies through its lending policy, that would demand of countries to adopt policies of economic liberalisation in return of receiving loans, FAO has formally been put in charge with global agricultural policies since its inception. The role of the Bank, has been perceived rather critical by a wide range of actors, mostly civil society organisations and transnational agrarian movements⁶, but also governments of developing countries, because of its linkages to IMF and WTO policies, which in the past, have not been particularly favourable to rural people/small-scale farmers. Moreover, as the main development bank and lending institution, the Bank is perceived as a benchmark-institution, whose policies matter. This role-model function is often pointed out by CSOs, who argue that the Bank should openly assume this position and lead by supporting policies that favour the rural people and family farming practices (Martin-Prével, Mousseau and Anuradha, 2014: 4). Furthermore, both the World Bank as well as the FAO have been not only involved but also leading processes in several governance initiatives, such as RAI, PRAI and the Voluntary Guidelines. The Bank has also substantially influence private sector initiatives such as the Equator Principles, as those took the IFC's (International Finance Cooperation, the Banks private lending arm) Performance Standards on Environmental Social Sustainability as an example (Oxfam, 2012).

The Bank revealed its political stance in 2010 by introducing the Principles for Responsible Agricultural Investment (RAI) in cooperation with IFAD, UNCTAD and FAO, as a reaction to

⁶ The Oakland Institute, a think tank supporting a pro-human rights land agenda, has published a variety of report, highlighting practices of the World Bank that had negative effects on the livelihoods of small-scale farmers. Furthermore, those reports reveal that the Bank is encouraging national governments to adopt policies that would increase large-scale investments and favor transnational companies' interests. Those reports can be found at: <https://www.oaklandinstitute.org/world-bank-group>

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the significant increase in investment in agricultural land. Not surprisingly, those were publically endorsed by the G8 and G20 (GRAIN, 2013b: 6). While the support of those actors gave the RAI substantial political legitimacy they were fiercely objected to by CSOs and the reformed CFS did not officially endorse them. As a reaction to the RAI and other private governance initiatives CSOs raised concerns mainly about the fact that the RAI lacked an inclusive participatory negotiation process, and were excluding stakeholders that were directly affected by investment and that ultimately the PRAI represented a framework with the potential to facilitate more investment, rather than to prevent investments that had caused detrimental effects in the past⁷. This concern voiced in the CFS ultimately led the CFS not to endorse the World Bank's RAI. An outcome that could be considered a testimony to the effectiveness of the reform process, undertaken at the CFS; civil society was now able to influence important policy decision, such as the (non-)endorsement of the RAI (Duncan, 2015: 176).

The reformed CFS is arguably the most influential institution with respect to global land governance, because of its particular composition and inclusiveness. While the RAI were backed by influential actors, the CFS is composed not only of all member states of the United Nations, but also of the private sector and civil society. This arguably gives frameworks endorsed by the CFS, such as the Voluntary Guidelines and the PRAI even more political legitimacy. This development hints towards a greater institutional integration that occurred as a reaction to the endorsement of the RAI. Furthermore, the institutional shift points towards a greater importance of land rights and food security compared to the previous focus on encouraging and facilitating more large-scale investments. While the PRAI were not considered ideal as such by CSOs, they were still considered more inclusive because of the particularly inclusive structure of the CFS. The development of the CFS and with it its increased importance contributes to the conclusion drawn at the beginning of the section, that from a standpoint of institutional integration one can speak of a cooperative nature of fragmentation.

With its governance structure, that includes membership for all UN member states, as well as the Private Sector Mechanism (PSM) and the Civil Society Mechanism (CSM) that allows both organisations of the private sector as well as civil society representatives to participate in negotiations, it is probably the most democratic decision-making institution at the global level. While the RAI already represented proof of significant institutional integration, as they were not only drafted commonly by very influential institutions but also endorsed by the arguably most powerful nations; the CFS and its endorsement of the Voluntary Guidelines and the PRAI

⁷ There is a variety of briefs that showcase the position of the organised civil society vis-à-vis the RAI. The following was chosen, because it was produced cooperatively by the most influential civil society organisations in the debate, FIAN and La Via Campesina; *“RAI started as an agency-led initiative without participation of the governments of poor countries and of the people affected by such investments: women, peasants/farmers, indigenous peoples, fisherfolks, pastoralists and agricultural workers. [...] Rather, RAI is a product of market-driven 'global governance' of food and agriculture in which technocrats with close ties to the private sector, and following a business agenda and certain ideological dogmas decide how the world's and peoples' resources should be used.”* (The Global Campaign for Agrarian Reform Land Research Action Network, 2010: 8)

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confirm this observation that institutions, may they be governments, multilateral agencies, the private sector or civil society are working together in a cooperative nature facilitated through the unique structure that is the CFS.

5.2. Norm constellations

When it comes to norm constellations, the GGA reveals quite a bit more complexity with respect to assessing the degree of fragmentation. While there is distinguishable coherence on some important issues, the principles of how those should be addressed vary substantially.

What all parties, from the World Bank to transnational agrarian movements, appear to agree upon is that land grabbing as a practice needs to be seen critically and addressed through (international) regulation in order to account for problems and risks occurring during and after large-scale land transactions that need to be controlled and ideally suspended. The idea that land regulation has to be subject of national legislation is also agreed upon, hence emphasising the role of the state with respect to regulating land grabbing. This idea is closely linked to the principle of national sovereignty which takes a crucial role in international policy-making. Similar to other negotiations on international *wicked*⁸ policy problems, national sovereignty usually supersedes international problem-solving considerations as has been observed on countless accounts during the negotiations on climate change, biodiversity, desertification and probably most importantly on forests. Land is a very valuable economic, social, political and cultural resource, and it appears that there is an agreement that only legitimate national governments should be tasked with developing land laws. Furthermore, the benchmark documents endorsed by the CFS are deeply rooted in existing international law, building on the foundations of previous agreements, partly legally binding, partly non-legally binding. Hence one could argue that the most substantial attempts of regulating large-scale land acquisitions are aiming to respect the tradition of international legal frameworks such as the universal declaration on human rights.

Moreover, in light of the scope of the problem, there is also agreement that a global effort is needed towards harmonising legal frameworks in order to ensure certain goals. Those goals are the essence of the norm conflicts, as different actors and groups of actors have fundamentally different opinions and are valuing fundamentally different norms that should be at the core of governance efforts.

Essentially, the norm conflict is that severe that it has basically created an unsurmountable problem. As will be discussed in depth in section 5.4., it boils down to the priorities and that those are impossible to harmonise. The actor group led by the World Bank, common financial interests, as well as the prioritisation of economic growth in the agricultural sector

⁸ “Wicked problems” is a terminology used in policy science and refers to problems that resist a simple solution, because the relations between causes and effects are very complex and the solutions to resolve it are unclear. Some are characterised not only by their urgency but also by the lack of an authority to solve them (Manning and Reinecke, 2016).

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argues that governance of land, should facilitate large-scale investment; the RAI and private governance mechanisms are a clear proof of that. Those norms of facilitating investment to encourage economic growth are clearly set in tradition of economic liberalisation; in which the role of the national governments is to facilitate an investment-friendly environment, meaning to enable a favourable taxation, and discourage lengthy and costly acquisition processes.

It was also the publication of the RAI, that made the conflict of norms very apparent. As a direct opposition to those principles, a coalition of actors, including civil society organisations, transnational agrarian movements and research institutes united in protest and raised their voices and concerns. This protest culminated in the “Dakar Appeal Against the Land Grab” which was voiced during the World Social Forum in 2011. One of the very clear demands of the Appeal, that was signed by more than 500 parties (mostly civil society organisations); was that the international institutions should not only implement the commitments made at the ICARRD of 2006, but also that the CFS undoubtedly rejects the RAI, that were considered illegitimate and inadequate to address the issue at stake (La Via Campesina, 2011).

Hence, on the one hand there is a coalition that follows the policies designed by the World Bank, traditionally inspired by a logic of economic liberalisation, and on the other hand there is a coalition of actors that has been formed to oppose such policies, in the name of the people. This opposition goes as far as calling for the dismantling of institutions such as the World Bank and the IMF, as their influence is considering as fundamentally opposing democratic principles, as it is argued that they have become “*more powerful than national governments and exercise undue control over governments’ decisions on national policies*” (La Via Campesina, 2006). This abuse of power, according to La Via Campesina justifies action to “*resist those institution’s policies everywhere, from village level up to international level.*” (Ibid: 2006)

Part of the reality of norms is therefore the long-lasting story of capitalism, in which a group of objectively powerful actors (governments, World Bank, UN organisations, private corporations) aims at dictating the principles under which those transactions may occur and a group that is retrieving its power through strengths in numbers, and has adopted quite typical strategies for such an objectively inferior position (naming and shaming, protests, use of mass media).

This duality in norm-following from the two major groups of actors shows that there was, and still is, absolutely no consensus on the principles, norms and rules according to which land grabs should be dealt with from a global governance perspective. There is some movement towards cooperation and compromise though, as indicated by the adoption of the Voluntary Guidelines, the PRAI and the annual CFS meetings during which all actors with different opinions and goals come together and discuss some issues. Furthermore, the inclusion of land indicators in the Sustainable Development Agenda shows that this issue is being taken seriously by those actors with the potential to make some changes to the status quo, namely national governments as well as the World Bank.

To conclude, one may speak of conflictive nature of norm constellations within the architecture, as is indicated by the major disagreement on *how* to address the agreed upon problem, rise of global land grabs that is. Both camps are adhering to a certain set of norms and rules in order to facilitate negotiations and interaction with the other, however, as is shown by the countless

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voluntary agreements – which implies that ill-behaviour will not be punished in any way – there is disagreement on fundamental issues, which would not allow for a binding global framework.

Looking at Biermann et al.'s model of fragmentation in global governance architectures, one may argue from looking at institutional constellations and norm conflicts, that the global governance architecture dealing with land governance, particularly focussed on the issue of land grabbing/large-scale land acquisitions, can be characterised as in between cooperative and conflictive. From the point of view of institutional integration, one could even argue that the architecture is moving towards a synergistic degree of fragmentation, as the CFS is gaining influence, and is perceived by the majority of actors as the core institution at the global level. However, currently, there are a variety of institutions in charge, and as long as the World Bank is still taking this outstanding role, as a policy institution, that is not only advocating policies in institutions such as the CFS, but also shaping policy, through its lending practices, it is difficult to speak of synergy with respect to the degree of fragmentation. As was just discussed, from a point of view of norm conflicts it is quite clear that core norms, namely the *how to address land grabbing* are conflicting, hence fitting the conceptualisation of a conflictive degree of fragmentation.

5.3. Discourse constellations

Discourses in the global land policy arena, can basically be summarised under two opposing streams; on the one hand, there is the discourse around *responsible investment* and on the other hand, there is the discourse around the *human rights perspective*. We will see in the coming section, which discourses are supported by which actor(-coalitions) and what possible motives inspire such discourses.

5.3.1. Responsible Investment – Discourse

This discourse is based on the premise of the importance of responsible investment in land/agriculture/food systems. This premise is upheld mainly by two frameworks, endorsed by powerful actors, such as the G20, the European Union and multilateral agencies, such as FAO, UNCTAD, and many more. The first one was published by a group of actors, including the FAO, IFAD, UNCTAD and the World Bank Group in 2010 and is entitled: *Principles for Responsible Agricultural Investments that Respects, Rights, Livelihoods and Resources* (hereafter RAI). The second one – *The Principles for Responsible Investment in Agriculture and Food Systems* (hereafter PRAI) – was endorsed by the CFS in 2014.

Both documents give recommendations under the assumption of a necessity of *responsible investments* in the agricultural sector. As discussed in an earlier chapter, discourses can be considered an “*ensemble of ideas concepts and categorizations*” which then in turn, through production, reproduction are “[...] *transformed in a particular set of practices, and through which meaning is given to physical and social realities*”(Hajer, 1995: 44).

It is therefore important to look at the arguments inspiring the *responsible investment* discourse. When looking at the RAI, the document presents the argument, that in comparison to Latin America and Asia, Africa has *benefited* from substantially less investment in his agricultural

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sectors, hence explaining its underdevelopment and higher rates of poverty vis-à-vis the two other continents (FAO, IFAD, UNCTAD and World Bank Group, 2010: 1). Following this line of argumentation, it is only logical to say that more investment would ultimately lead to positive effects and is therefore the only alternative if one would want to continue positive development. The actors behind those principles however, acknowledge the fact that investment may have detrimental effects, or rather risks as they put it, that should be accounted for, if an investment is to be called responsible (Ibid: 1,3, 5, 9, 11). Hence, the need for global governance of those kind of investments, which is tackled by developing those principles and guidelines we have been discussing. The support of private certification schemes is also embedded in this narrative and line of thinking as indicated by its official mention in the World Banks “principles for responsible agro-investment” as “potential value added” (Fortin and Richardson, 2013: 142); as it is considered a tool to minimise negative effects of large-scale investments and to hold those publicly accountable that do not comply with regulations.

Continuing to think about a legitimation for responsible investments, it is necessary to convey a justifiable motive to explain why and how large scale land investments are defensible. Part of this is the proposition that there is a significant amount of land that is not being used, or only used *marginally*. The next sub-section explores the marginal land argument.

The *marginal land argument*

Many nation-states “hosting” large-scale land investments are making use of this discourse, as it not only enables them to create a political environment that attracts investors but also gives them an excuse for hosting those kind of investments, arguing that the land which is subject to the transaction, is of *marginal* importance anyhow, therefore an investment could create only positive developmental effects. Marginal importance in that line of argumentation refers to the idea that the land in question is not relevant for carbon sequestration or biodiversity and which does not play a role in food production or providing people’s livelihoods (The Gaia Foundation *et al.*, 2008:).

This position is backed by a variety of influential international actors such as the G20, and the World Bank, who claims for instance about the African continent that it hosts more than half of the world’s agriculturally suitable land, that is currently not being used (The World Bank, 2013), and, as can be expected, by those with (financial) interests in large-scale land investments. However, as studies show, this position, held by some states and influential international stakeholders, is not based on scientific evidence, as literally any land transferred – as little fertile it may be – is used or at least claimed in one way or the other by local people (Anseeuw *et al.*, 2011: 44).

It is difficult to define marginal lands universally, as the definition is not only subject to biological (soil) and environmental (biodiversity) considerations, but also to socio-economic, cultural and religious considerations. This ambiguity of definition makes it a very political terminology, as depending on who is defining it, certain areas apply to the term and certain do not. An actor with interest in making a land transaction, may have a very different definition of marginal then the actor who is trying to protect the land for a variety of environmental and socio-economic reasons.

An example of why this line of argumentation is questionable at best, may be derived from the World Bank publication on benefits and disadvantages of large-scale land acquisition.

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According to the Bank, the industrialised production of maize crops could be developed on 148 million hectares of land with low population density; this would in turn create 10 jobs per 100 hectares, resulting in 1,48 million new jobs (globally). However, following the Bank's own calculation, this land that could potentially be used, is inhabited by approximately 11,7 million people, who use it for their livelihoods. Hence, if one wanted to develop those 148 million hectares into agro-industrial maize production, this may lead to 1,48 million jobs, however it would lead to more than 11 million people losing their lands and occupation (Deininger and Byerlee, 2011: 39, 172, 173).

This discourse is usually built on the recurring line of argumentation as illustrated by Borras et al.:

“(1) ‘invention/justification’ of the need for large-scale investments; (2) ‘definition, reclassification and quantification’ of what is ‘marginal, under-utilized and empty’ lands; (3) ‘identification’ of these particular types of land; (4) ‘acquisition/appropriation’ of these lands; and (5) ‘reallocation/disposition’ of these lands to investors.” (Borras, Franco and Wang, 2013: 167)

It is challenged by international civil society and advocacy movements, as those groups generally refute the *marginal* land argument, as a construction by nation states to facilitate their economic interests by declaring certain types of land as marginal, without any transparent assessment approach to come to such a conclusion (Wolford *et al.*, 2013: 35). Furthermore, evidence indicates that marginal lands, are in fact not the target, but rather serve as an excuse, as investors would usually target lands with high irrigation potential, soil fertility, connection to infrastructure networks as well as a proximity to markets (Cotula, 2011: 14).

Using the marginal land argument, leads to the conclusion that essentially, large-scale land transactions should continue to expand, as – if properly undertaken – they would lead to an increase in productivity, production and efficiency with respect to land-use. Hence the storyline told, is that the current (past 10 years) wave of land deals is not the problem, rather that the risks of those transactions have not been properly accounted for.

Another striking aspect of the responsible investment discourse is the use of terminology when referring to land deals. Terms employed to describe the phenomenon that has arguably occurred extensively since 2008 and is often referred to as the *global rush for land*, are large-scale land acquisition, large-scale land-related investment and also large-scale land-based investment. This is quite important, as contrary to the terminology *land grab*, which is a deliberately politicised term by a certain group of actors; large-scale land acquisition comes across much more *apolitical*. However, it is important to understand that the choice of using this terminology in a report or as the official communication is already a political choice, as it encourages one agenda – the one in favour of investment – over another one.

The use of that particular terminology is logical, as the World Bank and other investment proponents need to present a storyline, that does not demonise land grabs, but rather to show the opportunities with respect to an increased agricultural production, food security, and socio-economic development for rural communities. It was also quite obvious that a storyline that would say that global financial investors and national financial elite had the best interests of smallholder farmers, minorities and indigenous peoples at heart is not very credible. Hence, the proliferation of guidelines that encourage such investors to take into consideration the rights

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and aspirations of those communities and thrive towards holistic approaches, that would not only assure lucrative financial returns but also ensure the respect of the affected people's rights.

Another issue implied by this discourse encouraged by the multinational organisations, the private sector and the most powerful governments, is the fact that framing land grabbing, or rather large-scale land acquisitions as an activity that – bearing the respect of certain rules of governance – should not be considered as anything problematic or even a result of a certain political ideology, namely neoliberal globalisation. Aiming at depoliticising an action that clearly involves resources and usage rights, including quite often an international-local transaction and the transfer of capital, is a strong statement in itself and gives a hint at the motives of such a storyline.

Confronted with allegations of supporting investor friendly policies to the detriment of the human rights of affected communities; the Inter-Agency Working Group of the FAO, the IFAD, UNCTAD and the World Bank committed to generate empirical knowledge that would support the hypothesis that responsible investment does indeed support local communities and has positive effects on local, national and regional economic development. This commitment resulted in a report entitled *The Practice of Responsible Investment Principles in Larger-Scale Agricultural Investments*.

In this report, the research team conducts an analysis of 39 agricultural large-scale investments and particularly evaluates effects on the social, economic and environmental sphere. As one of the key findings the report highlights that;

“[...] a potentially win-win situation vis-à-vis investment performance and their wider positive economic, social, and environmental impact is achievable.” (Mirza, Speller and Dixie, 2014: XVI, emphasis added by author)

A very interesting observation that contributes to the prevailing storyline is the fact that the most positive impact on local economies and communities surrounding the investment site, was achieved when investors were financially and operationally successful at the project site, which according to the report can be attributed to a particularly sophisticated approach to social and environmental responsibility (Ibid: XVI). That kind of observations are fuelling the responsible investment storyline, as they strengthen the argument that responsible behaviour does indeed contribute, not only to financial success for the investor but does hold considerable advantages for host country and local communities.

The report does name harmful/negative outcomes from investment, mainly disputes over access to land, usually between the investor who bought the formal rights from the (local) government and those who have used the land without the formal rights. However, it argues that if proper regulation is in place, and if the investor entertains proper due diligence processes that the positive outcomes (job creation, rise of incomes, higher food security) would outweigh the negative side.

To summarise, the responsible investment discourse consists of a line of argumentation that is aiming at appeasing the concerns voiced by opponents of land grabbing. While acknowledging adverse effects that large land deals may have and have had in the past, the argument is that with proper governance in place, those adverse effects can be minimized and positive developmental effects can be reached. This discourse even considers those deals a necessity, as it is part of the solution to solve the problem of feeding a growing global population. With that storyline, the actors encouraging it, managed to turn the land-grabbing argument around, and

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created the image that large-scale land acquisitions are a necessary aspect of the global economic development agenda (Borras Jr. and Franco, 2010). It goes without saying that this discourse is clearly embedded in the new developmental paradigm, discussed in the previous chapter; agricultural investment-led poverty reduction.

5.3.2. Human Rights – Discourse

The human rights discourse in the context of global land governance operates from a very different premise than the responsible investment discourse. Basically, its main assertion is that land grabbing is not intended as a solution to solve problems such as global hunger, poverty, environmental degradation, neither as an answer to the three global crises, but rather another means for corporations representing the global capital to further accumulate and raise their profits to the detriment of Indigenous People, rural, small-scale farmers and as one of the most vulnerable groups; women (Borras, Franco and Wang, 2013).

The narrative is clearly embedded in a Marxist, an anti-capitalist and anti-economic globalisation tradition, as indicated by the Nyeleni declaration of 2011, where organisations have met, representing women and men peasants, indigenous peoples and pastoralists;

“The fight against land-grabbing is a fight against capitalism, neoliberalism and a destructive economic model. [...] There is no way to mitigate the impacts of this economic model and the power structures that promote it. Our lands are not for sale or lease.” (‘Conference Declaration: Stop Land-Grabbing Now!’, 2011)

In this statement, clear evidence of a direct opposition to the *responsible investment* narrative is distinguishable. In opposition to that discourse, land grabbing (as opposed to large-scale land acquisitions) is not something that can be fixed and cause a so-called “win-win-situation”, but rather a mirror of inherent neoliberal policies and therefore absolutely not tolerable.

Similarly, to the *responsible investment* discourse, the terminology *land grabbing* is politically loaded; as the term *grabbing* indicates, it involves a one-sided transaction in which the *grabber* literally takes the land, without having to account for the consequences. For the agents using this discourse, land grabbing always implies that people are dispossessed often accompanied by extreme human rights violations. Therefore, land grabbing cannot be improved through good governance, because it is a means to continue the unparalleled exploitation of not only North from South but also of capital from the working class; as shown by land grabs undertaken by domestic elites (Koussoubé, 2013; Ogunbunmi, 2014). Land grabbing – in that discourse – is therefore an unbearable practice that needs to be stopped immediately, as indicated by the calls for a moratorium from organisations such as La Via Campesina, FIAN International and the Oakland Institute. The root of the problem is therefore not based on flawed regulation, but rather the practice itself, which according to this discourse is based on the global system, which has created an uneven playing field and puts small-holder farmers in an impossible position. Therefore, those actors having embraced this discourse, have not only called for an end of land grabbing but also for a global agrarian reform and the acknowledgment of concepts such as agroecology and food sovereignty among others;

“This agroecological and territorial approach to agrarian reform can only be won through class struggle and direct confrontation of the project of Capital, including its profits, media outlets and its national and international agents. This is an agrarian

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reform to maximize the potential of peasant agriculture, economy and territory“. (La Via Campesina, 2016)

The emergence of guidelines deriving from all kinds of multi-actor initiatives – be it businesses, civil society organisations, governments or multilateral organisations – is also perceived quite critically. Many of these guidelines are used by land grabbers to create a positive image of their actions and reduce reputational risks⁹, while the adherence to them, in most of the cases, does not lead to marginalised communities being able to hold on to their land, as suggested by evidence from the ground (GRAIN, 2015: 5).

Following the human rights discourse, it is quite logical that guidelines/principles, and especially those promoting *more* investment, even if labelled responsible, are not considered a solution to counter the perceived problem. As is highlighted by a policy brief of the transnational institute;

“Any set of principles dealing with agricultural investment can thus only claim to be ‘responsible’ to the extent to which investments by and for small-scale food producers are explicitly prioritised, strengthened and secured.” (Transnational Institute, 2015: 3)

Interestingly, many of the voices defending the human rights discourse have participated in the CFS-led discussions prior to the creation of the VGGTs, and have also endorsed those guidelines. One possible explanation hints to the fact that those organisations probably perceived the CFS as the most legitimate body being able to draft such guidelines – also because they were given the right to participate in the debate, although not holding any voting privileges – hence, trying to influence guidelines that would be considered the new, unanimous benchmark document hints at a damage reduction strategy, as the main goal – a global moratorium – was and still is very unlikely to be achieved.

The acknowledgment that guidelines are currently the only solution that promises at least some kind of improvement with respect to the status quo, seems to be widespread among CSOs. While not considering the Voluntary Guidelines as ideal, many have embraced the VGGTs and some, like FIAN, the IPC and Action Aid are supporting work at country level for it to be translated into national legislation (GRAIN, 2015: 6); so far, Guatemala is the only country that has officially integrated the Voluntary Guidelines into its national land policy. CSOs have also tried to influence the PRAI-process. With the hope of creating more tangible principles than the Guidelines many participated in the negotiations of the PRAI via the Civil Society Mechanism (CSM) of the CFS, however, with limited success, as ultimately CSOs perceived that their views were side-lined by other interest and therefore denounced the final text. The parts that particularly did not sit well with the CSOs, were on the one hand the mention that States should not use the PRAI in a way that could create impediments to trade or promote protectionist policies; and on the other hand, the weak language around the key role of the state. The CSOs particularly consider the approach of placing human rights at the same order of importance as international trade and investment rules as highly problematic (Transnational Institute, 2015: 7-9).

⁹ Reputational risks refer to risks companies face, when their product is linked to a harmful practice and when those practices can be undoubtedly exposed. Examples include labor violations on plantations, environmental damages caused by production procedures and of course so-called land grabbing.

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An account of the negotiations by Professors Mueller and McMichael unveils the difficult position that CSOs are faced with when participating in CFS negotiations. This becomes apparent when it comes to wording used in the PRAI; while CSOs often attempted to introduce decisive wording such as *prevent* and *ensure*, it was vetoed by private sector representatives who in those negotiations were particularly backed by powerful countries such as the US, Canada and Russia; as Mueller and McMichael indicate:

“It became apparent that many governments, most conspicuously the United States, Canada, and Russia, countered any attempt to introduce words like “regulate” or even “govern”.” (Mueller and McMichael, 2014)

This quote is an indicator as to why CSOs harshly criticise principles of responsible investment. Even in the case of the CFS negotiations, when they were able to participate, CSOs were confronted with a private sector front, backed among others by three of the most powerful countries in the world, that were not going to accept any wording that would be potentially harmful for trade relations and impediments to (large-scale) investments. It is therefore only logical, from their point of view, that CSOs view all those other voluntary regulation schemes very critically at best.

The food sovereignty argument

The human rights discourse does not only attack the responsible investment argument without offering alternatives. Quite often, reference is made to the concept of *food sovereignty* which the alliance behind the human rights discourse wants to have acknowledged from the main institutions. As seen in the chapter on the current status quo of global land governance; food sovereignty is absent from the benchmark documents (VGGT and PRAI).

The concept of food sovereignty is at the heart of the storyline, because it is portrayed as the alternative to the concept of *food security* employed by the responsible investment parties. While large-scale farms, that have caused evictions and loss of land for the local population may be compatible with food security¹⁰, they are absolutely not compatible with the concept of food sovereignty;

“[...]it is politically important to draw the line instead of trying to make land investments nicer, tamer, more inclusive, more sustainable and less abusive. Land grabbing, even under the best practices, is not compatible with food sovereignty, human rights and community well-being. It must be exposed for what it is and urgently stopped” (GRAIN, 2015: 12).

Since its first international feature as early as the 1980s, food sovereignty was positioned as a concept opposed to the dominating liberal trade policies of WTO, World Bank and the IMF, and as a re-affirmation of the rural farming communities of their rights of food production. The idea of food sovereignty implies a right not only to food, but also to the productive resource needed for that. Those resources are land, water, a safe and secure environment, hence a bundle of usage rights. To institutionalise such an extensive concept, implying many access rights is quite frankly unimaginable at a global governance level, hence its absence from the benchmark

¹⁰ Food Security, as defined by the World Food Summit in 1996 exists when all people, at all times, have physical and economic access to sufficient safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life (FAO, 2006). Large-scale farms may very well ensure that this definition is met.

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documents. It also appears that some of the larger CSOs have altered their strategies in that regard, and rather than focus on the institutionalisation of food sovereignty at the global, are fighting for national, regional and local food sovereignty policies, with some distinctive success (Claeys, 2013: 5).

Like the responsible investment narrative, the human rights discourse perceives global governance as key to addressing the issue of land grabbing. Furthermore, they consider the role of the state as absolutely crucial in the process of regulation, as does the responsible investment-camp. However, what should not come as a surprise is that both camps foresee very different roles for both global governance as well as for national governments. While the responsible investment discourse perceives global governance as a tool to create frameworks to ensure the respect of human rights and the reduction of harmful environmental practices, the main task for governments is to create an environment that enables the development of large agri-business, to increase the number of investments with the goal to increase agricultural productivity and by that ultimately fight hunger and poverty. This non-binding framework ideally established at the global governance level, is supposed to be used by national governments and certain aspect should translate into national legal frameworks, basically global governance serves as a guiding direction that governments should use as blueprint.

Furthermore, the storyline perceives national governments as crucial facilitators of such large-scale land deals and encourages an environment favourable for investment, i.e. tax cuts, attractive lease agreements, development of infrastructure, crucial for export orientation (New Alliance for Food Security and Nutrition and Grow Africa, 2015: 2, 3, 11, 14)..

The human rights discourse considers global governance as a tool to raise awareness on the variety of human rights violations caused by land grabbing activities; hence global land governance should be used to put pressure on those grabbing the land and those facilitating the land grabs. Furthermore, global governance should be able to create a guiding framework for governments to be put to use, to prevent further human rights violations, such as the Voluntary Guidelines. National governments take a crucial role, because they have the theoretical power to not only prevent any new land transactions from happening, but also to bring those who have committed crimes against humanity during past transactions to justice. Furthermore, they are crucial in the implementation process of the Voluntary Guidelines (Oxfam, International Land Coalition and Rights and Resources Initiative, 2016: 44). The following table gives an overview of the bottom line of both main story lines.

Table 2: Comparison of RI and HR discourse coalitions

Discourse-Coalitions	Responsible Investment	Human Rights
Underlying norm	Large-scale agricultural growth is necessary in order to achieve development goals and reduce poverty. This growth is best achieved by encouraging large-scale, export oriented farming operations. If undertaken responsibly, large-scale land acquisitions lead to an	Land grabbing is situated in a capitalist and neoliberalist tradition and is part of an economic model that does more harm than good.

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	increase of agricultural production, food security and/or economic development for rural communities.	
Role of global governance	Create an environment that accounts for the possible risks accompanying large-scale land acquisitions.	Raise awareness on human rights violations caused by land grabbing. Create guiding framework for national governments to prevent further human right violations.
Role of nation-states	Create an investment-friendly environment through regulation that enables responsible investments.	Enforce legal framework to prevent human right violations. Put hold on large-scale land transactions. Bring those who have committed human rights crimes to justice.

To conclude this section, it is important to say, that both major discourses – responsible investment and human rights – are built on ideas and enhance narratives that are embedded in a tradition of dominance of one historically built idea (there is no alternative to investment and intensification of agricultural growth faced with the problem of an ever-growing population) and the strong opposition against this idea (disrupt the current system and introduce different alternatives). Simply put, both discourses represent opposing visions backed by a strong belief in that respective vision. The RI-discourse argues that large-scale land investments are necessary, and therefore to encourage, as long as they are undertaken responsibly, according to standards, guidelines or principles, usually agreed upon by those in favor of that discourse. The HR-discourse however, vehemently opposes investments undertaken under such frameworks, as they argue that usually the negative effects largely outweigh the positive impacts. Furthermore, as the account by La Via Campesina shows, the discourse is embedded in the tradition of class struggles against centralised, global capital, coming back to the idea of power struggles. Essentially, what those discourses reveal is an attempt of both camps, to gain the high ground of the debate, and consequently the more influence in global governance of the issue. While the RI-discourse is strongly advocating for a continuation of current methods, while aiming to improve them in order to minimise the potential risks (such as human rights violations, environmental degradation, etc.), the HR discourse not only rejects this idea, but aims at introducing concepts in the structural framework, such as *food sovereignty* that would alter the discussion away from the large-scale investment necessity, towards putting usage rights of the affected minorities at the centre.

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5.4. Actor constellations – Discourse Coalitions

It was a deliberate choice to look at the actor constellations, after having done the inquiry about the discourses. This is because the discourses and the different actors rallying behind those discourses reveal the constellations within the architecture and to some extent also the power-relations that are observable.

Discourse coalitions are related to the notion of power and power relations, as it implies that discourses are actively produced and transformed by the actors that are part of that coalition. The importance and power of discourses is clearly linked to the actors and groups of actors behind them. This section and the previous section will give enough results to answer sub-research question 3; *which power-relations are reflected by identifiable discourses and discourse-coalitions?*

We will follow the discourses established in the previous section and look at the discourse-coalitions behind them.

5.4.1. Responsible Investment Discourse Coalition

This discourse coalitions bases its discourses on the responsible-investment narrative discussed in section 5.3.1. This discourse coalition backs the position that large-scale land acquisitions are impossible to prevent, hence identifying regulation to reverse its risks and prevent adverse effects on people and the environment as the most promising strategy. Furthermore, the narrative is based on the assumption that in order to feed a growing population, the intensification and growth of the global agricultural sector is paramount and to achieve this goal, large-scale land acquisitions are a very welcome method, as long as they happen in a *responsible* fashion. A reading of Hajer suggests that this discourse coalition has ‘homogenised’ the problem around land grabbing and consequently narrowed down the problem field, thus marginalising alternative perceptions, as improbable solutions to the problem (Hajer, 1995: 54). Through that storyline, the problem has actually shifted. The problem is no longer the consequence of land grabs on humans and the environment, rather is it superseded by the problem of feeding a growing population and working towards universal food security. This is most prominently indicated by the wording in SDG #2:

“A profound change of the global food and agriculture system is needed if we are to nourish today’s 795 million hungry and the additional 2 billion people expected by 2050. The food and agriculture sector offers key solutions for development, and is central for hunger and poverty eradication (United Nations, 2017).”

Embedding the narrative on the potential of large-scale land acquisitions in the larger 2030 Agenda is another indicator of the homogenisation of the problem, undertaken by the discourse coalition.

By influencing the narrative in such a way, this discourse coalition manages to create a limit of alternative policy options; and opens up the space for the own solutions offered; namely investment and access to markets for farmers as the blueprint solution to the problem.

When looking at the discourse analysis, we can distinguish a variety of actors that are part of the responsible investment-discourse coalition. Because of its dual role, as policy-influencer as

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well as a directly involved agent in large-scale land acquisition (through its loan policy), the World Bank can be considered to be at the forefront of the coalition. Its position and policy efforts are backed by the G8 (G7) and the G20 and furthermore by very influential institutions such as the EU, the OECD and from an agricultural policy point of view IFAD and FAO. In addition to that, most donors, major private companies, the development banks, as well as influential foundations (Bill & Melinda Gates Foundation & Rockefeller Foundation) and some NGOs are members of this discourse coalition, which arguably has managed to incorporate its narrative as the mainstream view; the *status quo discourse*.

The afore-mentioned institutions are supporting the aim of the discourse-coalitions by their own policy-agendas. In 2012, the G8 for instance created the “*New Alliance for Food Security and Nutrition*” a program designed specifically for the African continent that commits to raise 50 million people out of poverty in Africa by 2022. This Alliance argues for an urgent *agricultural transformation* in Africa that is needed to achieve development goals, with respect to poverty and hunger relief, it is built on the assumption that hunger and malnutrition can be addressed by raising production and growth, particularly of corporate private sector investment. This transformation is presented as a shared interest of the public and private sectors (New Alliance for Food Security and Nutrition, 2014; New Alliance for Food Security and Nutrition and Grow Africa, 2015). For the Alliance, the transformation of the agricultural sector implies a commitment and strong participation of the private sector, as this would enable

“vast opportunities for smallholder farmers to access markets, credits, extension services, and other improved technologies for the growth of the sector (New Alliance for Food Security and Nutrition, 2014: 6).”

Furthermore, the Alliance endorses the VGGT and calls for responsible investment to support smallholders, the rules for that being supplied by existing CFS-made frameworks such as the PRAI and the VGGT. It becomes apparent that the Alliance and by proxy the G8 and other major donors supporting the Alliance build their strategy similarly to other actors within the discourse coalition. Not surprisingly major multinational corporations are part of the Alliance, such as Cargill, Coca-Cola, DuPont and Unilever among others. While the CFS is mentioned as key organisation with respect to land governance, the Alliance has its own, quite different agenda. In a similar tradition to the structural adjustment programs of the 90s, the financial support supplied by donors and the private sector is linked to changes in policy made at the host country level. The requested changes are linked to the opening of markets and simplifying procedures for land leases, arguably doing quite the opposite of what the CFS’s mission is; namely defending access to land by smallholder and local communities (McKeon, 2014: 12). To summarise, the New Alliance for Food Security and Nutrition is clearly embedded in the responsible investment discourse coalition, encouraging economic growth and agricultural production, by advocating for a greater involvement of the private sector and creating an environment favouring large-scale agribusiness operations rather than food security for small-scale farmers. The New Alliance represents a considerable group present in the architecture and with its financial commitment and political relevance could be considered a threat with respect to the CFS’s goals and commitments. While formally, this may be a very debatable statement, as the G8, and the other member states of the Alliance have all acknowledged not only the CFS but also endorsed the VGGT and the PRAI, the actual actions of the Alliance and the potential implications on the ground show that the idea of responsible investment ultimately trumps all other considerations that may be implied in those established voluntary frameworks.

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While the word alliance implies a concerted effort of a group of actors, there is a major asymmetry of power between those participating. As the alleged goal of the Alliance is to support small-scale farmers to raise their production levels, it appears highly unlikely that those can enter a real partnership, including equal bargaining chips with non-public *power houses* such as Cargill and Unilever. Furthermore, while the Alliance may have negotiated plans of action with African elites, no negotiations, nor consultations have been held with those groups allegedly benefiting from the Alliance's policies; the small-scale farmers. National stakeholders have not been consulted prior to any of the policy changes already under implementation (Mckee, 2014: 12). This happens in a similar tradition to the structural adjustment programs and is clearly in line with a neoliberal economic policy, hence the opposition of organised farmers group.

The story of the New Alliance points at a very interesting point, that is crucial in the analysis of discourse-coalitions in this particular architecture, namely the fact that the Voluntary Guidelines are endorsed and supported by both coalitions. One argument why this is the case is obviously its voluntary nature, since aside from reputational risks, such as bad media reports and shaming from certain actors, there is no (legal) repercussion in case of non-compliance. This makes it very favourable for the responsible investment coalition, as in either case, there is no impediment to furthering the agenda of expanding growth of global agricultural investment.

Looking at the *rules of the game* within the global land governance architecture, it is quite clear that the RI-discourse coalition has managed to argue its bottom line and reproduce its discourse in the most substantial rule-making frameworks, which remain the VGGT, the RAI and the PRAI. When looking at those documents, it is clear that the RI coalition reached most of its goals, particularly encouraging agricultural investment, as long as it is done responsibly – a point that is not supported by the human rights discourse coalition.

As indicated in the previous chapter, principles that would symbolise a strong support for small-scale farmers and minorities were left out of final agreements, such as the principle of free, prior and informed consent (FPIC) for all. While the Voluntary Guidelines are portrayed as a tool to generally improve land governance, harmonising growth with social and environmental responsibility and protection by, the relatively newly endorsed PRAI are considered as crucial to counter adverse effects of large-scale land acquisitions. The rationale behind the Guidelines is to give support to countries to improve tenure governance, which in turn would;

“promote sustainable social and economic development that can help eradicate poverty and food insecurity, and encourage responsible investment.” (CFS and FAO, 2012:V)

Hence, the Guidelines are indeed in favour of encouraging investment, as long as it is done responsibly, which is defined as doing no harm, safeguarding against dispossession of legitimate tenure right holders and environmental damage and respecting human rights.

The PRAI is another indicator that the discourse of the RI coalition has materialised in the benchmark frameworks. It is not only build on the RAI and the VGGT, but moreover clearly not only states the necessity of investment in agriculture and food systems, but also the need for a significant increase in investment. It is therefore fair to say that the RI discourse has been reproduced in the most important framework attempting to govern land grabs, and can therefore

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be considered as the status quo dominating discourse-coalition. The strength of the coalition stems not only from its numbers, but more importantly from the nature of its actors, as they constitute the most powerful organisations (World Bank, WTO, FAO, IFAD, UN) and states (G8, G20) present in the global governance arena, especially considering its opposition in this arena which is constituted by civil society actors, think tanks and transnational activist movements. Furthermore, its power stems from financial capacity supplied by multinational corporations with significant economic interests in continuing to pursue large-scale land acquisitions in the future. The confrontation mostly takes place globally at the CFS during the negotiations, that this coalition is dominating (See Mueller and McMichael, 2014), but discursively it is inspired by actual land grabs that happened locally.

The dominance of this coalition is also mirrored in the nature of the governance frameworks that are in place. There is no legally binding document enforcing any action on any government, with respect to land governance. All agreements are voluntary and do not include sanctions of any other form than shaming from civil rights groups in case of non-compliance/violation of agreed upon principles. The preference for non-binding agreements probably has many different reasons, and those reasons may vary across the different actors that take part in the coalition, however if it had been up to the human rights discourse coalition, it is fair to say that binding agreements would have been more likely.

The nature of a non-binding agreement implies that severe consequences in case of non-compliance are absent. Furthermore, a non-binding nature also implies that states endorsing the agreement do not have to commit to any action; they *should*, but they cannot be forced to.

In the case of global land governance and the RI-discourse coalition it seems that the most important issue is that a potentially binding agreement is not only highly unrealistic, because countries would have to give up some of their decision-making rights on substantial resources such as land, water and forests, but also and this is the biggest concern from the economic growth perspective, because a binding agreement – that would imply strong regulation, including severe consequences (political, monetary, etc.) in case of non-compliance – might pose a threat to the ability of certain actors to enable investments in the present and the future, hence bombarding the responsible investment agenda.

To summarise this section, it is apparent that the responsible investment discourse coalition has managed to establish its discourse within the legal frameworks that guide the global efforts in addressing the issue of regulating land grabs. However, the endorsement of the Voluntary Guidelines and the concerted efforts to back them up with action are hinting towards the fact that a great many actors taking part in the discourse coalition are ready to move towards a more cooperative global land governance architecture.

While even the World Bank publicly encourages the adoption of the Voluntary Guidelines and even committing financial resources for that purpose (Munoz, 2017), it appears that it is still following an agenda that counters the VGGT's goal and actually potentially leads to weakening of land rights protection for the poor and vulnerable. This concern is voiced by a recent analytical report which argues that the World Bank's new Environmental and Social Framework (ESF) would miss key points established in the VGGT, such as including human rights protections as obligation for borrowers, requiring resettlement plans *prior* to project

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approval and shifting the responsibility of enforcing the safeguards away from the Bank to the borrowers (Windfuhr, 2017: 51).

5.4.2. Human Rights Discourse Coalition

This discourse coalition bases its discourses on the human rights narrative discussed in section 5.3.2. The coalition is mainly opposed to the narrative that is inherent to the responsible investment discourse, which is based on a neoliberal, market-driven view of global governance. It is very vehemently opposing against the RAI and, while being supportive of a more inclusive process and the opportunity to take part in the negotiations prior to the PRAI, the CSM, which is the part of the CFS that gives space to civil society organisations, in a report, indicated that it is generally upset and considers the PRAI falling short of clear commitments and consistent recommendations that it believes to be necessary to stop land and water grabbing (Civil Society Mechanism, 2014). Generally speaking, the HR discourse coalition has positioned itself in clear opposition against the arguments brought forward by the RI discourse coalition. This became evident in the negotiation phase prior to the adoption of the VGGT, as Duncan illustrates;

“This particular decision was the result of a debate principally led by civil society actors who believed that beyond a clear need for guidelines on land tenure governance, the CFS needed to undertake a process to counter RAI. CSOs worked hard to block an endorsement of the RAI, which were developed by the World Bank, UNCTAD, FAO and IFAD in 2009.” (Duncan, 2015: 174)

The specific opposition against the RAI by civil society actors shows the general opposition against the principles on which the responsible investment coalition builds its arguments.

As outlined in the chapter regarding the history of land governance, it becomes apparent that this conflict is rooted in a long tradition; and basically, boils down to a criticism of the neoliberal, economic system that dominates all spheres at the global level, according to the HR discourse coalition. It is vehemently fighting the premise brought forward by that line of thinking; namely that large-scale agricultural enterprises (the most frequent consequent of large-scale land grabs) can provide opportunities for poor countries, as long as those countries secure local land rights and improve land governance (Franco *et al.*, 2013: 5). It fights the narrative that the only solution to world hunger and rural poverty is the large-scale, capital intensive, corporate controlled agricultural model.

The human rights discourse coalition is constituted of a variety of rather heterogeneous actors, such as transnational social movements and their local representatives – most prominent one being La Via Campesina – internationally operating civil society organisations such as FIAN, Oxfam International and Action Aid, research institutions such as GRAIN, Oakland Institute and the Transnational Institute and a variety of researchers from academia who very critically voice their concerns.

This constitution of actors however, makes policy designing a quite challenging endeavour as those actors lack the political and institutional power to actively guide the policy-making process. However, its strength comes from numbers, as for instance only those actors represented in the CSM already speak for more than 300 million people (Civil Society Mechanism, 2017). The reform of the CFS can definitely be considered as a breakthrough for this coalition, as it gave those actors a seat at the table with their counterparts whose policies

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they were strictly opposing. It basically gave transnational social movements such as La Via Campesina and its regional allies the legitimacy from the most influential actors, such as the FAO, the World Bank and IFAD to speak as the *voice of the people*. While the reform gave those actors a right to participate in negotiations and lobby certain narratives through the CSM, it did not include a voting right equal to the actors being part of the responsible investment discourse coalition.

The question remains, how does a group of actors with very limited power compared to the group of actors that it is directly opposing, influence policy-making towards its own agenda?

One approach is aiming at changing the *rules of the game*, most importantly move away from the argument that responsible investments, such as portrayed by the RI-discourse coalition are necessary in order to address present and future challenges. This goal is pursued through different strategies; on the one hand, there is the strategy of public declaration of opposition, such as the Nyeleni Declaration and the Dakar Appeal against land grabs.

On the other hand, there is the strategy of *soft influence*, basically through the participation at the CFS, however as shown in the negotiations prior to the PRAI, the discourse coalition is quite aware of its limited bargaining power. The CFS is also used by the discourse coalition to try to institutionalise certain concepts that the coalition believes could lead to a change of perception with regards to where the problem lies.

One of those concepts is *food sovereignty*, which was discussed in section 5.3.2.; however, as discussed, the coalition failed in the endeavour to include this terminology and the relevance in any of the international frameworks, facing strong opposition from powerful governments and the private sector. While the Voluntary Guidelines are viewed quite critically by many CSOs, particularly the section with respect to investment¹¹, it is still believed to be a framework that gives civil society space to operate and work towards the steady improvement of land governance and is therefore considered a step towards the right direction (Seufert, 2013: 185). The HR discourse coalition would arguably prefer a legally binding, enforceable set of rules, that would acknowledge the human right to food as well as a human right to land (up to this point, this is no universally accepted human right). However, this is highly unlikely if not completely impossible, as such an enforceable treaty based on those rights would effectively change the way land is administered and governed and would shift the decision-making power to those who are currently suffering and being marginalized away from those who are currently in control, namely the governments.

It is however, not completely unlikely that a right to land could materialise in a future, not likely as a universal human right, or part of a binding treaty, but rather as an authoritatively interpreted right as a core human rights principle, recognized via UN resolutions, as the previous example of the *right to water* shows (Cordes, 2017).

To conclude this section one can say that the human rights discourse coalition is characterised by a group of actors with limited bargaining power vis-à-vis the responsible investment discourse coalition and with very different perceptions on how land grabbing should be governed. There is fundamental disagreement on the issue of problem framing and from that

¹¹ Many CSOs wanted to realise a ban on land grabbing activities, however many developing countries argued that large-scale tenure transfers (called land grabbing by CSOs) would be necessary to foster economic growth and refused to support the ban-position (Seufert, 2013: 185).

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also logically on the solutions. However, the coalition has found a niche in the governance architecture and has gained significant influence thanks to the innovative structure of the CFS. It will be interesting to see whether the HR discourse coalition can embrace an even bigger role in the process of the implementation of the Voluntary Guidelines, during which CSOs are “*encouraged to use collaborative efforts to promote and implement these Guidelines in accordance with national priorities and contexts* (CFS and FAO, 2012).”

While this role within the implementation process of the VGGT is acknowledged by civil society, as indicated for instance by the creation of the *People’s Manual on the Voluntary Guidelines* (2016) by the IPC, there is limited interest in engaging in a more cooperative style within the architecture, as there is doubt that the RI coalition will go back on its main premise, namely encouraging large-scale private sector investment, as a means to enhance economic growth and furthering the integration of agricultural sectors in development countries into global markets. The biggest and arguably most influential economies in the world have reemphasised the commitment to encourage an increase in responsible domestic and foreign private investment with the New Alliance for Food Security and Nutrition (Office of the White House Press Secretary, 2012). As this New Alliance is still in place, it is not very likely that the emphasis on pro private sector development to foster agricultural growth is soon to change, hence the position adopted by civil society organisations, which is in clear opposition of such investment-strengthening policies (see page 21).

First and foremost, the reform of the CFS, that was partly undertaken due to the pressure of the human rights discourse coalition, led to a significant increase of prominence and influence for the coalition. The reform of the CFS basically meant that organisations such as La Via Campesina and its regional allies were now officially sitting at the table vis-à-vis, governments, multilateral, policy-shaping organisations and the private sector as representatives of the people that are directly concerned with changes in policy with respect to issues such as tenure rights and food security (Civil Society Mechanism, 2017).

In sum, this section on discourse coalitions revealed the aspects of relational power that were touched upon in chapter 2. Interestingly, it shows how the particular structure that characterises the GLG architecture, has enabled a coalition of actors, with seemingly limited relational power vis-à-vis an opposition composed of actors such as the World Bank, the G8 and G20 and multinational, multi-billion dollar companies, to find a niche, and to reach an institutionalised “seat at the table” at the heart of the architecture; the reformed CFS. This shows that through discursive action, that can be traced back to the 1980s for some actors, and through increasing support for their cause, particularly after the three crises, that actors have achieved substantial structural change in their favour, echoing the arguments brought forward by productive power theorists. However, what this section also revealed, and this is important as to why the fragmentation should be labelled as conflictive, is that the RI-discourse coalition, with its wide-range support from powerful actors in the land grabbing chain (governments, companies, multilateral institutions supporting both), has successfully managed to shape the most important rule-making frameworks according to its own narrative. Hence, this is a further argument as to how a limited, yet powerful number of agents is able to influence the structure that is then in turn guiding the action for the whole architecture.

5.5. Conclusion

Coming back to the Policy Arrangement Approach (PAA) from the first chapter, we noticed that it allows us to understand discourses in the context of structure and agency. Both discourses can also be considered from a structural point of view, namely on the one hand the worldview that growth of the agricultural production capacity is the sole solution to address the problem of food scarcity and feeding a growing global population and furthermore to support alternative energy sources, namely biofuel production; and that this growth will most likely be achieved by turning towards large-scale farming systems.

Believing in this line of argumentation is guided by a long and established tradition of believing in economic growth as the only viable solution out of poverty and towards wealth. The policies promoted by the World Bank and the major players, including the United States and the European Union all point towards this very belief in economic growth and that actions need to be directed towards achieving this goal. Gains from economic growth will eventually trickle down to the (local) people.

Hence, the discourse-coalitions that have been analysed in this section reflect the particular structure that gives room for manoeuvres. The dominant discourse coalition is benefiting from the historically shaped structure and clearly managed to strengthen its narrative by introducing core norms and underlying reasoning into the governance frameworks that are currently the results of deliberations at the global level.

According to the PAA, policy arrangements refer to a relative stabilisation of content and organisation of a particular policy domain, in our case, the domain of global governance of land grabs/large-scale land acquisitions. This past chapter touched upon all four suggested dimensions of a policy arrangement; actors, resources, rules of the game and discourses.

By looking at the institutional and normative setting in place, we could see a relatively cooperative understanding with of the rules of the game and the institutions at play and a rather conflictive setting with respect to norms that are underlying current policies. Relevant actors across all fields have acknowledged the reformed CFS as the most important governance body and are aiming at implementing the decisions produced by this body, a clear sign that the rules of the game are agreed upon in that regard. Furthermore, it is agreed upon that global governance is necessary to address the issue at stake, and that nation-states play the most crucial part in implementing decision made at the global stage.

Looking at the dimension of resources, which refer to both power and influence, it appears that there is an unequal distribution of both power and influence. As discussed, on the hand there is a coalition of actors with not only very substantial political power in the global arena that comes from traditional powers such as the US, Canada and the EU but also from multilateral agencies such as the World Bank, but also with financial substance that comes from the multinational private companies, that see large financial benefits from policies favouring large-scale agricultural investments.

On the other hand, we have a coalition of actors that is speaking for the individuals on the ground, that witness the most direct implications of land transactions. This coalition is strong in numbers, as in its totality, it is representing more than 300 Million people (see page 57). Its political strength comes from those numbers and its strategies can be evaluated as quite fruitful,

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considering its position in the governance architecture, mostly represented by the civil society mechanism in the CFS. However, this participation has its limits, as indicated by the results of the most recent attempt of creating comprehensive principles to address land grabbing, the CFS PRAI, as discussed in this chapter.

To conclude, it is apparent that the political resourcefulness of the responsible investment coalition has contributed to a shift towards the inclusion of its storylines and narrative in the final legal frameworks, such as the VGGT, RAI and PRAI.

Lastly, the PAA suggests that discourses are used by actors within a policy arrangement to convey a certain idea of a policy and convince the partaking stakeholders to adhere to this idea. Furthermore, the theorists suggest that discourse coalitions are build, in order to thrive towards contending for the hegemonic position within an arrangement. I would argue that this hegemonic position has been adopted by the RI-discourse coalition. The coalition has managed to link its discourse to a new global paradigm, that is supported by not only most governments (who ultimately hold the decision-making competence), but also by those having relevant stakes in the global economic system, such as the World Bank, World Trade Organisation and multinational corporations.

This chapter helped to answer the research question, as well as the sub-research question, as it constitutes an in-depth analysis of the current set-up of the architecture which enabled us to assess the degree of fragmentation. Aspects from all three categories of Biermann et al.'s conceptualisation are distinguishable; however, it is most adequate to label the global governance architecture for land governance as in between cooperative and conflictive, as the structural and actor constellations suggest. Why I would argue that it is conflictive, is because there is a clear norm or even ideational conflict at the heart of the architecture, between on the one hand the RI discourse coalition and on the other hand the HR discourse coalition. This conflict is due to several causes. First there is the aspect that both coalitions base their narratives on very opposing premises, as it is highlighted in section 5.3. Secondly, the fact that the HR coalition argues that actors led by the World Bank have historically contributed to an exploitation of people, and that the Banks current governance attempts should be evaluated against that history, shows that the conflict is deeply and historically rooted, and therefore not likely to be resolved very soon.

After reading those arguments, one might be confused as to why I am still labelling the fragmentation of the architecture as in between conflictive and cooperative; the reason is, that despite those deeply rooted conflicts, it appears that the achievements of the advocacy efforts by the HR coalition have led towards a generally more cooperative setting at the heart of the architecture. The reformed CFS is testimony to that. From the empirical evidence gathered, I would argue that both camps, have acknowledged that compromise is necessary; the World Bank and those in favour of its policies have moved from their initial position in the RAI towards a more participative forum at the CFS, while those from the HR coalition who are harshly and publicly criticising the Bank and its suitors, have now the chance to directly face the arguments brought forward by the RI coalition, at least once a year, in the rooms of the CFS in Rome.

The next and final chapter, will summarise the findings of this thesis and discuss the results in light of the theoretical and methodological frameworks applied in this thesis.

6. Discussion & Conclusion

6.1 Discussion

The previous chapters have sought to provide evidence that would lead us to come to a conclusion on the characteristics of the nature of fragmentation of the global land governance architecture, per definition of the first chapter.

Evidence has been collected with regards to constellations of respectively, institutions, norms, actors and discourses, and those constellations have revealed particular features that characterise the nature of fragmentation of the architecture under scrutiny.

Looking back at the initial aim to apply the policy arrangement approach to the policy domain of global land governance, with particular interest in the regulation of land grabbing; it has become obvious which policy is currently dominating the scene; *regulating to facilitate*. Through reframing of a negatively charged, highly political term – land grabbing – into a seemingly apolitical term – large-scale land acquisition/large-scale land-based investments – the narrative towards this policy has been facilitated. It is quite clear, that land grabbing, in the sense as it is portrayed by the media, civil society and even most governments, cannot be turned into a net positive action, through regulation. Large-scale land acquisitions however, may very well be rendered *harmless* through regulation, which in the specific case of land, can only be encouraged from a global perspective through the adherence to the regulatory instrument of a *voluntary* guideline. While moratoria have been issued in certain cases¹² it is not a question to issue a global moratorium, as this form of legal action is limited to national governments and only within the countries sovereign borders. It is extremely unlikely that all governments would agree upon issuing a moratorium of new land leases in their respective countries. Therefore, it can be deducted that the large-scale land acquisitions will not be discouraged in the future, but rather attention will be directed towards reducing the observed risks and adverse effects as effectively as possible. This is exactly what the Voluntary Guidelines and the Principles for Responsible Investment in Agriculture and Food Systems stand for; address the various risks, so that future land acquisitions may be undertaken without causing severe adverse effects.

Another aspect that was revealed is the formation of a hegemonic discourse and in turn a counter-discourse aiming at breaking through the hegemony. As discussed, it is quite obvious that the narrative supported by the RI-discourse coalition has materialised not only in frameworks created by that coalition, but also in frameworks that receive support from actors, that are opposed to those narratives. From the point of view of the RI coalition, this strengthens its position and enhances the legitimacy of its claims, therefore it is quite logical that the coalition works towards the inclusion of underlying norms of its discourse in the main regulatory frameworks. This distinctive position adopted by the RI coalition is also suggested by the PAA which argues that discourse coalitions would be built in order to convince other

¹² Moratoria have been issued repeatedly, following protests organised by CSOs, to protect the interests of affected communities. In Papua New Guinea for instance, the government issued a moratorium of land leases, as a reaction to an NGO-led campaign revealing severe problems with previous leases (Oxfam, 2012: 17).

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partaking stakeholders to adhere to the narrative of that same discourse coalition. While the analysis revealed that the storyline claimed by the RI coalition is far from consensual support within the global governance arena, most notably within the reformed CFS, however the position enjoys wide support within the actor group that has the biggest say, namely the nation-states. Ultimately the only votes relevant in the process of creating regulative frameworks within the CFS are those of the governments present, not of the private sector, multilateral agencies or civil society organisations. This hegemonic position of the RI discourse within most frameworks, reveals the productive power of the coalition in support of that discourse. I would argue that considering the existing global economic system, which is embedded in a neo-liberal economic tradition since the period of Ronald Reagan and Margaret Thatcher, it is not surprising that a discourse that has its foundation in the very premises of that economic system (enhance investments, profits will eventually trickle down to those in need) would dominate be the dominating narrative in an area with such high economic stakes, locally, regionally, and globally. It is noteworthy, that the perpetual use of that narrative, backed by financial substance (as the major donors' support RI) has substantially influenced the operating structure of the GGA. As shown in the previous chapter, the coalition has members in the unique position to oppose even discussion that would put in question some of the ideas of the RI-discourse. This makes the achievements of the HR discourse coalition even more impressive.

The wide-spread adoption of the responsible investment discourse has however not discouraged the building of a strong counter-movement, quite the contrary in fact. The human rights discourse coalition has achieved something that is unique with respect to global governance architectures; through global campaigning that can be traced back until the 1980s it managed to institutionalise a right to participate in the most important governance body for food security and land tenure rights. While some may question the relevance of a participation right in negotiations, it gives that coalition an opportunity to shape discussions, put new issues on the agenda or reiterate the importance of issues that have not been addressed in a satisfactory manner (according to the HR coalition). The institutionalisation of this participation right, which was not exclusive to civil society, but also to the private sector, potentially inviting more actors opposed to the HR coalition's narrative, shows the potential of change within global governance architectures. This is another relevant aspect of the structure-agency issue, that was touched upon earlier; through long-lasting campaigns and demands, the HR coalition created an environment that enabled *structural* change (the reform of the CFS). The norm and discursive conflicts that were discussed are both creating a structure within the policy arrangement, while being an indicator of agents whose action in turn influence structural change. This is another indicator of relational power. Through voiced opposition for over thirty years, the HR discourse coalition ultimately affected institutionally fixed change to a structure that was not favourable to that coalition's goals, proving that discursive action may actually *empower* a certain group of actors. It is arguable whether this increase of power for the HR coalition actually came hand in hand with a decrease of power of the RI coalition. I would even suggest that including civil society and private sector agents in the negotiations at the CFS, ultimately gave the CFS a higher degree of legitimacy, which works in favour of the RI coalition. At the same time, as the analysis in the thesis showed, the RI coalition still has the upper hand when it comes down to decisions on the regulatory frameworks, as those frameworks still largely point to the fact that responsible investment is the way forward to address land grabbing globally.

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Both coalitions are using different strategies to achieve their respective goals. As was shown in chapter four, various actors are engaged in the field of global land governance, and with varying influence, shape the architecture that is currently in place. As discussed, the RI coalition has a noticeable advantage with respect to shaping the architecture, it includes governments that have the sole voting shares in the CFS, moreover it includes very powerful private actors that have a high interest in being able to continue the practice of acquiring land for the purpose of large scale operations, be they agricultural or of other nature, furthermore it has the support of the World Bank, a main agent in shaping global developmental policies, and historically in favour of economic development as the solution to address poverty.

On the other hand, the HR discourse coalition objectively does not have such power. We saw that this coalition has developed other strategies to cope with its relative lack of power vis-à-vis its opposition; namely firmly publicly opposing the paradigm brought forward by the RI coalition, while at the same time trying to advocate for change in official circles (see section 5.4.2. on HR discourse coalition).

To conclude this section, I would argue that the most relevant information to take from this thesis, besides the answers to the research questions we will get to in the next section, is that the analysis revealed the usefulness of a structure-agency approach while looking at global governance architectures. It is particularly helpful with understanding inherent power relations, as this approach reveals not only an understanding of changes over the years, but I argue that it would also allow an anticipation into future constellations that are likely to be built.

6.2. Conclusion

This thesis has sought to give answers with respect to the nature as well as the underlying causes of fragmentation in the architecture for global land governance. The challenge has been to operationalise fairly theoretic concepts such as nature of fragmentation and (global) governance architecture. While chapter 4 provides an overall map of the architecture in play, by drawing a timeline and explaining the roles of the most influential actors within the architecture, chapter 5 provides an in-depth analysis of the institutions, norms, actors and discourses present in the architecture.

Both chapters suggest that the architecture is characterised by an increasing complexity. Furthermore, as pointed out by Biermann et al. (2009) the categorisation of fragmentation of global governance architectures is rarely a clear-cut story, and that aspects from the three categories – cooperative, conflictive and synergistic – may be featured. As the analysis revealed, this is indeed the case with the GLG architecture. The institutional constellations suggest a cooperative nature of fragmentation, while even hinting at a shift towards synergistic degree, since the reformed CFS is increasingly developing as the single, global policy-making institution when it comes to food security, of which land governance is a significant aspect.

The norm, actor and discourse constellations however, reveal major cleavages, hence would rather correspond to a conflictive classification.

Generally spoken, it is fair to say, that the high degree of complexity makes it very difficult or even impossible to give a clear-cut answer to this question. What the analysis revealed though is that one discourse (coalition) with historically build, underlying norms has managed to introduce its narrative and storyline into all relevant frameworks and hence can be considered

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as the dominant idea with respect to global land governance. Furthermore, it is rather unlikely that this is about to change in the near future, as this discourse is linked to this wider global paradigm of agricultural investment-led growth, that is backed by politically powerful actors, that have dominated the development agenda for decades.

Aiming at giving clear answers to the formulated research questions and sub-research questions it is fair to say that nature of fragmentation of the architecture for GLG is characterised by a high degree of complexity. From an institutional point of view, one can observe an increasing degree of integration, while at the same time, it is important to consider the voluntary and non-binding nature of any agreements. This makes integration much easier, as any misconduct, per definition of the main institution – the reformed CFS – is not considered a punishable offence, and there not linked to serious consequences. One should therefore not overvalue this increasing integration as a particular successful aspect of this architecture, but rather consider the context in which this integration is taking place. Coming back to Biermann et al.'s typology, it is fair to characterise the degree of fragmentation as in between cooperative – with respect to the (increasing) institutional integration – and conflictive – with respect to underlying norm conflicts, as showcased in chapter 5.2.

The second sub-research question refers to the particularities that can be observed in the institutions, norms, and actor-landscape of the GLG architecture. With respect to the institutions, the analysis shows that one core institution has emerged; the reformed CFS, that is more and more becoming the reference institution, when it comes to questions of global food security governance, of which the governance of land grabs is a major part. This is an interesting development, as the reformed CFS can be considered a unique institution, due to its particular constellation, giving rights of participation to non-governmental actors, such as civil society organisations and the private sector. Its decisions are further legitimized by the wide support of nations and multilateral agencies, including the G8, G20, World Bank, FAO and IFAD to name but a few. Furthermore, global land governance, institutionally is built on three main frameworks, the RAI, VGGT and PRAI, the first being a framework created by the initiative of the World Bank and endorsed by the G8 and G20 but not by the CFS, while the latter two have emerged from deliberations directly held at the CFS, and can therefore be considered as more inclusive instruments. The status quo from an institutional point of view, is that all actors that are members of the CFS have agreed to work on implementing the Voluntary Guidelines at country levels, a challenge that will no doubt take years until achieving tangible results. Challenges faced and successes accomplished on the ground will most likely inform further deliberations at the global level and have an influence on further institutional shifts.

With respects to norm constellations, it is quite clear that a major norm conflict is shaping the positions held by the different actors. This conflict is embedded in traditional conflicts that characterise the development agenda, in the case of the governance of land grabs it boils down to the question whether land grabs or acquisitions can be justified, once social and environmental risks have been accounted for.

While the actor landscape can be qualified as quite heterogeneous, two opposite camps have solidified that are working towards the same goals, although with sometimes varying motives. On the one hand, there is the group of actors that is working towards global governance regulation that would facilitate large-scale land acquisitions. The private sector is obviously part of that group, for the simple reason of profit maximisation. It is backed by the World Bank, FAO, IFAD, the G8 and G20 and most developing countries, who support this agenda with

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various arguments, ranging from the poverty reduction, strengthening of food security and climate change mitigation (biofuels as climate positive substitute for fossil fuel).

On the other hand, there is the group of actors that claims to speak for those people who are most concerned by land grabs; the poor and the vulnerable, rural, small-scale subsistence farmers and Indigenous People. This group is composed of transnational activist networks, civil society organisations, academia and think tanks. No government of any country has officially supported this group at the global stage, although in some cases coalitions led by civil society have achieved strong action such as the issuing of moratoria through their awareness campaigns.

Lastly, the third sub-research question aims at finding out how the discourse-coalitions that were identified within the architecture reflect which power-relations, in the sense of the definition put forward in the introductory chapter. Both discourses reveal not only the strategy of the two major actor-coalitions, but also their position vis-à-vis their *opponents*. As mentioned before, I would argue that the RI discourse not only dominates the architecture, but also perceives itself as dominant, since in contrast to the HR coalition which is continuously throwing direct attacks at the other side, the RI coalition is more concerned with fortifying its agenda and ensuring that the structure of the GGA is built on norms and principles that work accordingly with the RI narrative. The HR coalition on the other side, is building a lot of its narrative on the perceived argument that the RI coalition has historically dominated this scene (and other developmental issues) and the consequences have been disastrous, particularly for those people that the HR coalition is speaking for, namely; minorities, small-scale farmers, Indigenous Peoples, women, pastoralists and many more.

As discussed in the previous chapter, the PAA suggests that discourse-coalitions are build, in order to thrive towards contending for the hegemonic position within an arrangement. In this case, it is fair to say that the RI-discourse coalition has adopted this position, through linking its discourse to the new global paradigm, that enjoys wide support from governments, relevant multilateral organisations, as well as the component of the private sector that represents major financial capital. To answer the question, the discourse coalitions and their interactions reveal that a less powerful coalition is struggling to include desired rules, suggestions into the relevant legal frameworks, as the negotiations leading up to those are dominated by the coalition that aims towards a *regulating to facilitate*-approach.

The struggle of the HR coalition vis-à-vis the RI coalitions actual and perceived power, is a constitutive aspect of the global governance architecture. The confrontation that would naturally occur from such a relationship, is what contributes to the way the architecture is built, and also to the way it has changed, particularly in the more recent history. I would argue that the shift from the RAI, towards the VGGT and PRAI demonstrates that, and shows that even with relatively limited institutional power, a well-organised coalition with a strong message, may with time, have an influence on operating structures of a certain global governance architecture.

6.3. Limitations

This thesis includes certain limitations that I would hereby like to address. I would furthermore argue that those limitations do not weaken the thoroughness of the research process prior and

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throughout the writing process. Arguably the biggest issue that one could find problematic is the data collected for this thesis. One may be surprised that no interviews, nor participant observations were undertaken to gather data. While some interviews were attempted, it was not possible to get key informants, such as World Bank officials or CSO representatives, that could possibly have contributed, particularly considering the discourse analysis. However, I argue that the extensive use of bibliography makes up for that flaw. For the purpose of the thesis it was advantageous that the official publications that were studied, reveal very clearly the motives, storylines and ultimately discourses applied by the variety of actors. As the issue is quite emotionalised by at least the human rights discourse coalition, the publications offer a vast material for an argumentative discourse analysis as it was done in this thesis. Furthermore, drawing the historical timeline from various documents, also helped to show the structure-agency issue at the heart of the architecture.

With respect to more general limitations of such research, it is important to point towards the fact that land questions are ultimately dealt with in a national context, and this is differing from country to country and even region to region. This is fairly important considering the role and power of civil society, which as this thesis has revealed is relatively limited at the global governance level, however, as shown by countless accounts, has substantial influence in the national context, as advocates of those whose land has been grabbed. Civil society networks have shown the ability to mobilise and counter projects that threaten the livelihoods of those currently occupying the land, be it indigenous or rural, small scale farmers. However, the research also revealed that agricultural policy, which is planned at the global level, in order to address increasingly intertwined global problems related to food, feed and energy, highly influences activities in national contexts, hence the relevance of global governance frameworks in the context of the land grabbing debate.

6.4. Suggestions for further research

An interesting aspect for further research could be to have a closer look at the consequences revealed from the degree of fragmentation within the architecture. Furthermore, what one could do is to look more precisely at the changes in discourses that have occurred over the years and look at the different narratives and storyline and from that, the changes in strategies. Another interesting aspect, particularly with respect to the issue of land governance, is to look at how the governance initiatives have benefited – or not – the people on the ground; and how they have changed – or not – the practices of due diligence, evaluation, analysis and finally the implementation of agricultural investments/agribusinesses, this would however move away from a global governance, institutional perspective, towards case-to-case examples, would therefore need a totally different theoretical and methodological framework.

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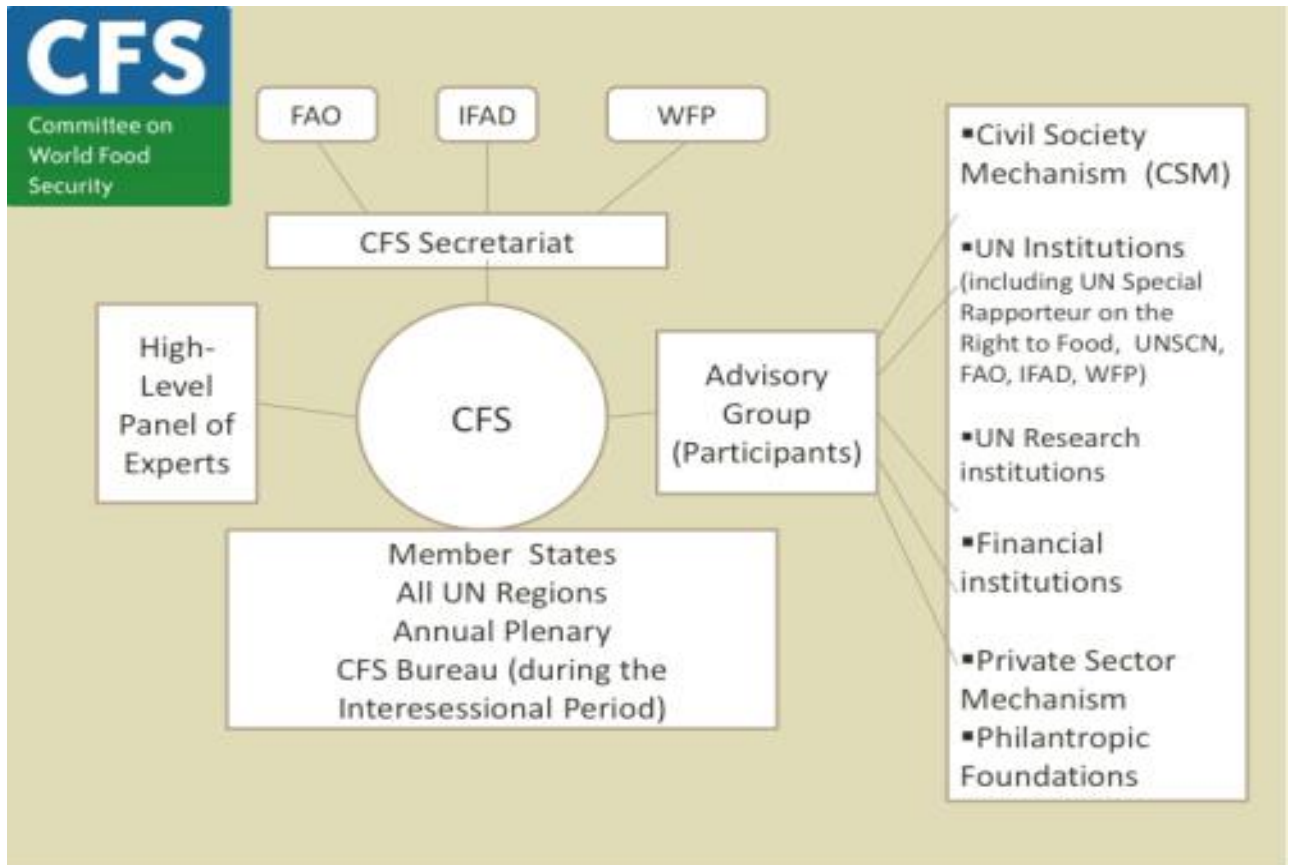
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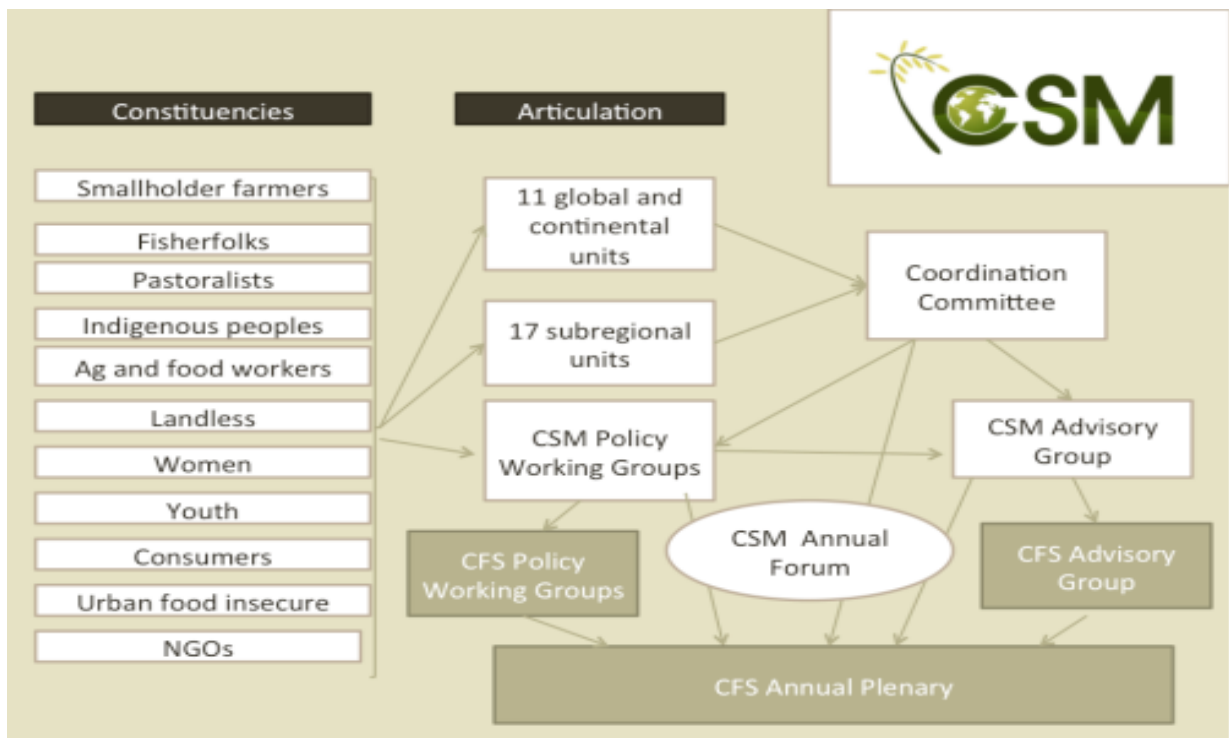
2. Governing structure of the Committee on World Food Security

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3. Structure of the Civil Society Mechanism



Accessed on the 03.01.2018 at: <http://www.csm4cfs.org/the-csm/>