

Land rights as instruments of social transformation: The case of the Chittagong Hill Tracts (Bangladesh) ^{1/}

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In the Universal Declaration of Human Rights of 1948 no mention whatsoever is made of a right to own land, and nothing like land rights is mentioned in the subsequent International Covenant on Economic, Social and Cultural Rights of 1966. Today one may deplore this omission, but it was not by negligence that land rights have not been mentioned. Human rights were meant to apply universally, but no socialist state would, at the time when the declaration and the subsequent covenant were drafted, accept anything which could be construed as legalising individual or group rights in landed property.

Landowners exploiting landless labourers had not only excited the wrath of socialists following Marx – already the founding father of modern economics, Adam Smith, argued against the worst plague of modern society called rent, that is income based on landed property and collected from those who were reduced to a mere labour force. Still it was left to Marx to draw the logical consequence: once you identify the exploitation of labourers turned landless by powerful landlords as the primary source of capital accumulation, and the rise of private landownership as the main reason of social inequality, the ideal of an egalitarian society cannot be achieved unless any form of private landed property is permanently abolished.

However, the only institution able to enforce this abolition is the (socialist) state, and this implies that the state in fact arrogates to itself all land rights. Thus, the final abolishment of land rights will depend on the final abolishment of the state – provided only the stateless people will then be able to prevent the resurrection of the plight. Today it seems futile to hope that this state of affairs will realise, yet it is worth to remember that it existed and even survived, though in somewhat modified form, until recently.

There were stateless people whose land belonged to them as they belonged to the land, people who, in accommodating to modern concepts, now claim to have participated in common ownership, while still refusing to extend the notion of private property to land. I shall not try to be more precise in this respect, since the modern states and their judiciary with the power to transform those feelings of belonging into

^{1/} Quotation: Löffler, Lorenz G. 2002. In *Aussaaten, Ethnologische Schriften*, 435–45. Zürich, Switzerland: Argonaut-Verlag. Comment: See the list of publications for details. This paper and the list of publications are available as pdf files on this webpage: www.supras.biz/literature/loeffler.html.

modern legal concepts may take any anthropologist's attempt to rephrase the old concepts as a prove that these people's claims cannot be substantiated.

Still, people who can argue with their government about their original rights are comparatively well off in comparison with those in developing countries where the promulgation of land rights is nothing but a legal camouflage of the process called primary accumulation by Marx, a process which others may approve of as modernisation and which might also be analysed as social transformation. Under whatever terminological disguise it appears, it means enforced destruction of a traditional, comparatively egalitarian social order and the establishment of a ruthless class society with a few powerful people keen to enrich themselves on the one hand, and many powerless expropriated people turned from self-sufficient farmers into a superfluous labour force fending for daily survival on the other hand. I have to offer no remedy against this process, on the contrary I tend to conceive of it as inevitable, nevertheless my moral engagement is on the side of the victims of this process.

In the case to be discussed here the victims are the indigenous peoples of the Chittagong Hill Tracts (henceforth: CHT), an area now under the rule of Bangladesh. Bangladesh owes its existence as a state to the liberation war of 1971 supported by India. Before that time it was known as the Eastern Wing of Pakistan which came into existence due to the division of British India in 1947. At that time Muslims formed less than 4% of the population of the CHT, and according to the principles of the division, people expected to be allotted to India, but the would-be Indian Government bartered this tribal area away against some advantages on India's western border.

The British had established their rule in Chittagong in 1769 and availed themselves of the administrative system of the preceding Muslim rulers. These had established a kind a tributary relationship with the tribal people living in the hills to the East of Chittagong (subsequently known as the Chittagong Hill Tracts) by allowing them access to the plains markets only against yearly tributes of cotton to be collected and paid by certain tribal representatives. For two of them this business proved rather profitable. These "rajahs" controlled the two major inroads into the CHT and established themselves as landlords in the plains bordering the hills. For collecting the tribute they relied on their agents living in the hill villages, but the system did not extend all over the hills. Though the British referred to them as tribal rajahs and though the Chakma Raja had his basis among the Chakma in the central and northern part of the hills and the Bohmong Raja among the Marma in the southern part, by far not all Chakma and Marma accepted them as their rulers, and though Chakma and Marma formed the majority of the tribals, there existed (and

exists) a minority of ten other tribes with only a few villages paying tribute to the rajas. Moreover, there were the "wild tribes" still farther to the East who responded to their exclusion from the markets in the plains by sporadic raids which the rajas were unable to check.

Disappointed at the performance of the rajas, the British in 1860 assumed direct control over the CHT and turned the rajas into administrative officers called Chiefs responsible for the tax collection with the people in their "Circles" irrespective of their tribal affiliation. In the years to follow the territorial administration was refined by subdividing the circles into tax villages, called "mouzas," under the control of "headmen" who were to replace the old tax collectors of the rajas. Again, tribal affiliation was no criterion for fixing the mouza boundaries. This system, however, did nothing to efface tribal identities which, backed by mutually unintelligible languages and special cultural norms, survived rather unimpaired all later attempts of suppression until today.

While the tribute payable to the agents of the rajas had been reinterpreted as a captation tax, the new government tax imposed by the British became known as "jhum tax," "jhum" being the local (Bengali) term for a swidden field, a slash-and-burn cultivation. The fact that widows and households not living by farming were exempt from this tax may have been a reason to call it "jhum tax" – contemporary authors, however, insisted on that it had nothing to do with land rights. Already before 1860 the Chakma Raja had started to auction the position of a tax collector, and the practice continued into the beginnings of British rule. In 1876, W. W. Hunter in his voluminous compendium "A Statistical Account of Bengal" writes (vol. 6, p. 91): "The rights of the headman that were [...] frequently put up for sale under the authority of British officers were rights affecting human beings [...] they had no connection with any form of land tenure." Thirty years later the tax business had been brought under control and the headmen had assumed the role of loyal magistrates. In 1909 the Superintendent of the Hill Tracts insisted: "This tax is tribute to the state, it in no way partakes of the notion of rent or bears any relation to the land cultivated" (Hutchinson 1909:93).

Nevertheless, this tax could be interpreted as a tax payable to the state for the right to make a field, and this is the view taken, nearly fifty years later by the Pakistani Board of Revenue: "Revenue [i. e. the jhum tax] is assessed on the jhum field, not on the household" (Bessaignet 1958: 38). Without any change in the law regarding this tax, it now definitely "partakes of the nature of rent." The change in the nature of interpretation may seem trivial, but it becomes fundamental when phrased in other terms. While under the British administration the right to jhum accrued to every

indigenous person in the hills by birth, under Pakistani state proprietorship this right is granted in exchange for the tax paid, and if the state decides not to renew the contract the farmers who cannot claim any ownership of the land have to quit.

But this is not the fault of the Pakistani regime. Already in 1880-83 the British declared one fifth of the area of the CHT off limits to swidden farmers, viz. as "reserved forests." In 1870 they outlawed swidden farming in the plains district. And 70 years before they took over the administration of the hills, in 1792, they abolished the "cotton tax," replacing it by a cash payment, rephrased in 1909 by the very Superintendent Hutchinson, who at the same time asserted that the jhum tax in no way partook of the notion of rent, as a settlement in the name of the Chakma Raja, "a settlement, known as Jum Bangu or right to Jum under a chief."

One hundred years later the then ruling Chakma Rani demanded a new settlement in her name for the Chakma Circle, but this time the British had good reason to assume that the clever Rani intended to transform her subjects into landless tenants and they refused it on the grounds that the jhum land in the CHT could not be rented. As a matter of fact the British refrained from interfering with the hill peasants rights as long as this policy served their own ends, but they never stated unambiguously that the indigenous rights to jhum were inviolable.

The hill farmers on the other side had no reason to demand such a guarantee. The British had curbed the exploitative power of the rajas and their tax collectors, had replaced it by the jhum tax and for the rest did not interfere with their traditional way of life. Having no idea of European concepts of land rights, how could they demand more? And they also felt no reason to complain about the export tax levied by the administration on timber and bamboo leaving the hills. In their view the tax in last instance would be paid by the plains people who bought these goods, and the less they bought, the better, as it prevented too rapid a sale of their resources.

As for the hill people, they had free access to timber and bamboo as long as it was growing on their village territory. "Village territory" this time does not mean "mouza" (the tax village), but the hamlet, the borders of which were left undefined by the administration but were well-known to its inhabitants. Nobody was free to use the resources of this type of village territory as he pleased, but the right to use them did not depend on paying a tax. Rather it depended on two types of consent: that of the villagers themselves and that of the guardian spirits. If you wanted to cut a field in a certain spot, you had to make sure that a family who had used that plot in former years did not claim priority rights, and even if they did not, you had to make sure that the spirits did not object. You had to inform them about your plans by putting up a certain sign in that plot, and they would let you know their decision in sending you

certain dreams. If they accepted, you had to show them your gratitude and gain their support for a good harvest by presenting them offerings on several occasions during the agricultural year. One may object that similar conceptions are compatible with animism, but not with Hinduism or Buddhism, professed by the majority of the tribal population. In the world of the traditional hill farmer this made no difference.

Whatever their religion, all hill farmers were convinced that by not propitiating the spirits you had to expect misfortune. But even if you did pay homage, you could not really rely on their support. In a sense the spirits resembled the worldly powers outside the village who might swoop down on you to extract money however innocent you were. The decisions of these superior powers were just beyond your reach. But before you had to submit, you could try to evade the evil by withdrawing. Hill peasants moved their villages when plagued by too many diseases, and they moved again when pressed too heavy by tax collectors. Hill people did not like to move, but they preferred to move when difficulties arose and they were free to move as they possessed no landed property.

This very freedom was definitely not in the interest of those who wanted to subject these people to their rule. The British tried – with some success in densely populated areas – to induce the people to take to plow cultivation and thereby to become owners of permanent fields. However, most areas in the CHT are unfit for plow cultivation, while swidden cultivation is the most suitable way to make a living, provided only fallow periods can be maintained long enough to restore soil fertility. Swidden areas too can be privatised, but the swidden farmers I came to know in the CHT resented it, as in their view privatisation would inevitably break up their egalitarian society and lead to the formation of landowners on the side and landless labourers on the other, replicating the very situation they could observe in the plains district and to which they attributed the ruthlessness and crookedness of the Bengalis whose morals they loathed.

Even if not able to grasp the truth of this rather "Marxist" analysis, the fundamental difference in the moral system of the hill people and the plains people did not fail to impress the British administrators. No wonder they preferred the honest and amiable way of the "simple" hill people to the fraudulent craftiness of the cunning plains people. And they also realised that the former were prone to become an easy prey of the latter. As a consequence at the beginning of this century the CHT were declared an excluded area, and both the application of the judicial system of the plains and the influx of plains people, especially of traders and businessmen, were severely restricted.

Although some of the restrictions were lifted even before the end of the British era, the special status of the CHT survived into Pakistan times, until it disappeared without notice in the new constitution of 1964. Since then political representatives of the hill people have been demanding – so far without much success – the restitution of a kind of autonomy for the CHT. One of the consequences of the abolition of the special status was that land rights in the CHT had to be adjusted to national law. This could easily be done in all instances where land had been taken under permanent cultivation (plow land and gardens) as it was already differently taxed and more than often registered as private land. Surviving restrictions on sale and mortgage were lifted.

Areas of permanent cultivation had developed near rivers and on bumpy land mostly in the central and northern regions where the hills were less steep than in the south. In the centre, however, most of these lands went under water in 1964 after the construction of a huge hydro-electric dam. The flooding led to the displacement of one quarter of the whole indigenous population of the CHT. The annulment of the special status of the CHT brought no privileges to the owners of landed property; many of them did not even receive a nominal compensation (the Pakistani government blamed this on the Bengali administration), and only one fifth of the amount of territory now under water was offered for rehabilitation by opening up part of the reserved forest area for resettlement. This situation led to the first mass exodus of Chakma to India, where more than 20,000 of them were finally relocated in the north-eastern border area, thousand miles away from their place of origin. Others just moved uphill, resuming swidden cultivation in places where, due to heavily increased population density, fallow periods had to be shortened in such a way that crop failures became unavoidable.

Again in 1964, the Pakistan government asked FORESTAL, a Canadian advisory group of natural scientists, for their opinion on the prospects of further land use in the CHT. The report, published in 1966, clearly stated that the population of the CHT had passed the limit up to which jhum cultivation could be considered a well-adapted solution and argued that new ways of earning one's livelihood had to be introduced if the ecological balance was to be kept. Their recommendations centred on horticulture which the experts thought would bring hitherto unknown prosperity to the inhabitants now under danger of pauperisation, provided only some provisions were taken. One of these was that a family turning from subsistence oriented swidden cultivation to market oriented horticulture should be provided with at least 10 if not 20 acres for planting cash-crops. The government "experts" turned these figures down to 5 acres.

Another provision was that the cash-crop farmers should build up their own co-operative marketing organisation. Yet until today all trade between the hills and the plains is monopolised by Bengali middlemen in collusion with wholesale traders in the plains, ensuring minimal prizes for the producers and maximal profits for the traders. Hill framers who dare to bypass this monopoly will be beaten up and robbed.

Fruit growers had to face an additional problem: as no facilities were provided for canning their products and the monopoly traders kept the prices in the plains more than ten times above those in the hills, large quantities of fruit to be consumed within a few weeks once a year could neither be absorbed by the plains market nor feed their producers for the rest of the year. Moreover horticulture proved less well adapted to the soils of the CHT as the experts had imagined. Gardens became less and less productive due to soil erosion. No wonder many people preferred to stick to, to augment their meagre income by, or to return to their traditional methods of swidden cultivation. If they had been provided with 20 acres this would have been possible, with 5 acres they were bound to give up and to become landless labourers.

Before these developments materialised, the political situation had changed. When the Pakistani experts had finished to draft the new land regulation for the CHT, the Pakistani rule came to an end. While Bangladesh became independent, armed anarchy reigned for some time in the hills. Not everyone in the hills welcomed Bangladesh. Illiterate hill peasants less effected by the modernisation process had experienced the Pakistani military regime as benevolent insofar as it had allowed them, by the "basic democracies" order for the first time to elect their own representatives. Courts controlled by the military had, also for the first time, curbed down exploitation by Bengali money-lenders and policemen.

On the other hand, a growing number of young people of the Chakma and Marma had gained higher education, some had even been admitted to the universities in the Bengali centres. Here they had come into contact with and absorbed modern ideas of socialist origin which at that time became the credo of the movement for independence. Together with their Bengali compatriots they fought against the Pakistani neo-colonialism and capitalist exploitation, while at home they did not miss to attack the remnants of former feudalism personified by the Rajas whom the British had turned into Chiefs and who as such had become servants of the Pakistani regime. Above all, however, they hoped that an independent Bangladesh would also restore some kind of independence to them, at least in the form of the autonomous status which the CHT had lost under Pakistan rule. In this their expectations were not very different from those of the "reactionaries" in the CHT who hoped that the Pakistani government would reward them for not participating in the Bengali upheaval.

However, all expectations were thwarted by the new "socialist" regime of the founding father of Bangladesh who saw no reason to privilege the unreliable tribal minority by allowing them to humiliate the triumphant Bengali majority by again restricting their rights in the CHT. Tribal identities were remnants of the colonial past, the CHT should be open for all Bangladeshi people of whatever creed. The breaking down of old barriers would, no doubt, also benefit the tribals, as it would bring them into the national mainstream from which they had been artfully excluded by the British who were intend on keeping them backward and setting them against their compatriots in the plains.

The Pakistanis, aware of the antagonism, had been reluctant to leave the administration of the CHT to representatives of the Muslim Bengali; now every available position was allotted to them, Bengali traders poured into the centres to be urbanised, and Bengali presence soon dominated the area around the artificial lake created by the dam. Swidden farmers without deeds confirming them as proprietors of the land were told to move in order to make room for another government project advocated by the FORESTAL plan, viz. the transformation of the hills judged unfit for permanent gardening into rubber plantations.

Since neither hillmen nor settlers knew how to do this, the government relied on the wisdom of its well-to-do citizens, far-sighted entrepreneurs and its own officers in the CHT by offering them thousands of acres to be acquired against a small fee with the prospect of investing in rubber. To comply with the wishes of the government, the crafty businessmen started by cutting down all trees and bamboo. By selling them they more than compensated their investment. Subsequently some of them just rented their domain to the former inhabitants, thereby establishing themselves as absentee landlords. Less fortunate were those who relied on the government subsidies and really started planting rubber trees. As these trees shed their leaves which will sprout again only after the monsoon has set in, the soil is rapidly washed away by the rains and the rubber plantation start to resemble mangrove forests. Hill people whom I asked about this phenomenon cleared stated that they regarded the government plans as a dangerous error. Similar experiments with teak plantations had already proved abortive in Pakistan times. Still, government experts repeat their conviction that every corner of the CHT could be planted with rubber and teak, and their endeavours in this respect are well received by international donor institutions since these plans which are contributing not only to the further eviction of hill peasants but also to the final deforestation of the CHT, are propagated under the green label of "reforestation of the CHT."

As hill people did not qualify as thrifty managers of horticultural plantations, the government in 1979 decided to speed up the process of modernisation by resettling hundreds of thousands of landless Bengali peasants in the hills. This, to be sure, could not be done without ousting a considerable part of the tribal population from their ancestral villages and land. The indigenous intellectuals who once were willing to support the poor exploited Bengali masses in their fight against postcolonial and capitalist exploitation, now found their own people in growing numbers expropriated by these poor masses. The Shanti Bahini ("Peace Forces") who had their origin in the war of liberation resurged as an armed resistance force against the Bengali intrusion.

Government responded by stepping up the number of military and paramilitary "security" forces and by having them trained in antiguerilla warfare, by handing out arms to the settlers and by forcefully relocating the indigenous population in cluster villages under army control. Every action of the Shanti Bahini was followed by punitive measures, including burning down indigenous villages which might have supported the "Peace Forces," by torturing, raping, mutilating and killing men, women and children. Another mass exodus of one fourth of the indigenous population of the CHT was the consequence. Several of them returned and fled a second time. By 1990 more than 50,000 refugees were living under miserable conditions in relief camps in the Indian state of Tripura.

The activities of the Shanti Bahini served the government as a pretext to spread military camps all over the CHT. The army controlled all vital aspects of civilian life, including the supply of daily commodities like rice, salt, kerosene and medicine. The so-called CHT Development Board was chaired by the highest military commander of Chittagong. This board decided on the allocation of any development aid spent for the CHT and even controlled the admittance to higher studies. Tribal people, especially those under constant surveillance in the cluster villages, became quite accustomed to the fact that whatever they wanted to do, they had to come in for a permit or a licence and had to pay for it. For the military the occupation of the CHT developed into big business. Whether it be natural resources, jobs, or human rights, everything was (and still is) on sale.

The most effective way to facilitate extortion is to outlaw activities which are essential for survival and then to tolerate them against any kind of payment. The grossest act in this respect was an executive order totally prohibiting swidden cultivation on which probably still more than half of the indigenous population had to rely for survival. During my visit to the central Hill Tracts in 1991, I was told that the prosecution of offenders was "lenient." Instead of paying the jhum tax they now had to expect to be fined for illegal use of state property, with the amount of the fine

depending on the goodwill of the officer. After the downfall of the military dictatorship in Bangladesh this order has been repealed. In general, however, the new government did nothing to curb the power of the so-called security forces.^{2/}

Under the threat of being driven from their land, be it for making room for settlers or for transforming it into rubber plantations, most swidden cultivators consented to have it registered as their private or collective property. The legal framework for this procedure had been prepared during the last year of the Pakistan rule and enacted with some amendments by Bangladesh. The people had been informed about this possibility, but the details remained unknown since the government officers responsible for the registration denied the right to consult the text of the law even to educated hillmen.

All you had to do is to approach the headman of your mouza in order to get the confirmation that nobody (including yourself) had a claim on or was actually using this land which you were willing to acquire. I repeat: in order to become a legal owner of your land, you have to prove (and to pay for the testimony) that nobody but the state has any right in this land. This document you have to present to the land registration officer who then will decide as he sees fit how much you have to pay for the deed. This will take some months, and as a rule this payment will amount to more than what a peasant is able to pay without getting heavily indebted. But what can you do? You may even be lucky if the deed for the same plot is not sold twice or thrice – due to the bad services of your headman. But what the civil administration finally sold you may in short time prove of little worth in case the military decides that you have to quit for reasons of security. You may, on paper, still own your plot, but you are no longer allowed to use it.

The military may help you to survive by paying you food-for-work rations, and your work will more than often consist in clearing any growth from the hills. For

^{2/} To quote *Nurul Alam* (The Daily Star 17-04-2002): "The Chittagong Hill Tracts (CHT) saw a massive depletion of forest resources in the past few years following illegal trafficking in timber by a section of unscrupulous traders, sources said. According to reports, over four lakh cft. timber is extracted from CHT a year that poses a threat to environment as well as natural resources. With the illegal extraction of timber continuing unabated, most of the eight reserve forests in CHT have been facing extinction. Over 70 per cent of the six reserve forests had already been depleted [i. e., during the time of military rule]. Many hills also have been stripped of green foliage. In addition, jhum cultivation by the tribal people contributed significantly to the depletion of greenery.

As varieties of costly wood are available here and the timber is in great demand, the furniture business is booming in the CHT. Consignments of furniture are supplied to different parts of the country. Sources said the unscrupulous traders are extracting and trafficking in timber in collusion with a section of forest officials and law enforcing agency personnel. Illegal extraction of timber had taken place in large scale after the signing of peace treaty in 1997 as the woodcutters got the opportunity to enter most of the inaccessible areas of deep forests in the CHT. Earlier, they avoided the deep forest areas fearing attacks by Shantibahinimen. Many woodcutters were either killed or abducted by Shantibahinimen during the two decade-long insurgency that rocked the scenic and rugged hill districts."

security reasons the military likes bare hills. If you have done your job well, also the monsoon rains will come to the help of the military and by washing away the soil ensure bare hills in the years to come. People will no longer be able to live on these hills, hence nobody needs to worry about land rights anymore.

Still, this process leaves us with a paradox to be resolved: Why does the government threaten people into accepting land rights which they do not want, while at the same time expropriating them? The answer is simple. Governments of developing countries have to care for their reputation when they want their regime to be financed by foreign aid. In order to gain in reputation they should at least pretend to abide by their own laws. Driving people from their land by mere force may be easy, but nowadays calls for some justification. Otherwise people resenting to be expelled and putting up some resistance may even be supported by "unfriendly" neighbouring states – and what seemed easy may become costly. The times when these costs could be more than retrieved by decrying those who resisted as communists are gone [but since 2001 these former "miscreants" may qualify as "terrorists"].

In glaring contrast to these measures, granting land rights to people who never had such rights is an act of supreme benevolence. Any objections? The fact that the people have to get indebted for receiving this grant is, should it become known, surely not the fault of the law, but of corrupt officers. And who, besides a few individuals concerned, is going to point out that, in the long run, no family can make a living on a mere five acres of eroded hill land? As a matter of fact, nobody is forbidden to acquire more land, all he needs to do is to buy it – provided only he has the necessary means to do so. The best way is to lend some money to some hill peasant, who needs it in order to avail himself of the grant, lend him some more money to help him survive in the years to come, and then ask him to repay his debts by ceding his land to you. As litigations are extremely costly, he will do so without any resistance. Hill people are, as you know, honest people.

By granting land rights to the hill people the state serves in the best possible way the interests of the well-to-do classes it represents. It sets in motion a fully legal process which in short time will bestow them with all earnings and possessions of the formerly free hill peasants. It might seem reasonable to keep this bonded labour and the corresponding resources alive as long as possible, but the peaceful times of money-lenders have gone – modern investments are made in a capitalist setting. Investments should rent now, and they do, provided only you do not care of what will finally happen to the resources.

This is what I meant by social transformation. Marx called it primary accumulation. Nowadays it rents the more as it is liberally supported with billions of dollars called development aid. It is a gruesome process which might also be called modernisation. It is, however, still more once we include the natural resources: it is irreversible destruction.

Land rights in this connection just serve as a legal camouflage of the process. Stateless peoples had land rights. But these rights should not be confounded with rights to landed property. They did not serve capitalist accumulation but communal survival. They could be violated and transgressed, but they could also be defended and redressed by the community. If defence failed, people could still think and behave in terms of their rights, but they lacked the sovereignty to redress them. Once the people are overpowered by a state their rights continue to exist only insofar as the state is willing to care for them. The state may recognise them, modify them, cancel them, replace them. There is no limit as to what can be done with the former rights of now powerless people. If they try to resist without being given the right to resist, they may end up dead. To turn the autocratic state into a democratic state may be seen as a way out, but it is of no help if the people concerned form a minority and the majority decides that the minority should be wiped out. To be sure, this decision will be in violation of the Universal Declaration of Human Rights, but until now the appropriate instruments of forcing the states to respect them are still missing. Rights did not cease to be the rights of those in power. And land rights are no exception.