"Land grabbing and development history: the Congolese (RDC) experience"

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ABSTRACT

Problems of large scale land grabbing in Africa have received a great attention since the beginning of the year 2000. The contribution show that these problems are not recent, particularly in the DR Congo. In that country a long term historical perspective does show that the present wave of land grabbing is the sixth one since the rise of the so-called EIC in 1885. Taking the control of the communal lands of the peasant communities has been at the core of the agrarian policies during the colonial period until 1960. These policies have been continued, with different arguments and tools in the post-colonial period. In the recent years the rationale of neo-liberal governance have added new arguments to this long term process of land grabbing. The contribution does show that despite these heavy pressure upon their livelihoods peasant communities do show often a great capacity of resilience until the present period.

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Chapter 2: Land Grabbing and Development History: The Congolese Experience

Jean-Philippe Peemans

1. Introduction: Land grabbing and the place of the agrarian question in development studies

The literature on ‘land grabbing’ has exploded in the last part of the previous decade. One of the most promising fields opened with the current discussions, is the renewal of very old research themes, such as the agrarian transition, the role of enclosure in primitive accumulation (Hall and alii, 2011), the relationship between land use and property rights (Borras and Franco, 2012), between the role of the State, market and institutions in the access to common goods and their management, between modes of production and social relations (Bernstein 2010), and between dispossession, impoverishment and proletarianization of small farmers (Li, 2011).

Figures showing the extent of the threat, have added a dramatic character to the arguments, since they indicate that between 2008 and 2011, large grants of land amounted between 30 and 60 million hectares, including 20 million in Africa (Brown, 2011; Baxter, 2010). Between 2000 and 2010, the total allotted, sold or leased land would amount to more than 200 million hectares (Oxfam, 2011).

Discussions around the theme of ‘land grabbing’ have stimulated a movement of empirical research and theoretical reflection, giving the ‘agrarian question’ a central place, while taking into account its multiple economic, social, environmental and cultural dimensions. Various studies have highlighted the multiplicity of stakeholders, both in the North and the South, the complexity of the chains of interest connecting them, and also the heterogeneity of local contexts, including the differences in attitude and behavior between categories of actors involved.

Despite its stimulating critical perspective, and its empirical and theoretical contributions, much of the recent research remains focused almost exclusively on the recent ‘land grabbing’ wave, as if it was a sui generis event, whose unexpected magnitude disrupts the conditions for the development of agriculture in the South, and poses a threat of an unprecedented scale for the future of the peasantry. Despite scattered references to the history of enclosure in the formation of agrarian capitalism, the historical perspective in most contemporary literature is very limited. However, when considering that historical perspective, one could state that ‘land grabbing’ is only one of the components of a very old offensive against the small-scale peasantry.

In the next part, we point to the importance of such historical perspective, as it allows to reframe the current waves of land grabbing as an episode within a long history of developmental policies aiming to ‘capture’ the African peasantry. The third section focuses on the particular forms of land grabbing in the Belgian colonial system in relation to a particularly ambitious attempt to ‘capture’ the peasantry, and thereafter on the uniqueness of the relationship between the State and the peasantry in Congo-Zaire after the independence, and its impact on the specific forms of land grabbing in the DRC. The fourth section highlights recent developments in the DRC, and the
interest to place the question of land grabbing in a historical political economy context of rural development recognizing the central place of the peasantry in the ongoing evolution. The overall argument of this chapter is that the current challenge for development studies is to build a political economy of rural development which includes the peasantry as an actor in the history of agrarian change, and not only as the object of a successful or failed agrarian transition, of which the current phase of land grabbing would eventually be the ultimate episode (Sikor and Lund, eds., 2009).

2. Land grabbing as yet-another-episode in the long history of efforts to ‘capture’ the African peasantry

A historical approach is needed to replace the current phase of ‘land grabbing’ in the long term process through which land resources of peasant communities have been continuously transferred to actors guided by a logic of accumulation (Harvey, 2003). The logic of enclosure was of major importance to the development of capitalism in Europe, after which the process was repeated for centuries in colonial and post-colonial systems (Braudel, 1985). It is obviously a major phenomenon in the history of capitalism in the North and South (White and Dasgupta, 2010). These historical waves of enclosure cannot be isolated from an ideological framework which, since many generations, has presented a negative view of the peasant world. Throughout history, this ideology has legitimized the enclosure movements, and these have strengthened the evolution towards the marginalization of a weakened peasantry.

Modernization theories - at the heart of the formation of development thinking after WWII - were the most obvious illustration of that thinking (Peemans, 2002). Almost all the national development processes in the North and the South have been based on mobilizing human and material resources of the rural world as instruments for industrialization and growth (De Schutter, 2011). For example, Hyden - a highly influential author in African studies in the 1980’s - did not hesitate to attribute the failure of development policies in Africa to the inability of States to capture the African peasantry. He saw a ‘free peasantry’ as the cause of failure to advance towards capitalism, development and modernity (Hyden, 1983, 1985, 1986). In his view, it was problematic that peasants could ensure their own production and reproduction without the support of other social classes as this allowed them to withdraw in their subsistence economy, while escaping market forces and the pressure of the State (Hyden, 1983).

Indeed, also in Africa, the capture of the peasantry has a long history. It was at the heart of the colonial vision of modernization, relayed by the post colonial view of it. The first wave of massive dispossession of the peasantry was made by foreign settlers supported by colonial state machines. After independence, national and local developments projects played a central role in further dispossession of smallholder peasants. They allowed diverse layers of national and local stakeholders to seize control of land resources. This post-colonial move was supported by the fact that since independence, the ideology of modernization was shared by many categories of African elites, and therefore the anti-peasant vision had become widespread. Multiple agricultural initiatives of states and foreign cooperation, in combination with attempts to ‘modernize’ property rights by imposing new land codes, continued to destabilize the peasant mode of production. Even when major modernization projects failed, land grabbing continued through the alliances formed between foreign, national and local actors to privatize land.
The recent World Development Report 2008 seemed to present a shift in the discourse on the potential of smallholder farmers, given the World Bank’s plead in favor of a green revolution in smallholder agriculture for Sub-Saharan Africa. However, critics have pointed to the way in which the commercially-oriented, entrepreneurial logic of such green revolution will only apply to a minority of smallholder farmers (see f.e. Akram-Lodhi, 2008). They frame the report as a reformulation of the old modernization policies, “view[ing] the peasantry by and large as an anachronism” (Veltmeyer, 2009: 395). Another shocking illustration of the fact that modernization theories continue to be core in policy circles, is provided by Collier’s recent book. Collier does not hesitate to affirm the need for the eradication of resources wasted on small farmers, as he considers that only large-scale farming operations can be beneficial to growth and to the protection of the environment (Collier, 2010). It is a sad irony to see the ‘new’ environmental argument supporting the old thesis of the ‘capture of the peasantry’, as it was elaborated ago by Hyden more then thirty years.

The permanence of the anti-peasant bias illustrates that land grabbing can not be separated from the ideological and political arsenal that continuously reinforced a negative identity of the peasantry. It is important to highlight the cultural dimension of anti-peasant strategies, because, on the opposite side, in the recent manifestations of peasant resilience, land is part of the reconstruction of a positive identity, not only for its material importance, but because the heritage of collective values embodied in it.

The following sections will present some elements that can help to better apprehend these intertwined dimensions of land grabbing in the case of the Democratic Republic of Congo (DRC). The historical dimension is particularly instructive in this case, both because the multifaceted process of ‘land grabbing’ has a very long history, and because the vitality of the peasantry and his resilience and initiatives are particularly evident.

3. Land Grabbing and attempts to capture the peasantry: the specific case of the Congo (DRC)

Before becoming a theoretical concept after WWII, modernization already had a long history as idea and project, exercising a powerful fascination upon the elites of the North and the South. In the case of the Congo, the historian I. Ndaywelè Nziem highlights this fascination with a modern way of life, exerted on the leading groups of many pre-colonial political entities. He attributes the disintegration of the Kingdom of Kongo, in the 17th and 18th centuries, to the unintended consequences of a too confident opening to outside world, worn by this idea (Ndaywel, 2010). He emphasizes the destabilizing effect of that modernization desire, even before the imposition of the colonial form of dependence, and many centuries before the influence of the ideology of modernization after independence.

In his book ‘Histoire du Congo’, Ndaywel brushes an impressive fresco of the millennial history of Congo, focusing on the construction of its civilizations, rooted in the mastering of their natural environments. He shows the relationship between the construction of ‘territories of life’ by local people, agriculturalists and pastoralists, hunters and fishermen, and the construction of complex social and political institutions, which were the roots of identity and culture. It is within such an historical background, that the colonial and post-colonial attempts to ‘capture’ the peasantry have
to be examined. The case of the DRC is particularly interesting, because it allows identifying no fewer than five waves of land grabbing since the beginning of the colonial period, and preceding the present wave. Interestingly, there is a quite clear relationship between these various waves, which were all based upon the ambition to capture the peasantry or marginalize it, leading to a continuous dispossession of the peasant world.

The five waves of land grabbing in question are: (1) the decree on vacant lands and the politics of forced labor under the EIC (Etat Indépendant du Congo) regime 1885-1908; (2) the policy of the major agricultural, forestry and mining concessions 1910-1940, including the CNKi (Comité National du Kivu); (3) the policy of the paysannats indigènes 1945-1960; (4) the Land Acts of the 1970s; and (5) attempts to implement a “farmer model of modernization” after 1980, and the informal and multiform ‘land grabbing’ of the years 1990-2000.

3.1. Three waves of land grabbing and attempts to capture the peasantry during the colonial period 1885-1960

From the point of view of the long history of human development in the Congo, the attempt of the colonial State to control the peasantry was the most strategic vector of these three quarters of a century. It introduced a radical break in the secular lifestyle of peasants worlds in the Congo, not so much in the sense of the theory of modernization (breaking up a ‘backward traditional society’), but – as described by Ndaywel, in the construction of the link between ‘territories and identities’ (Ndaywel, 2010).

There is obviously no place here for even a summary description of the historical events that have marked the military conquest of the Congo by the troops of the Etat Indépendant du Congo, first African mercenaries and then local recruits. Once the conquest was carried out, the apparatus of repression played a decisive role in the mobilization of human resources at the service of natural resource exploitation. The most important elements were the takeover of the peasant communities by the State Land decree (1885), and the establishment of the State monopoly on the trade of the main export products (1892).

The decree of 1 July 1885 of the General Administration of the EIC on so-called ‘vacant land’ attributed to the State the right to dispose of all land that was not occupied by indigenous communities. It gave the State the right to directly exploit or to grant the operation of all land, other than what was visibly occupied by villages and their crops. Through this decree of 1885, the State gave colonists the legal means to acquire vast tracks of land, while Congolese peasants were prohibited from any initiative beyond subsistence production. In some case, they were forced to leave allotted land (Peemans, 1997: 62-65). In addition, the 1892 decree introduced the obligation for the indigenous population to harvest, gather and hunt marketable products and deliver them to the agents of the State (Peemans, 1974). This historical approach in fact illustrates that the founding act of the colonial system was a first and huge operation of ‘land grabbing’, through the institutional coup of decreeing most of the peasant communities’ land – by themselves considered as their common heritage – ‘vacant’.

The usefulness of this measure was clearly seen by the colonial administration after 1908. The annual report on the colony of 1918 claimed that “in the interest of the indigenous peoples themselves, too large indigenous reserve must not make it impossible or difficult to grant land to
Europeans, or distract the natives from industrial sites” (Congo belge, Rapport annuel, 1918). The human impact of this period of ‘founding violence’ was very heavy, as assessed by Ndaywel: “The regression of the population [from 1885] until 1920 [...] has been no less than one-third of the total population, and may even have reached half” (Ndaywel, 2010: 107).

During the years 1920-1930 the peasant question has been the subject of heated debate between different factions of the colonial policy makers and various groups of opinion and metropolitan lobbies involved in colonial politics (Poncelet, 2008). These debates converged towards the idea that even if one had to recognize that the Congolese people had many features of a civilization prior to colonization, it was, in any case, needed to advance towards the requirements of the ‘progress’. In other words the idea of modernization, in its colonial interpretation, has played a key role to justify the forced mobilization of the peasant world, according to the objectives of the colonial administration. And these goals could not be separated from the partnership established between the administration and the financial groups controlling the majority of the colonial economy. At the beginning of the years 1930, 4 Belgian financial groups controlled 75% of the capital invested in the Congo, the main group (Société Générale) controlling alone 60% (Peemans, 1974).

As from 1920 onwards, the systematic deconstruction of the peasant economy by the colonial administration continued. Administrative coercion sought to break the centuries-old relationship between village communities and local and regional markets which were embedded in a dense web of social relations and provided ways to diversify livelihood strategies. Moreover, the period was characterized by a second wave of ‘land grabbing’ contributing to the dispossession of the peasantry – particularly in the Kivu area. Between 1920 and 1945, more than 12 million hectares (almost double of the estimated area cultivated by the peasantry in 2010) were granted by the Comité national du Kivu to colonial interests, with a strong predominance of large corporations (Dehoux, 1946). In addition to dispossession, the deconstruction of the peasant world had a very important cultural aspect. This rationale was based on the idea of a necessary authoritarian education for the transition toward progress, an argument with which the colonial power radically denied the identity of the Congolese peasantry (Leplae, 1929, 1933).

After WWII, a new colonial policy emerged based on the idea that the stabilization of the colonial system required a certain improvement of the living standard of the African proletariat. At that point, colonial authorities became interested in the promotion of a small peasantry through improved production techniques and increased revenues, and the promotion of low ranking employees (the so-called evolûés) in the public and private sectors. International economic conditions drawn by the strong demand for raw materials in the 1950s, created a favorable climate for economic progress. However the benefits of economic growth, stimulated by external demand, concentrated mainly in urban areas (Peemans, 1980). In rural areas, a new policy of authoritarian agricultural modernization was attempted, with the so-called paysannats indigènes (indigenous peasant settlements) model, supposed to bring out a minority of peasants to progress under heavy supervision by colonial agronomists (Malengreau, 1949). That new and final variant of the colonial model of modernization was in fact based on a third wave of ‘land grabbing’, since it assumed a form of partial privatization of communal land. But it had very limited results for various reasons (Drachousoff, 1965). The main feature of the end of the colonial era was therefore the relative stagnation of the rural world, comprising the vast majority
of the population. This stagnation maintained the economic base of the colonial system in narrow limits. The countryside remained largely dominated by the legacy of the authoritarian indigenization model implemented during the interwar wars.

Overall, it can be said that while the colonial period paralyzed the Congolese peasantry, it failed the break or ‘capture’ really it, because in the end the vast majority of the peasantry kept an informal but real control over their communal land. Much more pervasive, however, were the consequences of the attack carried out against the identity of the peasants’ world, through the systematic presentation of a demeaning, even humiliating, degrading image of peasants. Peasant behavior was locked in authoritarian infantile injunctions, which in some cases resulted in some self-depreciating from the side of the peasants themselves. As Ndaywel writes: “The Congolese memory kept the bad memory of European, accompanied by agricultural monitors and agronomists, sanctioning the disobedience and the indiscipline of the peasants, a memory that eventually kept them away from agricultural work” (Ndaywel, 2010: 141). However, overall peasants proved to be resilient to such self-depreciation: while they were repressed in the public expression of their identity, colonial repression could certainly not reject or destroy their vitality, often only expressed clandestinely between peasants themselves (cfr. the ‘hidden transcript’ concept of Scott, 1990).

This resilience should not be reduced to forms of resistance expressed in a sporadic manner through more or less violent revolts during the colonial period. These forms of resistance with political connotations have often been privileged by foreign observers, given their obvious reality in the period following independence, including through rebellions which have marked at that time the Kwango-Kwilu (mulelist movement) and the East (lumumbist movement). (Jewsiewicki B, 1980; 1987)

The collapse of the colonial State liberated the Congolese peasantry, and although being weakened, the peasant has demonstrated a great resilience against the vicissitudes of the post-colonial State.

More recently Congolese researchers have highlighted both less spectacular but more sustainable forms of resilience. They include the various forms of community work, and group savings organizations inherited from the pre-colonial period and repressed often by the colonial authorities, which saw it as an obstacle to the advent of more individualistic forms of production and savings promoted under their ideology of 'modernization under tutelage '. But these practices have been maintained until now through all the vicissitudes. They are expressed through a large vocabulary reflecting the richness and diversity of these peasant practices in the various regions of the Congo: the “ekirimba” (in nande language in the North East) or the” likelemba” (in lingala) , referring to various informal associative practices learned through the informal school of customary life: the “kyaghanda “.(Kakule , 2006, 95-97)

All of these words refer to a strong articulation between ways of life focused on the "living together" and cultural identity, which is at the heart of a resilience of the dominated actor, and often invisible to the eyes of the foreign actor.
3.2. The post colonial State and two forms of ‘land grabbing’: 1960-2000

In most African countries, political independence did not deeply change the socio-economic legacy of colonization in terms of agricultural structures. African post–colonial elites who took up an active role in the state apparatus after independence were penetrated by the ideology of modernization. The focus on the expansion of the agricultural export surplus and on food production thus continued in the 1960s, within a techno-economic context inherited from the end of the colonial period. At the end of the 1960s, beginning of the 1970s, most African States attempted to speed up the pace of accumulation. They tried to circumvent the peasantry’s resistance to the ongoing forms of agricultural surplus extraction - and to increasing control of agricultural offices over their production - through the implementation of large agro-industrial projects. Such projects were often accompanied by a particular type of ‘land grabbing’, given that fertile land areas were often attributed to such agro-industrial concerns, regardless of their status and their usefulness for local communities.

At the same time, however, the post-colonial dynamics within Congolese agriculture were somewhat atypical in comparison to most other African countries – where the State generally increased its control over the agricultural surplus for exports. One of the reasons for this was that the Colonial state collapsed immediately after independence. After 1965 - the takeover of power by general Mobutu - there was an attempt to rebuild the State that was partially successful until the late 1970s. While the ideology of the regime was certainly very imbued by the vision of modernization, it originally focused exclusively on the potential of the mining sector to support industrial projects and infrastructure (Peemans, 1975). Agriculture was not a priority, and therefore, there was no attempt to restore control of the State over the peasantry until the early 1970s.

From 1973, the State tried to follow the path of other African countries to control the agricultural surplus through the establishment of an extensive array of State offices (the so-called ‘zairianization’) (Peemans, 1986). A new land law (73-021 of 20 July 1973) was adopted, which gave the State a strengthened control on the attribution of land rights. It was supposed to be an indirect instrument for the modernization of land institutions, as it allowed the privatization of land that was until then governed by customary arrangements (Kazadi, 1991). The initial idea was that the new land law would stimulate private investment in agriculture. The appropriation of land was thus rationalized and legitimized as a technical instrument to legally secure other actors than the peasantry, because they were supposed to be more efficient. When placed within the historical context, one could consider this modernization rhetoric of the land law as a reactivation of the Decree on the ‘vacant land’ of the EIC in 1885. In any case, it opened up the way for a new phase of ‘land grabbing’, the fourth since the beginning of the colonial era. Unlike other African countries, where the State apparatus was directly involved as a contractor in large agricultural projects; the State apparatus in Zaïre acted in symbiosis with initiatives of national private entrepreneurs, especially the so-called ‘barons’ of the regime. That singular stage in the 1970s pioneered multifaceted attempts of land grabbing, and a proliferation of sources of land conflicts between ‘grabbers’ and peasant communities. In fact from the point of view of the peasants, the new land legislation was essentially a new instrument of ‘land grabbing’.

In the 1980s, policies imposed by the IMF’s structural adjustment policies (SAP) further reduced the direct intervention of the State in the management of agricultural production and agro-
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Industrial projects. The promotion of a market economy – freed from State interventions – laid at the basis of these policies. The aim was to stimulate agricultural innovation and the increase of production, and help a minority of dynamic producers to become engines of change and progress. According to the dominant approach of the 1980s, this required both the privatization of commercial channels, the means of production and in particular that of land (World Bank, 1989). In fact, these SAP liberalization policies sought to create the conditions for the emergence or consolidation of the ‘farmer model of modernization’ (FMM) in Africa. Attempts to an ‘africanization’ of the FMM from the 1980s, resulted in the privatization of many formerly public projects, a privileged access to credit and industrial inputs for few so-called ‘more efficient’ actors, as well as on the unlimited employment of cheap labor provided by impoverished peasants. This evolution was accompanied with a new wave of ‘land grabbing’ in Africa. The liberalization policies were used as new devices by new layers of national ‘land grabbers’, seeking by all means to expand or consolidate their grip on land, including through the concentration of traditional user rights, when full property reclamation proved to be too complex or costly.

The evolution of Zaire in the 1980s was not completely alien to changes seen elsewhere in Africa, although it had very specific aspects derived from the context of the Zairian agrarian crisis inherited from the 1970s. A Zairian type of the ‘farmer model of modernization (FMM) was accompanied, as elsewhere in Africa, by a virtual abandonment of the reference to the small peasantry as an actor in agricultural and rural development. Often the tendency was concealed behind a screen of unconscious or deliberate confusion, between ‘peasants’ and ‘farmers’, the latter being the rural minority that could actually profit from the liberalization policies. From the 1990s, the ‘peasantry’ as a collective actor had lost all visibility within the public development discourse, being reduced permanently to a mass of poor people waiting for assistance by NGOs to survive. The peasantry became a sort of passive object or recipient of the competing actions of the myriads of specialized brokers vying for a market share in the field: of local governance promotion, civil society support, programs of micro-credit, micro-initiatives, micro-enterprise in rural areas, and other variants focusing on the ‘local’, ‘participation’, or the ‘empowerment’ of rural poor women etc. Local populations were seen, in the vast majority of cases, as victims or people to-be-assisted. Even when the term ‘peasant’ appeared, it was to evoke top-down projects firmly framed by the injunctions of external donors. In fact, what occurred could be described as a sort of ‘identity grab’; it robbed the peasantry of any quality as autonomous actors in the development process. In the case of the DRC, this reduction of the peasantry to the status of assisted non-actor contributed significantly to the concealment of peasant resistance, especially the peasant women practices.

Within this context, ‘land grabbers’ used diverse strategies to take control of land resources. One of them was, since the 1980s, the de facto privatization of land resources liberated by the dismantling of public agricultural offices and their aborted projects. These were taken over by powerful coalitions of actors (Shikayi, 1994). The private appropriation of land was achieved either through the links that could be established with the traditional chiefs, either through the registration of land rights following the new legislation. In most case, both strategies were combined through the corruption of customary and official authorities. Land grabbing in a very fluid socio-economic context, worked through the recomposition of networks including different actors in political, administrative, judicial and customary circles of power, in order to ensure land security in various overlapping and competing modes of ownership.
On top of this, virtually all rural areas of the DRC were affected by conflict over land during the 1980s and 1990s. The multiplication of conflicts was most often framed as a result of State decline, of ethnic clashes, or the proliferation of armed bands supported by foreign stakeholders. However in reality, land disputes often played a central role in political instability and social violence. Securing access over land became a major objective for actors who wanted to consolidate their economic or political positions (politicians, army officers, civil servants, traders). Taking over the control over land did not only represent a takeover of a property, but also reinforced power, status, prestige and even allowed to manifest some proof of a local identity (Mafikiri Tsongo, 1994). In fact, for actors seeking a regional social identity and social prestige to be recognized as “big men”, the accumulation of land reserves was as important - or even more - than the productive potential of that land. As a result, the majority of land resources in Kivu - captured by traders, soldiers, politicians in the 1990s - were underutilized while the majority of peasants had an insufficient area to ensure family needs (Mafikiri Tsongo, 1994: 119-120). These phenomena further fueled ethnic tensions and lead to more violent conflicts.

Behind the apparent institutional chaos in Congo, there was in fact an important structural tendency towards land concentration accelerated in the years 1990 and beyond. As a result of this fifth wave of mainly informal ‘land grabbing’, many peasant families lost their access to land on the basis of customary principles, while not having the means to secure land rights in line with the new procedures. However, given that access to land remained a vital question for the peasant populations’ survival, they tried by all means to defend their rights through passive or active resistance to the purchasers or grabbers. To defend their rights, they often invoked the bond existing between the occupied land and a long tradition of occupation by the ancestors. Indeed, resistance took a new form by insisting on the overt reference to cultural values and practices attached to the land itself. Land grabbing was reframed to the ‘soul and identity grabbing’ of a community.

### 3.3. The importance of the regional dimension in the long historical process of land grabbing: the case of eastern DRC

The Democratic Republic of Congo represents an area that is larger than the euro zone in the European Union. It is therefore important to take account of the great diversity of situations in the various regions of the DRC. This is particularly the case for the eastern regions, and especially the Kivus. The current situation is difficult and seems locked in a logic of negative factors reinforcing each other in a kind of irreversible entropic evolution: population growth, exacerbation of ethnicity, land disputes, etc. (Vlassenroot and Raeymakers, 2009). However, these factors should be framed within the long term historical evolutions that had a significant impact on the specific type of agrarian crisis endured by this region.

I.Ndaywel, for example, has shown that in the long term history, there was a rather great fluidity in the human occupation of the region, with many East-West migrations (within the Kivu region itself, but also between the Kivus and what would later become Rwanda and Burundi), and multiple political influences. It was a region, not frozen in rigid ethnic structures, but very open, both to international trade (swahili networks), and to the emergence of new political institutions that combined centralization with local power (Ndaywel, 2010). The colonial period, however, brought a sharp break in these fluxes by breaking up the region in delineated territories. The
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legacy of this break up marked the post colonial regimes. The question of land ownership, and its corollary land dispossession, played a central role.

For instance, the eastern part of the country has been particularly affected by colonial ‘land grabbing’. Kivu peasants’ living conditions were severely impacted by the massive dispossession of land, transferred through the Comité National du Kivu to Belgian settlers and large colonial agricultural and mining companies. Another factor, affecting the land arena, was the authoritarian policy of ‘Ruandan populations’ forced resettlement in the Kivu region in the period 1935-1950, with the establishment of nearly 100,000 immigrants. A new wave of massive immigration took place after the violent ethnic conflicts that marked the 1960s and 1970s in Rwanda and Burundi. Hundreds of thousands additional refugees settled in the Kivu regions. But pressure rose to its maximum at the occasion of the influx of nearly two million refugees from both countries in the 1990s. These massive immigration fluxes have deeply affected the tenure security of local populations, adding a new dimension to the tensions already caused by the land grabbers of national and local origin. As a result, the availability of arable land per capita in the mountainous regions of Kivu decreased by 60% between 1960 and 1990 (Mafikiri, 1994), and the situation further deteriorated in the 1990s. This tenure insecurity has contributed to a pervasive climate of violence, where ethnic tensions and land conflicts are inextricably intertwined. In such climate, new actors of land grabbing appeared, among which not only warlords, but also humanitarian agencies claiming land for refugee resettlement.

Overall, it is therefore important to note that in the case of the Kivus, the increasing scarcity of available land cannot be attributed only to endogenous population growth. Various forms of socio-political violence accumulated through ancient and recent history; and these historical evolutions played a central role in the dispossession of the peasantry (Mafikiri, 1996).

Also in Ituri, another region in the DRC that has frequently been plagued by conflict and violence, the role of local land grabbers has played a detrimental role in the escalation of ethnic conflicts. Indeed, ethnic tensions were and still are often rooted in, or linked with land disputes. In a context of pervasive multiplication of armed groups, local elites, charismatic and populist leaders have manipulated and exacerbated ethnic tensions - in the name of securing ‘autochthon’ access to national or local land – in order to strengthen their positions in a modernizing makeshift of power (RCN, 2009).

This historical dimension of ‘land grabbing’ in the eastern part of the DRC allows us to put into perspective the current sixth wave of ‘land grabbing’. The potential impact of this latest wave is certainly not to be underestimated, but a historical perspective underscores that attempts to enclose local communities’ lands, and to capture the peasantry, are old realities. As we will show in the next section, the peasants in the region have faced these realities for generations. In the face of these threats, they have developed unique, inventive, often hidden forms of resistance, of which the intensity is highly variable depending on the local context. In fact, it is probably because of the particular historical heritage of the eastern parts of Congo (DRC), that this region has the most diverse and most active forms of peasant resistance against ‘land grabbing’ by the State, national and local elites and foreign invaders.

4. The political economy of the sixth wave of land grabbing in the DRC
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Up to this point, this chapter has pointed to the interest of a historical political economy approach to better understand the current wave of ‘land grabbing’. The historical approach obviously should not lead to a denial of the threats brought by the current wave of land grabbing. On the contrary, it shows its extreme potential violence in line with the previous waves of land grabbing that took place throughout history.

4.1. The scale of the sixth wave of land grabbing

Many features of the sixth wave of land grabbing present similarities with the first and second waves that took place during the colonial times and were characterized by their megalomaniac character (remember the 12 million hectares of concessions granted by the Comité National du Kivu) and their non-sustainability. According to a recent evaluation, the six most important land concessions - granted to foreign investors in recent years – could represent up to 11 million hectares. This would include a 8 million hectares project attributed to associations of white South African farmers fearing the threats of land redistribution in their own country (Global Land Project, 2010), which would give such land acquisition projects a special neo-colonial flavor. These projects, if implemented, would represent almost 50% of the arable land of the DRC (which is equal to 22 million hectares of arable land on a total of 227 million hectares, FAOstat, 2010). But these so-called projects are most of the time only at the stage of vague announcements and rumors, and very far from the stage of any realization. Anyway, these rumors, false or not, denote a context where the RDC is seen as a potential new Eldorado for large foreign land grabbers.

This new type of agrarian neo-colonialism reuses the old (post-) colonial discourse of massively available ‘vacant land’. The deliberately repeated invocation that only 6.7 million hectares (or 3% of the country area) are currently cultivated, falsely gives the impression that the peasantry will not be threatened by these large concessions (New Agriculturist, 2009). One has to note that in other evaluations the total cultivable land is much more important (75 millions hectares), but they agree that the effectively cultivated land is under 10 millions hectares (Tecsult, 2009). The argument of massively available underutilized land seems to justify some tolerance in land concession granting. However, one has to be extremely careful with figures in the debates on land grabbing, given the lack of appropriate definition of ‘cultivated’ and ‘utilized’ land. In reality, the utilized communal lands of the villages do not only consist of cultivated land, but also of land left fallow (to avoid erosion), and land from which diverse products - required to support a peasant way of living – are extracted (for example non timber forest products). In addition, communal lands are also part of a sort of ‘imagined territory’, with all the cultural and identity dimensions attached to this heritage.

At first sight, the role of the State in this sixth wave of land grabbing until 2010 bears great resemblance with the role played by the State during colonial and post-colonial times. Indeed, the State authorities, who have granted these land concessions, consider land and the relations between land and the peasantry in the same way as the colonial authorities and the Mobutu regime. The principles of land management governed by the 20 July 1973 Act, and reinforced by the law 18 July 1980 (law n° 80-008, governing general property, tenure and real estate security) are still fully relevant: the State is the paramount owner of all land and has the power to decide of its attribution through concessions; the land occupied by local communities, according to customs, is considered as a part of the State domain. However, placing this sixth wave into a
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A historical perspective allows us to identify at least one significant difference with the colonial and early post-colonial era. At that time, massive land grabbing could take place because of the overwhelming power of the State. The current post-colonial, post-Mobutu State is far less powerful, despite its recent efforts toward ‘reconstruction’. Moreover, the currently weak State faces a new historical situation: the increased local resistance embedded in the historical resilience of the peasantry in many parts of the country.

4.2. A specific feature of the DRC: a non passive peasantry facing the sixth wave of land grabbing

In recent years, the realities of Congo’s rural regions have appeared in a new light through a set of studies carried out by Congolese researchers. These studies have highlighted the existence of socioeconomic rural realities far more complex than those put forward by analyses that focused too exclusively on the reduction of poverty (Mirembe, 2006). These studies have revealed that Congolese peasants’ resistance is not just passive; it formulates responses and initiatives from the side of the peasant world.

The collapse of the colonial State and the difficulties of the post-colonial State, have gradually opened up the space for a certain autonomy of action by peasant populations. The disintegration of the post-colonial State during the 1970s – 1980s, and the profound violent crises of the 1990s, accelerated this trend. A very broad emancipation of the peasantry took place, an autonomy that is primarily manifest in the search for minimal security conditions for families, lineages and communities living in a natural environment that has been theirs for generations. The peasants have very complex strategies to defend and expand their land rights, to preserve a minimal food security, while trying to grow a surplus for marketing, whenever circumstances permit. These local-level activities embedded within the informal sector, or better, the people’s economy, account for about four fifths of the actual activity of the Congolese population but weight little in official statistics. (Peemans, 1997) This makes peasant activity rather invisible in the eyes of policy makers and foreign observers. However, their blindness contrasts sharply with the visibility of the weight of peasant population: rural population multiplied around five times between 1960 and 2000, from 10 to 50 million people. (New Agriculturist, DRC, 2009) The numerous studies, carried out by Congolese researchers in recent years, incite to seriously consider the multiple economic, social and cultural aspects of this dynamic popular economy that is most of the time invisible to outsiders.

The resilience of the peasantry has further manifested itself in the proliferation of informal associations. The functions of these associations are multiple: economic, social and political; and they often also promote cooperation and mutual assistance among their members. The interest of the peasantry for these initiatives can be observed through the increasing number of fields in which they are active (informal health care associations, small informal cooperatives, rotating saving clubs, various groups of women and young people, etc.). Growing numbers of associations reflects a strong desire and capacity to collectively face uncertainties and risks. In fact, one could say that these associations are a sort of reinvention - more than a revival - of former customary institutions geared to ensure group security and solidarity. They are not to be confused with the kind of imported solidarity promoted through externally-driven development initiatives, so richly adorned in some NGO’s discourses (Laurent, 1996). In fact, the economic efficiency of these associations is based upon trust between their members. They enable a
mobilization of collective work to achieve small-scale infrastructure projects (like water pipes), and the establishment of collective management (e.g. assemblies of water users to fix the royalties and maintenance). Often these associations are rooted on the ancient spirit of the likelemba, reflecting the importance of practices of reciprocity in labor organization and resources management (Kakule, 2006). Next to their ‘security-enhancing’ role, the social role of these groups is equally important. They contribute to the collective consciousness of a lineage, a village, a group, and ensure its unity, despite all the pressures. They show continuity between the centuries-old standards of customary governance, and attempts to invent new standards of local governance adapted to contemporary problems. This provides some counterweight to the standards of governance imposed by external stakeholders (Peemans, 1997).

Alongside these associative ‘horizontal networks’ that defend the ‘local territories’ of the peasant economy, there are also important ‘vertical networks’ of clientele that play a central role in relationships between old and new players who cooperate or compete in the rural areas. These networks are at the heart of the popular economy in the Congo. The connections between horizontal and vertical networks link both rural areas and urban centers. These networks are at the heart of the popular economy in the Congo, and include the overwhelming majority of economic activities and social relations (De Villers et alii, 2002).

These complex and dense networks point to the need to recognize peasants as actors, and not to reduce them to being passive rural dwellers, entrapped in backwardness and poverty. In fact it is peasants’ behavior - in the Congo as elsewhere – that reinforces this argument. Peasants, especially the young ones, do not hesitate to emigrate to the cities or mining areas. In some mining areas, particularly in Kasai, Kivu and Katanga, the revenues from labor in the mining sector are higher than the ones provided by agricultural production. This has contributed to a decline in agricultural production in these regions, often interpreted as evidence of a failure of the village economy. But the revenues transferred to the villages make that families are not confined to self-sufficiency, as they are part of a continuous flow of labor and cash.

According to recent estimates, peasant-miners alone represent 2 million workers, supporting 8 to 10 million dependents (Geenen, 2011). Therefore, today’s’ peasantry, in Congo as elsewhere, must not be seen as a ‘pure’ homogenous peasantry, but as part of mobile and hybrid peasantries, more or less strongly associated, according to different regions, with networks linking urban, semi-rural and rural economies.

4.3. The megalomania of a dummy State facing rising socio-political awareness about the land question

Since the Peace agreements of 2002, attempts to rebuild the central State in DRC have been numerous but with very problematic consequences. At first glance, the years 2002-2010 saw an economic recovery with sustained growth and a dramatic reduction of inflation. The investment/GDP ratio rose sharply, mainly because of a massive increase of foreign investments in the mining sector and in some projects related to electricity production. After the end of the war, the country also benefited from debt reduction in the framework of the Heavily Indebted Poor Countries program. But despite this positive evolution, the national level of income and investment per capita does remain well below the levels of the early 1980s. In fact, despite some improvements in the health and education sectors, it seems that the increased flow of foreign
resources has mainly been invested in the reconstruction of the central administration with very limited results in terms of improved governance efficiency on the ground. The major focus upon rebuilding a strong military and security apparatus has also led to limited results (Marysse and Omasombo, 2012).

The decision making process remains concentrated within the presidential circles. People with key positions at this level are able to strike big deals with foreign investors in the fields of land and mining concessions and large infrastructural projects. But despite massive attention going to a couple of such ‘prestige’ projects – of which the realization depends entirely on foreign operators - the State apparatus remains largely disorganized and chronically inefficiency. As a result, the implementation of central authorities’ decisions remains very problematic. This is particularly the case in the field of agriculture and rural development, despite the fact that President Kabila declared these domains to be the new national priority after his reelection at the end of 2011.

Institutional cacophony is an obvious feature in the field of agriculture and rural development. The Ministry of agriculture (MAPE) is involved in many conflicts of jurisdiction with the Ministry of Rural Development. The two ministries are plagued by overlapping competences, and are both confronted with a profound lack of financial means - in continuity with the limited means directed to agriculture since independence. Moreover, both ministries have been submitted to the logics of decentralization, as promoted and imposed by the foreign donors’ governance model. Provinces have theoretically received large competences in the domain of agricultural policy, but in practice national authorities have been reluctant to transfer competences and funding (ACE, 2011).

Next to these largely powerless official actors, there are also a multitude of initiatives of foreign actors who sponsor a wide range of projects or programs, each responding to its own logic. These projects and programs are not only funded by major donor countries, but also by hundreds of NGOs with a great autonomy of action, but very little involved in a dialogue with national and local authorities. In the recent years one has had the Document de Stratégie de Croissance et de Réduction de la Pauvreté (DSCRDP, 2006-2009 ), where agriculture received a very tiny place, the Plans d’Actions Prioritaires (PAP) of 2008, the Plan National pour la Sécurité Alimentaire of 2010 formulated with FAO support, the Plans de Développement Agricole Provinceaux (PDAP) established with the BAD support, and the 2011 DRC version of the PDDAA (Programme Détailé de Développement de l’Agriculture Africaine), in the framework of the NEPAD. This institutional cacophony translates among others into a multiplicity of uncoordinated plans and interventions in the agricultural sector. But despite the exuberant production of projects and programs, agricultural production itself - with an estimated annual supply of 20 millions tons - only provides for 75% of national food needs, while the remaining 25% of needs has to be covered through imports that account for a cost of almost 1 billion dollars a year.

It is within this very confused institutional context that the granting of large tracks of land grants takes place. In fact, these concessions are often granted by central authorities through quite opaque negotiations with foreign players without consulting the local population. Moreover, the land transfers are based upon a superficial evaluation of its value, without considering the specificities in terms of local occupation. On top of this, there is no clear institutional mechanism that regulates the way in which these land concessions are implemented on the ground. This
implies that investors will have to negotiate with actors at the provincial and local level (both official authorities as well as customary chiefs), well accustomed to extract some lucrative benefits from the arbitration between traditional land customs and the rights displayed by the new holders of concessions. The new wave of large-scale concessionaires will probably not be able to derogate from this decade-old tradition.

It is certain, however, that this wave of large concessions reflects a long lasting preference of the national political elite for agricultural, livestock or forest projects managed by large mechanized farms in line with the FMM (farmer model of modernization). In this way, they share the preferences of a significant part of the donor community, who promotes the very same model even when disguised beneath the surface of a ‘pro peasant’ rhetoric. These ambitions are also reflected in the recent legislative framework. The first drafts of the agricultural Code, developed after 2006 in an attempt to update the 1973 Act and the 1980 law, were focusing on large-scale exploitation of land, based on private property, mechanization and the use of industrial inputs to increase productivity. The aim was to create a stimulating environment for private operators, national and foreigners, capable of developing modern agriculture on so-called ‘vacant land’. As a result, the majority of the law articles concentrated on the problems encountered by modern enterprises in terms of the management of land and water resources, of access to infrastructures and energy, and in terms of the dealing with fiscal and accountability problems. References to the preoccupations of small peasants were largely absent.

A first version of this law was voted in 2010, but it was confronted with fierce protests from a variety of actors. The law was seen as an instrument in favor of speculative foreign investment in land concessions, with negative consequences on the chances of Congolese citizen to secure access to land. These concerns were shared by larger-scale national landowners as well as peasant associations. In fact, resistance to the sixth wave of ‘land grabbing’ came from an unusual coalition of actors. On the one hand, local elites who have accumulated land during the post-colonial period now want to avoid the competition for land that would result from the uncontrolled arrival of foreign investors with unlimited financial means. On the other hand, peasant associations share this aversion for unlimited access to land for foreign investment. But in addition, and with the support of some foreign NGOs, they asked for recognition of communal land entitlements and for special support measures for peasant producers (La Voix du Paysan congolais, 2012).

A new version of the law was voted by the end 2011, and signed by the President immediately after his much debated reelection. An important change with the previous version was the introduction of revised articles 16 and 82. Article 16 stipulates that access to land is reserved to nationals or to enterprises of which 51 % of their capital is in the hands of nationals. Article 82 stipulates that the law also applies to those who hold former concessions, but with some time for adaptation (RDC, 2011). These apparently technical changes seem to represent a kind of U-turn in Congo’s land concession policy. At least, this can be concluded on the basis of the violent criticisms the FEC (Federation of Congolese Enterprises), formulated against the new law throughout the year 2012. This federation represents, among others, big enterprises - of which many in the hands of foreigners - in the agricultural, livestock and forestry sectors. Its main argument concentrated on a presentation of the law as a new form of ‘zaïrianization’, the failed attempt at nationalization of foreign enterprises in the 1970’s. The FEC has led a campaign
denouncing the new law as discriminatory, contrary to the free circulation of capital, and threatening the future of investment needed for the modernization of agriculture.

On the other hand, diverse groupings defending the rights of national producers (like CONAPAC) have welcomed and defended the new law. Also many peasants associations have expressed their support to the law’s priority in terms of the protection of national interests in agriculture. But at the same time, they have sharply criticized the formulation of article 19, which recognizes the existence of communal lands, but refuses to explicitly grant such land a sort of legal status. For peasant associations, this means that peasant communities’ land rights are not legally protected in the confrontation with national investors’ attempts to privatize this land. In fact, these national investors are now better equipped than before. For local peasantries, it makes little difference whether their land rights are eroded or denied by powerful foreign actors, or by more modest national and local actors.

The importance of the discussions goes way beyond the law’s contents, given that it is only a state law among so many others which have never been really applied in the DRC. However, the symbolic aspect of the discussions is much more important. It has mobilized different kinds of actors around the land question. It has been a sort of ‘hinge moment’ that clearly framed the stakes around the land question in a very open debate. These debates around the role of foreign investment, the role of national producers, the type of land ownership - private or communal - have brought ideas and demands to the table which have been simmering since a long time. These ideas and demands had – up until now - never been deployed with such force. The future of agriculture and of the peasant world has reappeared as a central theme in national politics. The discussion is taken well beyond the technicalities in which national and foreign experts had encapsulated the agricultural debate since decades.

What is clear, is that the debate has not led to a consensus among all groups of concerned actors. Powerful actors, like big (foreign) enterprises in the agricultural sector, will continue to lobby for the dismissal of the articles which limit concessions to large foreign investors. National elites will lobby in favor of the protection of Congolese citizen’s land rights, but are not particularly fond of the idea of giving communal land a legal status. Peasant associations, backed by some foreign NGOs, seem dedicated to a continued fight for the recognition of peasant communities’ rights. As a result, the land grabbing question is now clearly incorporated in a larger political process. The evolution of this process will depend upon the evolving power relations between these different actors.

5. Conclusion: The long road ahead for the Congolese peasantry to obtain recognition as a central actor in the search for sustainable agricultural development

The twists and turns that have accompanied the elaboration and proclamation of the 2011 agricultural code, and the subsequent controversies around this code, illustrate that an important part of the DRC peasantry is clearly aware of the necessity to mobilize and fight for the recognition of the peasant rights. Such mobilization is in line with the ‘Charter of Peasants Rights’ objectives as proclaimed by the Via Campesina Movement (Declaration of Rights of Peasants, 2009). This Charter has contributed to the definition of a coherent alternative to ‘land grabbing’ at the international level (Holt Gimenez and Shattuck, 2011)). The principles of the Charter are fundamental, since they clearly frame family farming within the collective land
rights context of peasant communities. In other words, the Charter recognizes the peasant actor in its double individual and collective dimension. This allows moving away from the seeming contradiction – at the core of all modernization approaches - between a ‘farmer model of modernization’ and a ‘peasant development model’.

The ‘Declaration of Peasant’s Rights’ also gave a new dimension to the important topic of legal pluralism. It freed the reference to ‘custom’ from its archaic connotations that all variants of the modernization discourse attributed to it. Customary law in a broad sense keeps a strong legitimacy in the eyes of village communities. According to the principles of customary law, land is not just a commodity, but a component of a territory of life, a basis for the social and cultural identity of the community. There are the roots of its legitimacy.

But given the many corrupt practices of the present customary power, communal land management will require more and more new forms of complementary or even countervailing powers exerted by peasant associations. It is only in these conditions, that legal pluralism would provide a new empowering space to peasant communities, and that a bridge could be established between the heritage of an historical governance which still provide legitimacy, and the requirement of an invigorated institutional framework providing security to the community.

In such conditions, a framework of legal pluralism could increase the capacity of action (agency) of weaker stakeholders, through a kind of ‘institutional bricolage’ that opens a space for real negotiation (Cleaver, 2003). It can secure individual land rights within a framework of collective security offered by community rights bequeathed by history. This requires a new legal creativity that is based upon procedures of negotiation between all actors concerned (including peasant communities) on an equal footing (De Schutter, 2011). Indeed, the recognition of customary practices by outsider actors – next to the formal regulatory framework - does entail the recognition of the peasant community as an equal player in the land arena (Friedrich Ebert Stiftung, 2012).

However, it is clear that empowering forms of ‘institutional bricolage’ can only occur through continued peasant mobilization at local and national levels. For example, some achievements reached through the mobilization of peasant organizations in 2010-2011 - in the context of the elaboration of the DRC agricultural Law - will only be secured through continued pressure. Other interesting initiatives have also been taken up by peasant associations. The UPDI (Union Paysanne pour le développement intégral) in Kivu - an organization of 33 collectives with 598 base organizations and 17,000 members - has actively involved itself in the question of land disputes. It has put in place a system of courts of arbitration, managed by the peasants themselves, which try to resolve land conflicts before they escalate. By the end of 2010, 768 arbitration efforts had already been validated and received enforcement by the State’s judiciary instances.

Peasants organizations will have to build and assert themselves continuously as somewhat aggressive collective actors, to be respected and incorporated in an inclusive process of ‘substantive democracy’ (Gathii, 2000). It will rest on the peasantry’s ability to mobilize its own forces, and not be dependant on the urban civil society initiatives embedded in a top-down pro-poor ideology (Ngolamulume, 2011). Indeed, civil society organizations are often unable to recognize the peasantry as a player in its own right, with its own vision of rural development. At
the same time, most of the external stakeholders and national elites, are more than ever fascinated by rural modernizing projects, despite their destructive extravagance (Van Hoof, 2011).

The construction or reconstruction of peasants’ ‘territories’ will in the future depend on the ability of the peasant communities to strengthen their autonomy over local natural resources management, linking this aspect to their cultural identity and to the legacy of ‘historical governance’ of those resources by the very same peasant communities. A local governance model based on associative networks and local community can provide an alternative to the mishaps and pitfalls of imported governance (Peemans, 2008), and play an important role in supporting ‘a peasant way of sustainable development’. Local governance may be registered in the establishment of ‘charters of local development’, recognizing the rights and obligations of the State and local communities.

In the DRC, recent local governance institutions like the CARG (Conseils Agricoles et Ruraux de Gestion), created in the wake of the awkward decentralization process, could be a first step in that direction, if duly recognized and adequately funded (ACE, 2011). In some cases, those conseils have indeed functioned as a tool for empowerment by autonomous local peasant associations. They could be used as a forum to oppose attempts at land grabbing. But strangely (or understandably) enough the CARG have received no place in the institutional settings of the 2011 law on agriculture. In fact, recognition of the peasantry as actor in its own right is certainly not on the agenda of the ruling elites, but it will certainly be at the heart of many conflicts and struggles to come. The outcome of those struggles will frame the future balance between the continuation of land grabbing processes and the construction of a ‘sustainable way of peasant development’.

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