**CHAPTER 2**

**Resources Grabbing and Human Rights:**
**Building a Triangular Relationship Between States, Indigenous Peoples and Corporations**

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1 **Introduction**

In recent years, a large increase in land investments mainly in developing countries has led phrases such as ‘land grabbing’ and ‘land grab’ to enter the media lexicon.¹ While land grabbing is making the headlines, little focus is put on the wider notion of ‘resources grabbing’ taking place across the globe. Exploitation of natural resources is certainly not a new phenomenon, but it seems as though in the last few years the demand for raw materials and natural resources has risen.² The increased global demand for raw materials has led governments, corporations and investors to look for cheap resource-rich land. This global ‘resources grabbing’ is driven not only by the higher demand for natural resources but also by the increased marketization of natural resources. This results from a number of related phenomena including the globalisation of agricultural production, the strive for investment in energy and biofuel ventures, and recent demands for resources from newer hubs of global capital.³ Resources grabbing often negatively affects local populations, especially indigenous communities. Evidence is increasingly showing that instead of benefiting from the exploitation of natural resources, local indigenous communities may face forced eviction or degradation of their lands resulting in a dramatic loss of access to traditional livelihoods.⁴

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⁴ For illustrations and references, see: J. Mander and V. Tauli-Corpuz (eds), *Paradigm wars: indigenous peoples’ resistance to globalization* (Sierra Club Books, 2006) 261; Forest People
Control over natural resources is a highly controversial issue. Legally, natural resources can be said to belong to the State. Traditionally, under international law, ownership of and control over natural resources are attributes of State sovereignty; as such States exercise a nearly absolute control over the exploitation of natural resources. The assumption is that governments make the best use of natural resources for the good of their citizens. However, governments have a limited sense of accountability when it comes to the use they make of their natural resources, and whether or not this benefits their citizens. The “resource curse” which denotes the paradox under which countries rich in raw natural resources have a tendency to be economically less developed than countries with less natural resources is an illustration of the lack of benefit to local communities. Likewise, and while so-called community engagement initiatives are becoming more commonplace, there is generally a lack of accountability of multinational corporations, particularly of the extractive sector, when it comes to their impacts on local communities. In this context, international human rights law and recent soft law developments in the field of business and human rights could play a positive role in the way natural resources are used and exploited by providing a more peoples’ rights-centred approach to development, as well as some form of accountability with regard to the way corporations are operating.

The present chapter examines the extent to which international human rights law and soft law standards on business and human rights may influence the way natural resources are exploited, and notably how the rights of local communities could be better protected in that context. The first section of the chapter explores how the issue of ownership of natural resources has been approached under international law. The main question here is whether it is a State right or a right of the peoples. Permanent sovereignty over natural resources is defined both as a State and peoples’ right, turning it into a multifaceted and even ambiguous legal concept. Building upon this discussion, the second section focuses on recent developments regarding indigenous

