Landowners' Rights and Criminal Liability: Towards a Normative Framework for International Legal Protection

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ABSTRACT

Land ownership has long been seen as a fundamental right, but its protection under international law remains fragmented and inadequate. While the Universal Declaration of Human Rights and related covenants recognize the property right, there is no comprehensive international instrument explicitly safeguarding land rights, especially amid systematic land grabbing and forced evictions. This study employs a normative legal approach with a qualitative design, analyzing primary legal sources including international treaties, jurisprudence from the International Court of Justice and the International Criminal Court – as well as academic literature and reports from civil society. The findings highlight three main points. First, international recognition of land rights is weak and lacks effective enforcement mechanisms. Second, systematic violations like mass evictions could be considered international crimes, particularly crimes against humanity, but the lack of explicit jurisprudence creates interpretive ambiguity. Third, while states often justify large-scale land dispossession, corporate accountability at the international level remains limited because it relies on non-binding soft law principles. Reflecting on these findings, the study advocates for the development of a normative framework that links land rights protection with international criminal responsibility. Such a framework would not only strengthen theoretical understanding by connecting property rights with international criminal law but also offer practical guidance for policymakers, international organizations, and civil society. Ultimately, this research aims to help bridge the gap between formal recognition and absolute protection of land rights in the context of globalization.

Keywords: Land Rights, International Criminal Law, Crimes Against Humanity, Corporate Accountability, Human Rights Protection, Normative Framework

Introduction

Since antiquity, particularly in classical Greek thought, land has been understood not merely as a material asset but as an existential foundation of human life (Elden, 2010). Aristotle, in Politics, emphasizes that land ownership forms part of the "household economy," which determines both communal dignity and the sustainability of the social order. In the modern intellectual tradition, John Locke's theory of property further advances the notion that land, as the product of human labor, is inseparably bound to individual liberty. Land rights, therefore, encompass more than physical possession; they function as a symbol of selfdetermination, identity, and the survival of a polity. Accordingly, land embodies a dual character: as an economic resource and as a fundamental entitlement integral to human existence. Nevertheless, global realities reveal a paradox. While land is considered one of the most fundamental rights, systematic and large-scale violations persistently occur (Borras Jr. & Franco, 2010; Ntina Tzouvala, 2019; Suárez, 2013; Van Gelder, 2013). Data from the Food and Agriculture Organization (FAO) indicate that since 2000, more than 49 million hectares of land have been transferred to transnational corporations through land-grabbing practices, often disregarding the rights of local communities. Furthermore, Global Witness reports that each year, hundreds of land and environmental defenders lose their lives in struggles to protect these rights (Khanna & Billon, 2021; Scheidel et al., 2020). This phenomenon

demonstrates that land is no longer contested merely as a resource but has also become a locus of legal, economic, and political conflicts that transcend national borders (Rudolph, 2005).

The urgency of this research stems from the limited normative protection of landowners' rights at the international level. Although property rights are recognized in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (Chapman, 2002; Howard-Hassmann, 2013; Keith, 1999; Sprankling, 2013; Symonides, 1998; Vijapur, 2009), these instruments do not comprehensively regulate mechanisms for protecting against land rights violations, especially when such violations are committed systematically by states or corporations. This is where a crucial gap arises: there is no normative framework that explicitly links land rights violations to international criminal responsibility.

Based on the above description, this study aims to identify the international normative framework relevant to the protection of landowners' rights, while analyzing how violations of these rights can be linked to the criminal liability regime from an international law perspective. Furthermore, this study aims to develop a conceptual model that provides a comprehensive normative framework to enhance cross-border legal protection. The main contribution of this study is to broaden the discourse of international law by incorporating the issue of landowners' rights into the discourse on criminal liability, thereby not only enriching academic theory but also providing practical direction for the formulation of more responsive international policies.

This study was conducted to fill a significant normative and theoretical gap in the field of international law. To date, academic studies have extensively discussed land ownership rights within the framework of human rights. Still, there has been minimal research examining the relationship between land rights violations and criminal liability in the international legal regime. Therefore, the main objective of this study is to provide a comprehensive analysis of how international law can, and should, respond to land rights violations that cross national jurisdictional boundaries. More specifically, this study aims to identify and critically examine the relevant international normative framework for protecting the rights of landowners, encompassing fundamental human rights instruments and evolving jurisprudence in international courts. In addition, this study also seeks to analyze the extent to which violations related to land rights can be placed within the realm of criminal liability, thereby clarifying the possibility of qualifying such violations as crimes against humanity, forced evictions, or other categories of international crimes.

Ultimately, this study aims to formulate a conceptual model in the form of a normative framework that can strengthen the protection of landowners' rights at the international level. In this way, this study is expected to not only enrich the theoretical discourse in the field of law but also provide practical contributions to policy development. Thus, the results of this study can be a valuable reference for policymakers, international organizations, and civil society in their efforts to strengthen cross-border legal protection.

Research Methods

This study uses a legal-normative approach with a qualitative design (Bekchanov, 2023). This approach was chosen because the issues examined are conceptual and normative in nature, namely, landowners' rights and their relationship to the criminal liability regime in international law. Thus, the research focuses on exploring the legal principles, norms, and practices found in international instruments, academic doctrines, and decisions of international courts. The research data were obtained from two types of legal sources. First, primary legal sources, which include international legal instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political

Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Rome Statute of the International Criminal Court. In addition, decisions of the International Court of Justice and the International Criminal Court were also used as references to understand the development of jurisprudence. Second, secondary legal sources included relevant academic literature, such as reputable journal articles, international law textbooks, reports from international organizations like the FAO and UN-Habitat, and annual reports from global civil society organizations like Global Witness. Data analysis was conducted by examining the content of legal norms written in international instruments and then linking them to their implementation practices. A comparative approach was employed to identify similarities and differences in regulations between international law and national law across various jurisdictions, thereby highlighting gaps and best practices that are worth adopting. To strengthen the analysis, this study also utilizes case studies, particularly on the phenomenon of land grabbing in Africa and Southeast Asia, which shows patterns of land rights violations in a transnational context.

The validity of the research is maintained through the use of primary legal sources from official databases such as the United Nations Treaty Collection and the ICC Legal Tools Database. Secondary literature is selected based on academic reputation and relevance to the issues discussed. With this procedure, the research can be replicated by other researchers by accessing the same sources and using a similar analytical approach. This methodology was ultimately chosen to ensure that the research not only produced a strong normative understanding but also provided an empirical picture of the implementation of international legal norms. In this way, the research is expected to make both a conceptual and practical contribution to the development of a more comprehensive normative framework for protecting the rights of landowners at the international level.

Results and Discussion

Weaknesses in International Normative Protection of Landowners' Rights

The analysis shows that land ownership rights are explicitly recognized in Article 17 of the Universal Declaration of Human Rights (UDHR), which affirms the right of everyone to own property, either alone or in association with others, and protection from arbitrary deprivation (Branco, 2016; Casla, 2023; Davy, 2017; De Schutter, 2010; Gilbert, 2013; Heri, 2020; Nyarko, 2019; Onuoha, 2020; van der Molen, 2016). However, to date, there is no international instrument that specifically and comprehensively regulates the safety of land rights. Instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) only touch on the aspect of property rights in general, without precise implementation mechanisms related to land.

As a result, the recognition in the UDHR is merely a moral declaration without legal teeth, leaving ample room for interpretation and manipulation by the state. In practice, the absence of specific standards and mechanisms is often exploited by governments and corporations to carry out development projects that seize people's land in the name of public interest or economic development, without fair compensation and without a transparent legal process. In other words, this regulatory vacuum is not a neutral omission, but a condition that systematically benefits those in power and sacrifices the rights of individuals and local communities. This situation creates a normative weakness, whereby recognition of land rights does not automatically guarantee adequate protection in practice. As a result, in many international cases, victims of land grabbing do not have sufficient access to justice mechanisms, either at the domestic or global level. This finding is in line with Cotula's (2013) research, which shows that weak international normative protection has reinforced the

practice of land grabbing by both states and non-state actors (Cotula, 2017). Thus, there is an urgent need to formulate specific instruments that place land rights as an integral part of non-derogable human rights.

Criminal Liability for Violation of Landowners' Rights

Further analysis shows that violations of landowners' rights have the potential to fall under the framework of international criminal responsibility, mainly when land grabbing is carried out systematically and extensively (Altman & Wellman, 2004; Margulis et al., 2013; Tallgren, 2002; Wadlig, 2025; Yang & He, 2021). Large-scale forced evictions can be classified as crimes against humanity as defined in the Rome Statute of the International Criminal Court. A clear example of this can be seen in the mass expulsion of the Rohingya ethnic group in Myanmar, where land rights violations were part of a broader repressive strategy.

Paradoxically, this theoretical potential actually reveals a fundamental weakness in law enforcement. Although legally possible, the success of prosecution is highly dependent on the political will of the ICC Prosecutor and member states to investigate cases that are traditionally viewed as domestic civil or administrative matters. As a result, this normative ambiguity serves as a shield for perpetrators, as the absence of precedents and clear parameters creates an uncertain legal environment and hinders accountability. In other words, even though the legal tools exist, the lack of political will and strong legal precedents render them blunt instruments in protecting landowners' rights. However, there is no international jurisprudential precedent that explicitly links land rights violations to international crimes. The International Criminal Court (ICC) tends to categorize such violations as part of broader violations, such as crimes against humanity or war crimes (Appel, 2018; Blumenson, 2006; Dancy & Montal, 2017; Sadat, 2013; Zafar et al., 2024; Zhu, 2018). This creates normative ambiguity, as there are no clear parameters regarding when land rights violations can form the basis for international criminal liability. This finding highlights a research gap in the literature, namely the need for a more specific normative formulation to link land rights to the category of international crimes.

State Accountability and the Limitations of Corporate Responsibility

The findings also confirm that the state is often the leading actor in land rights violations, whether through land concession policies, infrastructure development, or neglect of indigenous peoples' rights. In many cases, the state actually provides legal legitimacy for corporations to take control of land on a massive scale, without adequate protection mechanisms (Brüntrup et al., 2014). This situation reveals a conflict of interest between the state's responsibility to protect the rights of its citizens and broader economic and political interests. Ironically, it is this mutualistic symbiosis between the state and corporations that lies at the heart of the problem. The state provides a 'veil of legitimacy' in the form of laws, while corporations provide economic incentives; both protect each other from legal claims. In this dynamic, soft law frameworks such as the UN Guiding Principles are easily neutralized, as they depend on the will of the state, which is often the party that benefits from these violations. Thus, efforts to hold corporations accountable internationally are essentially attempts to break the chain that protects the state, which explains why political resistance to this is so strong.

On the other hand, corporate accountability within the framework of international law remains very limited. Although the UN Guiding Principles on Business and Human Rights emphasize the obligation of corporations to respect human rights, these principles are soft law and are not binding. Several attempts to expand corporate criminal liability at the

international level have been hampered by political resistance from major countries (Passas, 2005). Thus, there is an urgent need to develop more robust international mechanisms to regulate corporate accountability, particularly in cases of land rights violations.

Discussion

The results of the study show that the protection of landowners' rights in international law remains ambiguous. Normatively, property rights are recognized in international human rights instruments (Alvarez, 2018); however, specific regulations regarding land rights remain very limited. This situation confirms Radbruch's (1950) view that positive law that fails to protect substantive justice actually creates space for institutionalized injustice (Hildebrandt, 2015). In other words, formal recognition of property rights in international instruments does not automatically guarantee substantive justice for landowners when their rights are violated.

When viewed from the perspective of the human rights-based approach, the right to land should be understood as an integral part of other fundamental rights, such as the right to life, shelter, and a healthy environment. Previous literature, as stated by Cotula (2013), shows that the practice of land grabbing often results in multiple violations of these rights (Cotula, 2017). This study reinforces these findings by showing that normative weaknesses in international instruments actually increase the vulnerability of local communities to land grabbing. Thus, the protection of land rights needs to be repositioned from merely a civil right to a fundamental right that is integrated into international criminal protection.

Furthermore, discussions regarding criminal responsibility for land rights violations open up essential reflections. The Rome Statute does provide a legal framework for forced evictions and land seizures as part of crimes against humanity. However, the absence of jurisprudential precedents that explicitly confirm this relationship indicates an interpretative gap. This is where the need arises to expand the interpretation of international law so that land rights violations are no longer considered a peripheral issue, but rather a serious crime against humanity. This aligns with the thinking of Antonio Cassese (2008), who emphasizes the importance of progressive interpretation in international criminal law, adapting norms to the dynamics of human rights violations in the field.

In addition, the involvement of transnational corporations in land grabbing also raises complex legal dilemmas. The literature on corporate accountability, as written by Ruggie (2011) in the UN Guiding Principles on Business and Human Rights, emphasizes that corporations have a moral responsibility to respect human rights. However, because these principles are of a soft-law nature, their effectiveness in preventing violations is minimal. This study underscores the pressing need to translate these principles into comprehensive, internationally binding legal instruments. In this way, corporate criminal liability in the context of land rights violations can be enforced more consistently.

The broader implication of this research is the need to establish an international normative framework capable of responding to the challenges of globalization. Land rights can no longer be viewed as a purely domestic issue, as the actors involved are often transnational, whether in the form of multinational corporations or transnational political entities. Therefore, responsive international mechanisms must be able to integrate the protection of land rights into the criminal accountability regime. This is in line with the idea of global constitutionalism proposed by Peters (2016), in which international law must transform to protect the fundamental rights of individuals in the face of global forces.

Thus, this discussion shows that research not only contributes to filling academic research gaps but also has significant practical relevance. The findings regarding normative weaknesses, accountability limitations, and the need for reinterpretation of international law all point to the urgency of developing a new normative framework. This framework is

expected to combine human rights protection with criminal accountability, thereby producing international legal instruments that are more adaptive to contemporary challenges in land rights protection.

Scientific Novelty and Research Contribution

This study presents a scientific innovation by placing land ownership rights not only as a human rights issue in the civil sphere, but also as an object of protection that can be directly linked to the regime of international criminal responsibility. This perspective is relatively rare in previous literature, which tends to limit discussions of land rights to administrative, civil, or domestic policy aspects. Thus, this study broadens the horizon of international legal studies by integrating land ownership rights into the discourse of international criminal law. In addition, this study presents a novel conceptual framework for understanding the phenomena of land grabbing and land rights violations. Until now, land grabbing has been understood more as an issue of economic development and agrarian conflict. The findings of this study confirm that such practices, when carried out systematically and extensively, have the potential to fulfill the elements of international crimes, particularly crimes against humanity. This novelty is essential because it opens up new interpretations of existing international legal instruments, especially the Rome Statute of the International Criminal Court.

From a scientific contribution perspective, this research enriches the literature by presenting a conceptual model that links land ownership rights with international criminal responsibility. This model is expected to form the basis for the development of international legal norms in the future, both through the creation of new instruments and the reinterpretation of existing instruments. Theoretically, this research strengthens the human rights-based approach discourse by emphasizing that land rights are fundamental rights and must be protected through criminal mechanisms. The practical contribution of this research is equally important. The results of the analysis can be used by international policymakers, international courts, and civil society organizations as arguments to promote reform of the international legal framework. With normative recommendations regarding the protection of landowners' rights, this research can help narrow the gap between the recognition of rights in international instruments and their actual implementation in the field.

Thus, the scientific novelty and contribution of this research lie in its ability to shift the paradigm of land rights protection from the domestic domain to the international domain with criminal consequences. This not only broadens the horizons of international legal theory but also has practical implications in strengthening global legal instruments to protect the rights of landowners in the era of globalization.

Conclusion

This study confirms that land rights are fundamental rights that have not received adequate protection within the framework of international law. Although international human rights instruments recognize property rights, the available norms are still fragmentary and do not provide sufficient guarantees, mainly when violations occur systematically and across national borders. The study's findings indicate that the practice of land grabbing has the potential to be categorized as a crime against humanity; however, to date, there remains a lack of clear interpretation and enforcement mechanisms.

Reflection on these findings underscores the need to develop a new normative framework that integrates land rights protection with international criminal accountability. In addition to broadening the academic horizon, this idea has practical implications for policymakers and international institutions in strengthening the accountability of states and

corporations. Thus, the contribution of this research lies not only in its conceptual proposal to strengthen international legal norms, but also in its efforts to narrow the gap between formal recognition and actual protection for landowners. Ultimately, this research creates space for an international legal reform agenda that is more equitable, responsive, and adaptable to global challenges in protecting the rights of landowners.

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