

1. Introduction

“How can we convince more companies to follow international voluntary principles on large scale land-based investments? We have these guidelines in place. Now we have to make a business case for their implementation.” (participant at the 2018 Annual Land and Poverty Conference of the World Bank)

“There was no consultation; there was no transparency, no accountability. They just did this because they have the political power or influence. They did it with force. [...] According to the protocols, you have to consult the family. We have to call family meetings and do other things, consult our elders, consult those who are outside.” (customary landowner in Sierra Leone describing a foreign investor leasing land)

“Nobody explained the content of the documents. And, you know, most of us were farmers. We don’t know legal terms” (member of a cooperative in the Philippines, which entered into a contract growing agreement with a foreign investor)

The three quotations exemplify different experiences I made during the research for this dissertation¹ on large-scale land deals. The first citation was a comment one participant made during a panel discussion at the 2018 Annual Land and Poverty Conference of the World Bank. It represents ongoing debates about creating international regulatory frameworks for companies investing in farmland in developing countries. These debates were the starting point for my research endeavor, which asks for the relevance of legal provisions for local populations affected by large-scale land deals. The idea voiced by the panel member at the Conference reflects a market-based approach, which assumes that companies will voluntarily follow best practices and consult with affected communities.

This idea contrasted with my experiences during fieldwork in Sierra Leone, reflected in the second quotation. I was sitting with customary

1 This dissertation was part of the research project “F07 Local orders under threat from land grabbing – Global civil society and international law as curse or blessing?” of the Collaborative Research Center 923 “Threatened Order – Societies under Stress” funded by the DFG (Deutsche Forschungsgemeinschaft).

1. Introduction

landowners who had not been consulted by an investing company. While the investor did not follow international best practices, they did follow national law, which does however not protect customary land rights. Local landowners were frustrated and their mobilization attempts remained futile. Neither international soft law instruments nor national law did protect their land rights.

Yet, legal provisions do not automatically lead to a positive outcome for local farmers, as my third experience from the Philippines showed (as represented by the third quotation). I met with members of cooperatives, who had entered into a contract-growing-agreement with an investor in palm oil. The investment project had put the economic risk on the cooperatives' members, who only realized the detrimental effects once they were highly indebted. Administrative rules, meant to protect the interests of small-scale farmers, had not been implemented. Furthermore, as the quotation shows, cooperatives had not received any legal help and therefore did not fully understand the contract as well as possible risks involved in the project.

All three quotations present a different view on the regulation of foreign investments in agriculture. Foreign large-scale land investments have been on the rise globally since 2007/2008 and have received considerable attention from civil society organizations (GRAIN 2008), international organizations (Deininger/Byerlee 2011) as well as academics (Cotula 2013; Borras/Franco 2012). Critics often refer to the deals as 'land grabbing' and point out numerous detrimental effects for local communities. Proponents of these investments and host governments emphasize the potential for job creation and economic development (Braun/Meinzen-Dick 2009). However, both sides agree that lease agreements have to be set up in a fair and legal manner to benefit local communities, who usually give up one central element of their daily livelihoods – land. Despite this agreement, there are broadly speaking two approaches to regulation: A market-based approach, which focuses on voluntary principles and self-commitments of companies on the one hand; and a rights-based approach, which demands binding and enforceable regulation, on the other hand. Most of this debate follows ideological or normative assumptions. What is so far missing is systematic empirical evidence and a conceptualization of how local actors use voluntary principles or hard law when faced with foreign investors.

The dissertation addresses these gaps by developing its own framework and applying it to empirical cases from Sierra Leone and the Philippines. In doing so, the dissertation makes a more fine-grained but theoretically and empirically grounded, three-fold argument: First, legal instruments in

themselves do not change the situation of local actors, who need support networks to access and make use of them. Second, voluntary market-oriented instruments can help local actors in settings in which companies are receptive to these demands. Third, binding laws as suggested by rights-based approaches should be preferred, as they do not rely on the receptivity of the company. In consequence, the findings of this dissertation underline the need for a human right to land in addition to providing legal support to local communities.

In this chapter, I will first introduce the research question and relevant basic concepts of my dissertation (chap 1.1), before I will give a brief overview of the research program with its theoretical framework and empirical analysis (chap 1.2). I will then discuss the academic and practical relevance of the study (chap 1.3) before outlining the structure of this thesis (chap 1.4).

1.1 *Research question and scope of the study*

Research on large-scale land deals has been extensive since these deals were first described as a global phenomenon and termed ‘land grabbing’ by a Spanish NGO in 2008 (GRAIN 2008). The Land Matrix, a database which collects global data on these deals, defines large-scale land deals² as a “transfer of rights to use, control or own land through sale, lease or concession” (Anseeuw et al. 2012: 48) of at least 200 hectares from local communities to foreign investors (which can include joint ventures with national companies). In the dissertation, I use this definition, which excludes purely national or local land deals or cases of state expropriation. The land deals can include a variety of business models from large plantations to out-grower schemes (Hall 2011). I explicitly include contract-growing models, which are often introduced in combination with leases. While contract-farming systems are frequently presented as viable alternative to large-scale lease contracts (FAO 22/06/2010), they often contain considerable corporate control over the land as well (Vellema 1999).

Many large-scale land deals are accompanied by considerable land-use change: from small-scale agriculture for local markets to large-scale indus-

2 I vary the terms used throughout the dissertations such as large-scale foreign investments in land, land investment deals, large-scale land based investments, large-scale land agreements or simply land deals. I use all those terms in line with the definition of large-scale land deals introduced here.

trialized production for the world market (Borras/Franco 2012). Estimates on the total area affected range between 26.7 (Nolte et al. 2016: vi) and 30 million hectares (GRAIN 2016: 4) globally, including all foreign investment deals since 2000. It seems that for the moment, the pace of closing new large-scale land agreements has slowed down. However, it is now that many of these investments have become operational, which is a crucial moment for affected communities (Nolte et al. 2016: 12–14).

Apart from describing ongoing trends (White et al. 2012; Hall 2011; Anseeuw et al. 2012), the literature on large-scale land deals has focused on explaining the ‘land rush’ (Akram-Lodhi 2012; Cotula 2012) and analyzed its oftentimes negative impacts (Schoneveld 2017; Kress 2012; Oya 2013b). The two main problems identified are lacking community participation in closing the land investment deals (Vermeulen/Cotula 2010) and insufficient benefits, which cannot make up for the loss of land (Schoneveld 2017).

Responses to large-scale land deals can be observed among local populations as well as on the global level. One research strand focuses on ‘reactions from below’ (Hall et al. 2015) including a number of case studies focusing on resistance against, or for better incorporation in, land investment deals (Gingembre 2015; Grajales 2015; McAllister 2015). Another research strand looks at ‘reaction from above’ (Margulis et al. 2013) and critically discusses different global governance initiatives to regulate foreign large-scale land investments (Seufert 2013; Stephens 2013; Johnson 2016).

The dissertation builds on this existing research but goes one step further in linking the ‘reactions from above’ with the ‘reactions from below’ in asking how local actors can actually make use of such instruments. It therefore contributes to closing the following research gap:

“It is of great interest to study how international frameworks trickle down to local policy arenas, how they are used by stakeholders, and how they are finally shaping conflicts at the local level and affecting their results.” (Brüntrup et al. 2014: 433)

Essentially gaining a better understanding of how legal frameworks suggested on the global level can have an effect locally is one good reason for focusing on legal aspects in local reactions to large-scale land deals. Another reason is the inherent legal nature of large-scale land deals. Current large-scale land deals are usually based on contracts, often in the form of lease agreements. Large-scale land deals are therefore an inherently legal process and are shaped by the surrounding legal framework (Cotula 2011).

To get a closer understanding of how affected communities use legal instruments, I use the concept of legal mobilization, which is defined on a very basic level as “[...] the act of invoking legal norms to regulate behavior” (Zemans 1983: 700) – in the case of my dissertation the behavior of investing companies. Primarily, I am interested in how local actors can successfully use legal mobilization to get better deals or change company behavior. Consequently, my research question for this dissertation is: *Under which conditions can local actors successfully pursue their goals through legal mobilization?*

I will elaborate further on the research question before I give an outlook over the research program.

First, the research question zooms in on *local actors* and their actions. It focuses on those actors who do become active and make demands vis-à-vis an investor. I specifically focus on smallholder farmers who are directly affected by a large-scale land deal through entering into a contract with a company or through losing their land involuntarily. These actors can vary considerably from case to case: a whole community, a local chief, chiefdom elites, local civil society organizations, women, or youth groups. As I do not want to predetermine this group, I will speak of local actors, local communities or simply smallholders³. Furthermore, many affected communities are far from homogenous, and different groups within an investment area might have varying demands vis-à-vis an outside investor (Gilfoy 2015; Larder 2015; Borrás/Franco 2013). I will only specify the term local actor in each empirical case. In this way, it is also possible to broach the issue of excluded or marginalized local groups and to discuss conflicts within the communities. Even though my starting point are local actors, this does not mean that other actors such as NGOs, lawyers, government officials, national elites and international civil society do not play a role. On the contrary, outside actors play a decisive role in providing local communities with resources, expertise and alliances (Polack et al. 2013: 33–35). In this way, the analysis is not limited to the local level but follows the var-

3 It should be noted that my dissertation does not specifically discuss or investigate indigenous people rights, as this has been done elsewhere (Xanthaki 2007; Wiessner 2008; Prill-Brett 1994). This should in no way be regarded as a normative decision but rather follows pragmatic considerations: ‘Indigenous rights’ have been discussed in separation of ‘peasant rights’ on the international level and have received formal recognition in regards to their collective right to land (Sändig/Schramm 2016: 257).

ious legal measures in their respective use and origin throughout the levels.

The second term in need for further concretization is the concept of *legal mobilization*, which in its most general sense means ‘using the legal’. This can happen in three different ways (McCann 2004: 507): Calling on legal institutions such as courts, human rights commissions, ombudsman offices etc.; using legal representation through paralegals or lawyers; and making legal arguments drawing on a range of legal norms. In this dissertation, I will be looking for all three forms of legal mobilization, which often coincide.

It is important to note that I do not focus specifically on litigation, which is often at the center of studies on legal mobilization (McCammon/McGrath 2015). Instead, I am interested in the many ways in which legal arguments are employed outside the courtrooms. Calling on legal institutions or following a litigation strategy are far-reaching instruments. Social actors might not be able to use them due to a lack of resources. At the same time, they might not want to aim for litigation right away, because a good relationship with the other side is more important. In consequence, “[c]itizens routinely mobilize legal strategies for negotiating exchanges and resolving disputes in many social settings without relying on direct official intervention” (McCann 1994: 8). In these contexts, having a lawyer can make a difference, especially when individuals face powerful actors such as transnational corporations. Legal representation is often crucial for navigating through complicated and disempowering legal procedures as well as creating realistic expectations about what can be achieved (Gallagher/Yang 2017: 171). As will be discussed in the theoretical as well as empirical part of this dissertation, legal advice is highly relevant in large-scale land deals in which local actors, who often miss a formal education, have to negotiate with transnational corporations.

Apart from legal representation, the use of legal arguments is probably the most widespread form of legal mobilization, even though it is not often explicitly studied as such. Legal arguments are not only formulated in courts but during advocacy campaigns (Hertel 2015), in the media (Gianella 2017) and in everyday lives (Ewick/Silbey 2007).

Following this broad view on legal mobilization, I employ a comprehensive understanding of ‘the legal’, which means “to refer to the meanings, sources of authority, and cultural practices that are commonly recognized as legal, regardless of who employs them or for what ends” (Ewick/Silbey 2007: 22). The term contains the concept of written law but goes beyond this narrow understanding to include references made to less formalized

rules. This approach enables an open and unbiased look on the empirical material and allows me to include references to customary law. This broad definition furthermore pays tribute to the great variety of initiatives found on the ground (Polack et al. 2013).

The third element of the research question in need of clarification is the *successful pursuit of goals* by local actors. I use the term goals, although I am aware that this might mean protecting fundamental rights. Yet, I do not want to make any presumptions about the kind of claims affected people make vis-à-vis a company. As existing research has highlighted, only some communities ask for a complete withdrawal of an investing company. In many cases, local actors aim for better terms of incorporation in the land deal (Borras/Franco 2013: 1735). In consequence, I identify respective goals as the demands made vis-à-vis the company by local actors. Essentially, successfully pursuing their goals means that local actors have their demands met by investing corporations. In this view, the abandonment of an investment project might not be considered a success, as this might not necessarily be what local actors wanted. In this way, partial success is possible, as the company might make some concessions, for example paying higher rental fees, while at the same time not giving in on other issue areas. What success means can only be specified in each case.

Apart from the elements, which are explicit in the research question, further considerations determine the scope of my study:

First, my research focuses on transnational companies and their local subsidiaries as the main interlocutor of local actors, even though government officials and national elites usually play a leading role in facilitating and signing a large-scale land deal (Keene et al. 2015). The latest research has additionally identified financial actors such as pension funds, investment or development banks as important players (Ouma 2014: 163). As these actors often provide pivotal funding for large-scale investments in land, they are able to exert considerable influence on the daily operations of the plantations (Millar 08/01/2016). In consequence, local groups target not only transnational corporations in their fight for their interests but also express demands towards these other actors. If these demands aim at influencing the setup of the investment, I will include them in the analysis. However, if requests are made towards the national government in a general way, for example, for land reform, these campaigns will not be considered further in the research. Essentially, the focus is on the relationship between the investing company signing the land deal and the affected local population.

Furthermore, my research is limited to large-scale land investments in ‘developing’ countries, which I define according to the ‘low’ and ‘lower middle’ income groups of the World Bank (World Bank 2018a). There are three reasons for this decision: First, data from the Land Matrix shows that developing countries are among the most targeted countries (Anseeuw et al. 2012: 10; Nolte et al. 2016: 19). According to my calculation⁴, 77 % of all large-scale land deals with the participation of a transnational investor take place in these countries. Second, the impacts large-scale land deals can potentially have positively or negatively are considerable in these countries. On the one hand, agriculture plays an important role in these economies, contributing 30,1 % to the GDP in low and 16,5 % to the GDP in lower middle income countries in 2016 (World Bank 2018b). Even more, the agricultural sector employs about 69 % of the workforce in low and 39 % of the workforce in lower middle income countries in 2017 (World Bank).

On the other hand, rural areas in developing countries are extremely prone to poverty:

“Three of every four poor people in developing countries live in rural areas—2.1 billion living on less than \$2 a day and 880 million on less than \$1 a day—and most depend on agriculture for their livelihoods” (World Bank 2007: 1)

In consequence, growth in the agricultural sector is seen as a big chance in reducing poverty and creating economic growth for the poorest (World Bank 2007). In these contexts, large-scale land deals could have positive but also extremely negative impacts, including increasing poverty and food insecurity (Nolte et al. 2016: 19). Third, it is often in low and lower middle income countries that the legal system and state capacities to protect tenure rights and regulate large-scale land investments is the weakest (Deininger/Byerlee 2011: 97). The role of international regulation could therefore be potentially higher.

Apart from my focus on developing countries, I further limit my research to foreign investment in land agriculture. I exclude land transac-

4 For the purpose of the calculation, I coded all countries according to their income category as defined by the World Bank (as categorized in June 2017). I differentiated the land deals into ‘transnational’ land deals, which had at least one foreign investor involved, and ‘domestic’ deals in which investors came from the very same country. All own calculations in this dissertation are based on the complete Land Matrix dataset downloaded on 12/06/2018.

tions and expulsions for the purpose of mining (Sibaud 2012), tourism (Cohen 2011) or conservation (Fairhead et al. 2012). There are two reasons for this decision: First, underlying mechanisms for investment in these sectors are different. The state wholly owns sub-soil minerals in most countries and mining is usually regulated in specific legislation. Agricultural land, on the other hand, is owned by individuals, families and communities, whether through formal or informal tenure rights (FAO 2002: 11). Even in cases where land is state-owned, local communities usually have more or less formalized use rights. Second, most of the debate around large-scale land deals and new attempts of global regulation took place in the context of investments in agriculture, making it a relevant research endeavor in itself. However, this does not mean that insights from this research are not applicable to other types of investment.

One last limitation of my research is the focus on issues arising directly around the land transfer itself: Who leased or planned to lease whose land for which amount of rent and is this contested? I exclude other issues such as social responsibility commitments, environmental problems, or labor rights issues, even though they frequently arise during the operation of large-scale agricultural investments. During my research interviewees repeatedly raised concerns around recruitment and labor conditions; however, it is merely beyond the scope of this thesis to analyze all these issues at the same time. Labor and environmental issues are covered by different national and international regulation than land tenure issues, making it extremely difficult to study all relevant legislation. While I might mention some of these issues in the case studies of individual land deals, the overall focus is clearly on the land transfer and the underlying regulation in regards to decision-making and land tenure.

Summarizing these points, an extended version of my research question would be: *Under which conditions can local actors successfully pursue their goals, linked to decision-making processes around land deals, vis-à-vis transnational companies, through legal mobilization in cases of large-scale agricultural land investments in developing countries?*

Before I continue with describing the research program of this study, a note on terminology: The literature often uses the term ‘land grabbing’ to describe the same phenomena as I do. The term was initially coined by the Spanish NGO GRAIN, who used it to describe the surge in large-scale land deals since the beginning of the 2000s (GRAIN 2008). While prominent researchers in the ‘land grabbing’ literature acknowledge the political connotation of the term, they argue that the term ‘large-scale land invest-

1. Introduction

ments' is even more problematic as it suggests these investments as "solution to rural poverty" and "ethical 'win-win' outcomes" (Borras/Franco 2012: 35). This picture of land deals as something potentially beneficial for local populations is strictly denied by these researchers and activists who argue that large-scale land-based investments are never benefiting the local population but are rather a tool "to further capital accumulation for the insatiable corporate hunger for profits" (Borras et al. 2013: 171).

Other researchers have, however, pointed out that existing evidence is not enough to support these sweeping claims: Case studies trying to determine the socio-economic consequences of large-scale land investments often lack reliable baseline data (Oya 2013a: 512). And cumulative oriented studies, which look at socio-economic impacts of these deals beyond the individual case, are largely missing (Cotula et al. 2014: 905). This missing evidence is one of the reasons why I use the term 'large-scale land deals' instead of land grabbing in this dissertation, even though I do not assume that large-scale land deals are necessarily beneficial for local populations either. However, I do believe that if local actors are able to protect their interests and get a fair deal, large-scale land deals can be socio-economically beneficial. According to this assumption, land deals that are only profitable under exploitative circumstances (for example, through paying extremely low rents), would not even materialize (Li 2011: 284).

1.2 Research program and findings

In my research question, I ask for the *conditions* for the successful use of legal mobilization vis-à-vis investors. By doing so, I follow a configurational approach, in which different conditions can be combined in various ways to explain a particular outcome (Blatter/Haverland 2012: 80). While I do assume that it is possible to identify regularities and causal mechanisms, I believe that the context and the combination of factors play a significant role in explaining a social outcome. My theoretical framework conceptualizes core conditions, which will help me to analyze my empirical material systematically. My empirical analysis will furthermore be open enough to allow for the identification of additional conditions.

I derive the building blocks for my analytical framework from three different theoretical perspectives applied to the basic situation: Local actors and investing companies find themselves in a bargaining situation, which is structured by the legal framework in a country. A *legal perspective* is the most obvious one and focuses on how different legal opportunity struc-

tures will lead to different outcomes. A *social mobilization* perspective looks at social dynamics, which might enable or impede local actors to access the legal opportunity structure. Missing knowledge and missing resources are major challenges, which can be overcome with a strong support network. A *business management* perspective zooms in on the company and asks how managers determine who is an important stakeholder worth responding too. These three perspectives lead to three conditions: The *favorability of the national legal opportunity structure*, the *strength of the support network* and the *receptivity of the company*.

The three conditions guide my empirical analysis, which focuses on two countries with different national legal opportunity structures: Sierra Leone and the Philippines. I choose two cases of large-scale land deals in each country. In these cases, I identify legal mobilization attempts that are analyzed using causal process tracing. I thereby focus on the role of the support network and the receptivity of the company. The findings from the case studies are then compared within each country and across countries.

My findings underline the following relationship between the three conditions: If the national legal opportunity structure is favorable and locals have a strong enough support network, they should be able to reach their goals through legal mobilization. If the national legal opportunity structure is unfavorable and the support network is strong, it depends on the receptivity of the company if legal mobilization can be successful. Furthermore, two additional conditions are discussed: the inhibiting role local and national political elites and missing unity among local actors. I subsequently suggest conceptualizing the situation of large-scale land deals as extended bargaining situations, which has to take into account multi-level and multi-actor bargaining.

Overall, the thesis provides an analytical framework that is illustrated and refined through empirical research. The framework is applicable in other contexts of company-community relationships beyond foreign investment in agriculture and therefore provides a useful tool for further research. The empirical work offers not only rich case studies but also a systematic and comparative view on the research question of how local actors can successfully use legal mobilization in large-scale land deals. Through this interaction of theory and empirics, my dissertation contributes to different strands of academic literature as well as ongoing policy debates.

1. Introduction

1.3 Contributions to academic literature and policy debates

The starting point of this dissertation is the literature on large-scale land deals and the discussion about possibilities of legal reform and international regulation in creating beneficial outcomes for local populations (Margulis et al. 2013; German et al. 2013; Borrás et al. 2013; Brüntrup et al. 2014; Johnson 2016; Narula 2013; Polack et al. 2013). As the literature review in chapter 2 will show, there is considerable debate about whether national legal reform and international soft-law instruments can bring about meaningful change for local actors affected by large-scale land deals. Existing empirical research shows that even when there are national laws in place, they do not automatically generate better conditions for local communities (German et al. 2013). Furthermore, there is considerable doubt that international public or private soft law regulations have any benefit as they do not contain any real accountability mechanism (Johnson 2016). At the same time, case studies show that local actors undertake efforts to protect and claim their rights through local and national authorities but also by appealing to international certification schemes (Polack et al. 2013).

My dissertation contributes significantly to this literature in three ways: First, it provides a ‘bottom-up’ legal perspective. Instead of viewing national laws or international regulations from a purely ‘top-down’ view, I argue that rights, rules and laws have to be claimed and applied locally. The concept of legal mobilization mirrors this approach. Second, I develop a theoretical framework that helps me to understand under which conditions legal mobilization attempts of local actors are likely to be successful. My research thereby provides a comprehensive picture of the possibilities and limits of national and international law in this field. Third, the empirical case studies provide further insights into causal mechanisms, differences, and commonalities between cases in two different countries. They also raise questions for future research, which will be discussed in the conclusion.

Apart from the research on large-scale land deals, the dissertation contributes to legal mobilization approaches and law and development research (Jacquot/Vitale 2014; McCann 1994; Vanhala 2012; Zemans 1983; McCammon/McGrath 2015). My conceptualization of the legal opportunity structure can map the options of local actors comprehensively. I thereby show how a weak national legal opportunity structure makes international law regulations all the more necessary. This conceptualization can be used in research regarding other legal issues. Furthermore, I understand the

concept of legal mobilization in a broad way, clearly going beyond litigation to include calling on institutions and administrations, legal claims in advocacy and legal representation. I thereby follow calls “that the study of legal mobilization should include not only impact litigation but also the use of law in lobbying, policymaking, and implementation, as well as other types of advocacy work that activists pursue” (Boutcher/Chua 2018: 5). Understanding legal broadly helps to open up the view for the influence of law in many social settings and especially in activism vis-à-vis foreign investors. This perspective helps to make the concept of legal mobilization usable in settings where litigation is more complicated or unlikely and thereby opens the idea to non-Western countries⁵. So far, most of the studies on legal mobilization have focused on the United States (Boutcher/Chua 2018: 8) and other “liberal democracies in industrialized countries” (Lemaitre/Sandvik 2015: 7). There is therefore a need to decenter the study of legal mobilization to include the Global South (Lemaitre/Sandvik 2015: 8). This dissertation does so through providing a framework that is flexible enough to work in many different contexts and by providing empirical case studies from developing countries, with a less well functioning administrative and judicial system than many Western democracies.

Through focusing on Sierra Leone and the Philippines, my findings furthermore add to the law and development field, which asks about the relationship between the two concepts (Moerloose 2017). In many cases, investment in agriculture is regarded as a way to promote rural development; however, one can find a “frequent disconnection between the law, broadly understood, and its development objectives” (Moerloose 2017: 185). My findings underline the need for better national laws and regulations while not denying the difficulties that exist in their implementation.

Apart from legal studies, my dissertation also provides new perspectives for the social mobilization and business management literature. While the legal mobilization literature was largely inspired by research on social movements (Hilson 2002; McCann 1994), the social mobilization literature has not dealt with the role of law in a more general way. In this regard, my dissertation provides a new perspective: Through the lens of a broad legal mobilization concept, the role of the law for local activism becomes visible. The focus is thereby not on broader social movements for societal change (even though activism often links to broader movements)

5 However, this does not mean that there is no court litigation in developing countries, litigation in cases involving social and economic rights have been on the rise in these countries (Gauri/Gloppen 2012: 497).

but instead on particular local demands raised by affected smallholders. The research thereby resembles the idea of 'rightful resistance', which describes a middle ground of social mobilization:

"It [is] neither as institutionalized as most political participation nor as uninstitutionalized as the 'politics by other means' that social movement scholars usually studied. The contention we were hearing and reading about was more noisy, public, open and consequential than James Scott's (1985) 'everyday forms of resistance', yet still fell short of rebellion or revolution" (O'Brien/Li 2008: xii)

The concept of 'rightful resistance' was developed using these observations from rural China but helps grasp actions undertaken by local actors in my case studies. In consequence, my empirical research mostly fits this middle ground, which has not received that much explicit attention by social mobilization research yet.

When it comes to the business management literature, my dissertation fits in with trends to connect social mobilization and business management approaches in explaining successful outcomes of activism vis-à-vis companies (King 2007; Waldron et al. 2013). My research does not only add empirical examples from the Global South but also links this activism with the existing legal contexts in which firms operate. I argue that the legal structure not only provides opportunities for claims-making but also influences how companies react. In this way, my thesis also contributes to ongoing debates about corporate social responsibility (CSR) and, more specifically, the element of corporate accountability (Garvey/Newell 2005). It provides theoretical and empirical considerations of how local actors try to hold companies accountable.

Apart from the academic literature, my research contributes to policy debates as well.

The first and most obvious contribution is the debate about international regulation of large-scale land deals. As described, legal reforms and new regulations on land tenure and foreign investment in land are regarded as an important tool in the fight against land grabbing. Consequently, the question under which conditions local communities might successfully use legal means is of high practical importance. International organizations, especially the FAO, non-governmental organizations and development agencies allocate resources to implement new guidelines and to train local authorities and communities. To get a systematic view on chances and challenges for local communities in using legal measures can be useful

for civil society actors and policy makers alike. At the same time, it seems essential to have realistic expectations on how far legal reform in itself leads to change.

More concretely, my findings point to the importance of binding legal instruments, which provide local smallholders with an effective veto right. This underlines the need for a right to land, which needs to be interpreted through the lens of free, prior and informed consent (FPIC) if it is supposed to be effective. I thereby support long-standing demands by civil society actors (Brot für die Welt 2018), who routinely claim FPIC for local smallholders in advocacy campaigns around large-scale land deals.

In addition, my findings show the importance of legal support for local actors and therefore provide further evidence for legal empowerment projects. This fits with ongoing international efforts to promote legal empowerment as a critical element of development (Commission on Legal Empowerment of the Poor 2008) and a growing number of civil society initiatives in this field (Goodwin/Maru 2017). My findings show that it would be beneficial if actors who provide legal support also have competences in creating inner-group consensus to deal with the multiple voices within affected communities. Finally, my findings concerning the role of local and national elites point to the issue of corruption, which needs to be dealt with in the context of large-scale land deals, but is, of course, a much larger problem (De Schutter et al. 2016).

1.4 Outline of chapters

The dissertation will proceed as follows:

Chapter 2 provides the background of the issue of regulating large-scale land deals and concretizes the existing research gap. I will go into detail into the phenomenon of large-scale land deals in developing countries since the early 2000s, and discuss international responses, which focused on creating new regulations. I will discuss different opinions about the usefulness of new regulation for affected communities and show that existing research is not conclusive in this regard.

Chapter 3 introduces the analytical framework, which will help me to answer my research question under which conditions local actors will be able to achieve their goals vis-à-vis investing companies through legal mobilization. My framework uses a basic bargaining model in combination with three theoretical perspectives to derive three core conditions. Follow-

1. Introduction

ing a configurational approach, I formulate logical relationships between the conditions.

Chapter 4 discusses my research design, which is based on a qualitative small N case study approach, comparing two cases of large-scale land deals in two different countries: Sierra Leone and the Philippines. Apart from discussing the methods used for analysis and my case selection, this chapter also describes my field visits, conducting of interviews and other data sources used.

Chapter 5 and 6 contain the analysis of Sierra Leone and the Philippines. Both analytical chapter follow the same structure through providing some country specific background and analyzing the national legal opportunity structure first. Legal mobilization attempts are then analyzed in two cases of large-scale land deals, before they are compared within the country.

Chapter 7 goes on to compare findings from Sierra Leona and Philippines. Country-specific differences but also similarities will become clear. On an abstract level I will use my findings to specify and extend my analytical framework, which can be used in future research on company-community relations.

Chapter 8 finally summarizes my research, discusses implications for the existing debates and reflects limits and further research desiderata.