

Large-scale Farmland Investments: blessing or curse?

International initiatives in a bid to prevent excesses in large-scale farmland acquisitions



Marjolein Selten – 4071921

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Faculty Management Sciences

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Supervisor: Marcel Rutten

Preface

This bachelor thesis is the result of a study carried out as part of the education Human Geography. The overall topic of the research was “Land Grab”, but more specifically, I immersed myself in the instruments that have been provided by intergovernmental organizations in order to structure the large-scale acquisition of farmland and took a closer look to what position these take in this discussion. This is supplemented with two case studies, on the basis of the guidelines I have examined to what extent these guidelines would allow the presence of two already established large-scale Agricultural companies.

The choice for this research topic stems from the background that I have with Rural Development from my previous education. In particular I am interested in agriculture and food flows. I really enjoyed studying this topic, and the further I made progress, the more interesting it became. It was very interesting to experience the way researchers and international agencies see the role of agriculture in developing countries and to take a closer look how this elaborates on the local scale, the practical application.

Finally, I should like to thank all those who have contributed to my research. First of all, I would like to thank my supervisor, Marcel Rutten for his constructive criticism. Second, I am grateful to Mr. Frits van der Wal, employee of the Dutch Ministry of Foreign Affairs and member of the EU Working Group on Land Issues, for his willing to spend time answering some questions posed during an interview.

Nijmegen, 10 October 2011

Marjolein Selten

List of abbreviations

AU – African Union

AUC – African Union Commission

AfDB – African Development Bank

CAADP – the Comprehensive Africa Agriculture Development Programme

CPR's – Common Pool Resources

CSR – Corporate Social Responsibility

EU – European Union

ECA – Economic Commission for Africa

EUWGL – EU Working Group on Land Issues

FAO – Food and Agriculture Organisation of the United Nations

FIAN International – FoodFirst Information and Action Network

FDI – Foreign Direct Investment

HLPE – High Level Panel of Experts

IFAD - the International Fund For Agricultural Development

ILC – International Land Coalition

LRAN – Land Research Action Network

MDG's – Millennium Development Goals

NEPAD – the New Partnership for Africa's Development

OI – Oakland Institute

PRSP – Poverty Reduction Strategy Paper

RAI – Responsible Agricultural Investment

SMNE – the Solidarity Movement for a New Ethiopia

SSA – Sub Saharan Africa

UNECA – United Nations Economic Commission for Africa

UNCTAD - United Nations Conference on Trade and Development

WB – World Bank

Summary

Fears over future food and fuel shortages have led in recent years to the emergence of a new phenomenon: “land grabbing”. Within the group of those seeking for land, one can make a clear distinction between 1) governments searching for food security for their inhabitants and 2) (private) investors who see land as a new source of revenue. Which in fact led to the “commodification of farmland”. Developing countries are welcoming such investments. Although, there are mixed views whether such investments are beneficial to the countries where they occur. Poor rural people are often dependent on agriculture, livestock or forests for their livelihood.

Concerning the topic of the study, the debate revolves about two themes: on the one hand securing access to land for the poor, and on the other hand whether such deals can work for development. In terms of land tenure security we can distinguish two different approaches: a title-based approach and a rights-based approach. The first approach can be characterized as an economic market approach, whereas the second can be characterized as a socio-economic welfare approach. This second approach is most popular these days. It's proponents argue that the denial of customary lands as private property is the cause of insecurity, and thus a logic solution would be to legitimize customary tenure. A 'rights-based' approach is the starting point for most cooperation efforts to reduce poverty. Many tenure problems arise because of weak governance.

With regard to the second theme there are some different positions. For instance, Paul Collier encourages large-scale commercial farming as a way to get African agriculture moving. On the other hand there are some risks related to large-scale farming, which could be the creation of environmental problems and the loss of livelihoods for rural people. Nonetheless, advantages could be that it: may stimulate new farm and off-farm jobs, boost incomes of rural people, facilitate transfers of new technologies in production and processing, increase production of food crops, build up infrastructure and improve access to basic services. Nonetheless the loss of livelihoods should weigh heavy in this debate.

In response to this growing and widespread interest in farmland, international organisations came up with instruments or guidelines in a bid to prevent excesses. These guidelines have formed the threat for this research.

- *The EU Land Policy Guidelines* (2004)
- the *Framework and Guidelines on Land Policy in Africa*, initiated by the AU, AfDB and UNECA (2009)
- the *Principles for Responsible Agricultural Investment (or Code of Conduct)*, drafted commonly by UNCTAD, FAO, IFAD and the World Bank (2011);
- *The Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources*, prepared by FAO in partnership with UN agencies, member countries, civil society and private sector representatives (in progress)

These guidelines are in fact meant as a framework for discussion. The policy guidelines are explicitly meant to contribute to the implementation of suitable land law in developing countries, while the

Code of Conduct investors in land as their target group as well. Nonetheless, the Code of Conduct also provides a framework for discussion for governments.

The study aimed to establish *“How various newly proposed guidelines distinguish from each other and how these rules would assess the establishment of two specific large-scale agricultural companies in a particular African environment”*.

I will remark that instead of two large specific large-scale agricultural companies, one of them is actually a project, that comprises a number of plantations together in the Omo region, Ethiopia. The other company that has received particular attention is the Dominion Farms Ltd., situated in Kenya.

Each of the policy guidelines provides a very comprehensive ‘checklist’ – that describes:

- 1) numerous basic aspects related to land policy
- 2) how to approach land policy development, and
- 3) how to implement land policies.

These policy guidelines are very much human-centered instruments. They all recognize that secure access to land and other natural resources and secure tenure and use rights are key to increase food security and to enhance sustainable rural development. And land governance is key in this. Nonetheless, each of them has its own specificities. The EU guidelines are very much related to development assistance, the guidelines for Africa are directed towards Africa-specific land questions and the guidelines of the FAO are universal, and can be considered more or less as the basis. However the manner these are implemented and the required actions depends largely on the situation.

What distinguishes these guidelines from the principles for Responsible Agricultural Investment is that the latter are directed towards potential agricultural companies, in order to support corporate social responsible business. Even though these have received a lot of critics, mainly from civil society organisations and researchers, it is not very likely that the tide will turn. In the end, more transparency and negotiations are necessary around these land deals as well as securing the indigenous populations. Above all, poor rural people must be able to participate in policy formulation to ensure that their needs and rights are adequately addressed and protected.

Additionally, an actual examination on the ground had shown out the impacts of the presence of large-scale commercial farming for the livelihoods of indigenous people. Concerning the case of Dominion Farms Ltd. a preceding research of Kinaro (2008) demonstrated that the majority of the people had experienced negative effects from the coming of the company, while there is also evidence that 39 per cent believes the company has contributed to their way of living. It seems that the company is taking responsibility for the community through the initiation of several community projects, but this is still on the course. It will also take some time for the traditional residents to adjust to such major changes.

However, the Sugar Plantation Project in Ethiopia seems to be a much more disputable project. It is clear that there was a lack of consultation of civil society and environmental groups, which has resulted into conflicts of interest between the Ethiopian government and the population and environmental groups, which is an ensuring controversy.

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Chapter 1: Introduction

1.1 Introduction

Since the United Nations (UN) Conference on the Environment and Development (known as UNCED) took place in Rio in 1992, issues of land have gained considerable attention on the international agenda (FAO, 2002). Land plays a vital role in achieving sustainable rural development, because it is such an important part for the subsistence of most rural livelihoods in developing countries. Secure access to land emerged as a prerequisite for poverty reduction, food security and sustainable natural resource management (UNECA, 2003).

Within debates of land tenure two different orientations can be distinguished: one that tends to regard land primarily as an economic asset and another one that rather takes a human rights orientation based around food and shelter security (Assies, 2009). This first approach towards land tenure was more popular in earlier times. A renewed attention on issues of land reform emerged by the end of the 1980s with a broadly shared belief that land law and policy reforms may help to improve the functioning of land markets and enhance their poverty-reduction effects (Mikos, 2004).

Since that time, large sums of money have been spent on the granting of property titles and the setting up of modern land registries (Zoomers and van der Haar, 2000), as a means to achieve development (Assies, 2009). However, already in the 1960s, several developing countries were engaged in processes of land reform in order to pursue market liberalisation, poverty alleviation and food security, democracy and decentralisation and sustainable management of land and land-based resources (Lindsay in World Bank, 2011).

What is at stake at this very moment is the rush for farmland due to the food and financial crisis that occurred in 2007/2008. This rush for land, frequently mentioned as “Land grab” generally refers to large-scale, cross-border land deals or transactions that are carried out by transnational corporations or initiated by foreign governments in order to ensure food production and for the production of biofuel (Zoomers, 2010). However, land grabbing does not only involve foreign deals. Offshore food production is not a new phenomenon. What is new are the number and diversity of the parties involved and the large scale of land acquisitions. Within the group of those seeking for land, one can make a clear distinction between 1) governments searching for food security for their inhabitants and 2) (private) investors who see land as a new source of revenue through speculation. Finally, the production of biofuels also demands large tracts of fertile farmland. As a result either directly through the use of grains or other food products for biofuel the price of food will increase or indirectly as a result of competition over land raising land and finally food prices. This will mostly affect the (urban) poor who spend most of their income on food.

Other factors advancing these large-scale investments in farmland are: the continuing world population growth, urbanisation and changing food patterns in the new economic superpowers, especially China (more meat demanding more animal feed to be grown) (Blok, Kruse, 2010). In fact, the rise in land acquisitions originates from three main drivers, also termed ‘the triple F crisis’: Food, Fuel and Finance (future-agricultures.org, 2011). Most lands are being allocated on the basis of lease, not sale, but in fact it has the same impact on the customary users (Wily, 2010).

The growing number of actors interested in agricultural land, leads to the commoditisation of land and other natural resources (Brenner and Theodore, 2007 in Zoomers, 2010). Particularly countries in Africa are targeted for these large-scale investments in farmland but there are also investments in South-East Asia and South America (Hallam, 2009). And many African countries are welcoming these offers of fresh foreign investments (Grain, 2008), on the premise that it will lead to more employment and economic development (Friends of the Earth, 2010). However, these pressures could threaten the land and tenure security – hence the food security and livelihoods – of poor rural people. Risks could for example be: forced displacement without appropriate compensation, violation of health and safety standards, or immoral wages (EUWGL, 2011). There are mixed views whether such investments are beneficial to target countries. In general, mostly civil society organisations and peasants are concerned about these deals, while, for example, the World Bank welcomes increasing investment activities in developing countries to stimulate the economy (Gerstter, Kaphengst, Knoblauch and Timeus, 2011) Although, these deals have received a lot of media attention, but there are little empirical findings whether such investments create opportunities or threats for the target countries (Shete, 2011) .

Given rising pressures on land in many developing countries, several international organisations are currently very actively engaged in the debate and aim to regulate these large-scale land acquisitions. One the one hand by drafting guidelines either to support national governments of developing countries to improve land governance (EU, FAO and AU) and to other to streamline these large-scale investments in farmland by means of the principles on Responsible Agricultural Investments (RAI principles) (commonly drafted by the World Bank, UNCTAD, FAO and IFAD). Both the policy guidelines as well as the RAI principles evolved in order to counteract the potential negative impacts from large-scale farming investments. And it is precisely these guidelines that have formed the occasion for this research.

1.2 Research objective

It is obvious that the current large-scale land acquisition receives a lot of attention. The prior mentioned challenges gave rise to international initiatives for land and resource governance and the principles for responsible agricultural investment. In the following I will take a more closer look to the endeavours to prevent excesses, or “land grabs”. The focus will be on the utility of each of these instruments. Most of these guidelines are in fact meant as a framework for discussion and this research report aims to contribute to that discussion. The emphasis of this research will be on the following guidelines:

- *The EU Land Policy Guidelines* (2004);
- the *Framework and Guidelines on Land Policy in Africa*, initiated by the AU, AfDB and UNECA (2009);
- the *Principles for Responsible Agricultural Investment*, drafted commonly by UNCTAD, FAO, IFAD and the World Bank (2011);
- *The Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources*, prepared by FAO in partnership with UN agencies, member countries, civil society and private sector representatives (in progress).

Since these guidelines are just recently accomplished, it would be interesting to put together and compare these different viewpoints regarding land tenure and governance and assess their possible impact on a local level. Due to the novelty of these guidelines it is not yet possible to analyse to what extent these guidelines have influenced land policy on a national level, and probably national land policies are not yet adjusted towards recommendations stemming from the guidelines. This novelty of the guidelines is exemplified through the “draft” status the FAO guidelines for example had at the time of writing this report. Instead, I would like to apply the guidelines on two specific cases, precisely two large-scale agricultural companies, and examine to what extent these guidelines (or institutions) would agree with their establishment. Maybe this is not the actual purpose of the “policy guidelines” , however it will clearly show what position these institutions take in in this debate about the organisation of land tenure in developing countries and their vision for the future for agriculture in developing countries.

In this respect, this research can be more or less considered as examining a theory, whereby the guidelines will be analysed critically and applied on two specific case studies. The two case studies are located in Kenya and in Ethiopia. I will make an assessment of a large agricultural company in Kenya, the Dominion Farms Ltd. The Dominion Farms Ltd. was established in Kenya in 2003. So, from this case the long-term impact will become clear.

For the other case, I analysed the developments in the Omo region, Ethiopia. The Ethiopian government has planned to lease out large tracts of land in this region. Initially I wanted to focus on one specific company, like the Kenyan case, but this plan has changed. Instead of a company I decided to focus on the Omo Kuraz Sugar Plantation Project which very recently kicked off. This project is an umbrella for a number of large agricultural investments in the Omo region. Part of its scheme involves the construction of a series of dams along the Omo River, including Gibe III, which will be the biggest dam in Africa.

This study will weigh the impact and developments of the two cases against the guidelines.

In my opinion, the ‘voluntary’ character of these guidelines will not be sufficient to ensure that local livelihoods are not affected by more powerful actors. Applying then guidelines, however, enables us to assess to what extent these guidelines would allow the establishment of large-scale farms, taking into account the effects on the local environment. Moreover, this exercise will reveal the position these institutions take towards the influx of large-scale farming practices in developing countries. In short this study aims to establish:

How various newly proposed guidelines distinguish from each other and how these rules would assess the establishment of two specific large-scale agricultural companies in a particular African environment”.

Moreover, at the same time this research deals more or less with the question: “*Whether large-scale commercial farms are desirable for Africa or not?*” . Which is in the beginning the most important thing stemming from the current rise of large-scale farms in Africa, and this explains the title chosen for this research report. It is a highly disputed issue. The case studies will show if these “Large-scale Farmland Investments are indeed a blessing or curse?” for these particular cases. The subtitle of the report refers to the guidelines.

1.3 Relevance of the research

Since both the guidelines and the RAI principles encourage actors for discussion, the results of the research will contribute to this discussion on 'good' land governance and how to deal with future potential investors.

Furthermore, an equation about the usefulness of these particular guidelines jointly together has not yet been made, due to their novelty. I have seized this apparent gap to focus on. The research will explicitly focus on the most recent internationally released literature. This underlines the innovativeness of this thesis and thus its scientific relevance. Through making a comparison between these guidelines, the position these international institutions take in this debate and what they aspire when it comes to land governance will become clear. I will further address how these guidelines relate to one another. It is expected that the guidelines of the African Union will provide a better framework for supporting African policies.

This comparison is followed by a pragmatic application of each of these guidelines on two specific cases. Many case studies so far have studied the impact of large-scale commercial farming on the livelihoods of a specific community in a specific place. This thesis, however, also aims to assess the impact of such large-scale farming companies with reference to these guidelines, enabling a different approach towards examining the impact of large scale land acquisitions on the local livelihood. By taking a micro approach the impact on rural livelihoods will hopefully become clearer. This stresses the social relevance of this thesis. Especially this practical assessment is of importance, because this shows how these commercial farms influence the daily lives of rural people. And it is exactly for this reason that these guidelines are set up, in order to secure the livelihoods of these people.

1.4 Research model

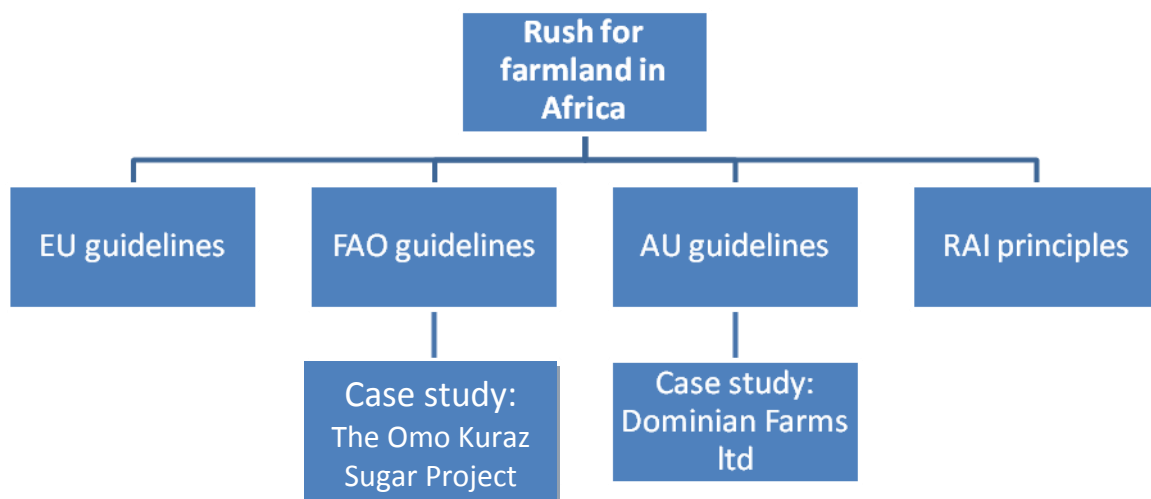


Fig. 1, Research model

Figure 1 depicts a visual overview of the research process. This visual representation stems from the preceding described research objective, which is in fact twofold.

The stimulus for this research topic is the challenge for Africa concerning the wisdom if and how to welcome (outside) investors in large scale farming. One manner of dealing with problems related to land issues is by studying opportunities to restrict or correct extreme outcomes through the governance of land. This study aims to link the instruments of major (global) players with the local scale. It is a top-down approach, since the institutions form the starting point, working towards the level of the case studies. The following two steps can be distinguished in the research process:

- 1) First, by making a comparison between these particular guidelines their most noteworthy features will appear, and thus how these distinguish from one another (related to the first part of the research objective).
- 2) Secondly, the possible influence these institutions could have on a local scale through their guidelines will be assessed by applying these on two cases. But, in order to be able to do this first there has been made an analysis of the positive and negative impacts of the presence of both cases.

1.5 Questioning

The central research question covering the research objective:

- To what extent would the guidelines of intergovernmental organisations have allowed the establishment of two large-scale farming companies on a local scale?

In order to achieve an answer on the central research question the following sub questions have been formulated:

1. On what points do the guidelines of intergovernmental organisations* differentiate from one another?

Through analyzing on which points these particular guidelines discern, their specific features will become clear.

2. What effects* did the establishment of the two large-scale agricultural companies have for the local livelihoods?

This is the initial sub question. Instead of two large-scale agricultural companies it will be one company (the Dominion farms Ltd.) and one project (the Omo Kuraz Sugar Plantation Project)

* Speaking in terms of positive and negative impacts.

1.6 Research methodology and structure

In this chapter an explanation is given of the research strategy and the data that have been employed during the research phase. The research process was predominantly based on a desk study, supplemented with information obtained via an expert interview held with Mr. van der Wal, Senior policy officer at the Dutch Ministry for Foreign Affairs and member of the EU Working Group on Land Issues. This interview was held already during the design of the research proposal and has

yielded valuable information for the topic of the research. It helped me to understand the basic aspects concerning the different guidelines.

Chapter 2, provides a literature review. Starting with the key concepts that are relevant for the topic of the research in order to understand the context or setting in which these developments are occurring, which is necessary to understand the context. Followed by the theoretical framework in paragraph 2.2, that comprehends an overview of the theoretical debate relating to the research theme. Here, the debate about customary vs. statutory land tenure is addressed and the discussion whether large-scale farming or small scale farming is desirable on the outlook for the future.

On the basis of the sub questions the research strategy and methodology is further elaborated.

Sub question 1

The policy guidelines and principles for Responsible Agricultural Investment form the thread for this research. The following material therefore form essential elements for this research and are analyzed extensively:

- *The EU Land Policy Guidelines (2004)*
- *The Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources*, prepared by FAO in partnership with UN agencies, member countries, civil society and private sector representatives (200);
- *the Principles for Responsible Agricultural Investment*, drafted commonly by UNCTAD, FAO, IFAD and the World Bank (2010);
- *the Framework and Guidelines on Land Policy in Africa*, initiated by the AU (2011).

These institutions certainly will give mutual responses on each other's draft publications. These remarks, would clearly demonstrate on what points the institutions do agree and don't agree with each other's initiatives, and thus distinguish. Although, it was hard to trace these comments. Nevertheless, I found some critics against the guidelines and the way how they proceed. And deal with the challenges. working of these institutions

In order to assess the effectiveness of the instruments I analysed some other critiques directed towards these initiatives.

Sub question 2

First, policy of both case study countries is shortly explained in order to understand the context in which these companies are situated.

For the case study of the Dominion Farms Ltd. several texts related to this company have been consulted in order to find out their impact on the environment: the company website, related news articles and two other research papers that investigated the impact of the farm on the environment.

For the case in Ethiopia I focused on one specific project ¹, situated in the Omo region. The Omo Kuraz Sugar Plantation Project was launched very recently (namely in September 2011) and therefore the study was dependent on a small number of sources, in particular articles from newspapers.

The research will be concluded by defining how the particular organisations on the basis of their guidelines would tolerate the presence of these large-scale farming companies. The outcomes of sub question one and two are linked together.

¹ Initially I contacted, the author of an article that assessed the implications of land deals to livelihood security and natural resource management in one specific region and asked to recommend me one case. However this was without success. Therefore I choose to focus on another region for which my supervisor provided me several literature sources, namely the Omo region. The particular focus is on the Omo Kuraz Sugar Factories Project as a case study.

Chapter 2: Theory

In order to gain a better understanding on the context of the current challenges regarding “land” issues, for the African continent and thus the incentives for improving land governance, here, some of the key concepts relating to the object of study will be introduced. From this literature review gradually the need for the providence of guidelines (both policy guidelines as well as the Principles for Responsible Agricultural Investment) will become clear.

First of all, the importance of access to land for the rural population is explained. This is followed by an introduction to land tenure systems. An overview of various land tenure systems is discussed ahead of the impact of bilateral donors on African land issues, since it has been predominantly the more powerful actors such as international financial aid institutions that have succeeded in determining the direction of African land reforms in the past (Manji, 2006). Following the predominant policy direction of the last two decades questions of land tenure were more and more seen as a means of decreasing poverty. And here, land governance has a role to play.

Thereafter, some facts and figures will be presented that illustrate the scope of this large-scale land acquisition in Africa, since this research focuses in particular on Africa. This demonstrates why a response is necessary. Finally, the instruments provided from the side of international organisations in order to prevent negative influences from this current trend will be addressed, starting with the guidelines, and followed by the principles for Responsible Agricultural Investment.

The second part of this chapter explicitly focuses on the theoretical debate concerning land issues and best practices in developing countries. In general, this debate revolves around two main themes: security for smallholders, and productivity. And especially on these points the guidelines will differ from one another and will very likely be built on the ideas of certain theorists underlying these positions.

2.1 Key concepts

The importance of secure access to land for the rural livelihood in developing countries

Secure access to productive land is crucial for poor rural people, that are often dependent on agriculture, livestock or forests for their livelihood. Besides, land has a cultural and emotional significance for indigenous people. Since land is often the only asset of these people where they can rely on, it reduces their vulnerability and farmers are more likely to invest in their land. However, according to the International Fund for Agricultural Development (IFAD) land tenure security is necessary, but it is not sufficient for sustainable rural poverty reduction and improved livelihoods (IFAD, 2008). That is because access to other types of capital -human, physical, financial and social – is also necessary. However, secure and stable access to land provides a basis for better livelihoods and living conditions (Prosterman and Hanstad, 2006).

Small-scale farmers need to be protected from more powerful actors by law. This is necessary because huge power imbalances exist between the investing companies in alliance with local elites on the one hand, and local farmers on the other. ‘Good governance’ is in this essential to

acknowledge the rights of small-scale farmers, though frequently lacking. Equitable and transparent land administration is of great concern in this respect (Palmer, 2010).

A characteristic feature of agriculture in developing countries is cultivation by smallholders. The majority of the rural population relies on farming for survival. And this illustrates the significance of the small scale sector for food security in the developing world. Implementing appropriate agricultural policies with the aim of improving or protecting the local population could mean to prevent the large scale land acquisition phenomenon (Blok and Kruse, 2010). Large scale farming would limit the access to land for indigenous people and turn small-scale farmers into wage labourers (PowerPoint presentation, Hall). Yet it is also possible that these investments could have a positive effect and increase the level of wealth of indigenous people and creates new opportunities for rural households to earn an income. It is the case whether this large-scale acquisition of farmland is either 'land grab' or a development opportunity, but of course this will differ per case. In the second paragraph I will continue on this debate between large-scale vs. small-scale agriculture. It is important that efforts to make land available to investors do not undermine livelihood opportunities (EUWGL, 2011).

Land tenure

Land tenure systems

Land tenure defines the way individuals have access to and are able to acquire rights over land either temporarily or permanently, it refers to the system of rights (Ministry of Foreign Affairs, 2010). Tenure systems may be based on written policies and laws, as well as on unwritten customs and practices (FAO, 2011). Here, I will continue on the different tenure systems that can be distinguished. In terms of land tenure systems researchers uphold different distinctions within land tenure systems. Land tenure systems are diverse and complex. In this research I will hold on to the following distinction, according to Bromley (1992). I assume this distinction to be sufficient for this research, and also the most clearest in my opinion. Bromley (1992) discerns four types of possible property systems:

- State property regime
- Individual property regimes
- Common property regimes
- Open access regimes

Despite Bromley's distinction is related to statutory law, also within customary law we can distinguish individual- common- and open access regimes.

Land tenure in Sub-Saharan Africa traditionally resides with the community, where smallholder farmers are assigned rights to use specific parcels that are recognized by customary law, but not adequately recognized by the state's formal laws (Prosterman and Hanstad, 2006). Customary tenure evolved from largely agricultural societies in which there was initially little competition for land, and therefore land had no economic value in itself (Payne, 2000). But the system has gradually become subject to commercial pressures, and resources came to be regarded as sources of revenue.

In opposition to statutory tenure, community-based tenurial systems are seldom acknowledged by national governments (Lynch, 1992).

During the colonial era, the colonial administrators implemented the Western model of land administration throughout its colonies, based on the belief that this would increase security of tenure, reduce litigation costs, encourage investment, increase credit access, encourage development of a land market and control land transfers (Bruce and Migot-Adholla, 1993). The core of the capital system is that it is essentially a legal property system (De Soto, 2000), characterised by statutory law. While in the developing world the most common manner of land tenure is as a communal system and most of the times land ownership is not registered. And this is exactly why according to Hernando de Soto (2000) these countries lack development and indigenous people keep staying in poverty. According to Pejovich (1997 in Henojosa) ownership typically contains of three elements: exclusivity of ownership, transferability of ownership, and constitutional guarantees of ownership.

Despite the absence of written titles, individuals operating within customary systems frequently have well-defined rights to land (FAO, 2002).

Property rights that are neither legally recognized nor illegal are considered to be 'extra-legal' by the FAO. (FAO, 2002). The co-existence of traditional customary land tenure and the Western model of statutory tenure results into a system of legal pluralism. However, statutory tenure was implemented in highly commercial zones (commercial farms, cities) and customary tenure in the rural areas and villagers (van Asperen and Zevenbergen, 2006), this often led to competing claims. Payne (2000) states that unless it is more equal, it's agricultural potential is not fully utilized. Nonetheless, a frequent objection against private tenure is that it is in many cases difficult to access by lower income groups. Changes in land relations have important implications for the livelihoods of the rural population (Cotula, 2007).

Nonetheless, to date, customary systems remain the most common manner of land tenure in Africa. Still, more than 90 per cent of the rural population in Africa regulate their land relations on a customary basis (Wily, 2006) However, a major share of land is in the hands of relatively few landowners (Gerstter et al., 2011). It is still very common that land rights are socially recognised, instead of legally. However, because numerous countries still lack legal frameworks to recognize common property regimes, customary systems remain vulnerable (ILC 2008; Wily, 2006). Most of the times customary land (unregistered land areas) has been rendered government or public land, where the government allocates use rights among its inhabitants (Wily, 2006; Bromley and Feeny, 1992).

Many customary communities have adequate traditional common property arrangements, but such land is often under pressure (Bruce, 2009). In fact, a denial of all customary land interests as having the attributes of private property ownership (Wily, 2006). The International Land Coalition (ILC) (2008) identifies the following threats to common property regimes today, including:

- privatization for large-scale commercial development;
- expansion of smallholder agriculture;
- appropriation of common property regimes for conservation;
- ambiguities within legal frameworks, and
- non-recognition of customary law.

Governments can enhance common property management by demarcating and registering commons, and providing land rights (Bruce, 2009).

In paragraph 2.2, I will continue analyzing this debate aiming to ensure tenure security for the poor. Furthermore, due to the growing demand for farmland the question how best to increase tenure security of the poor and protect the land holdings of rural communities has been brought to the fore.

External influences on land tenure in developing countries (a brief overview)

Starting from the post-independence period, the dominant policy direction was the privatisation of commonly, publicly and socially controlled resources, fostered principally by the World Bank. Based on the idea that customary systems did not provide the necessary security to support agricultural investment and productive use of land (Peters, 2007). The private system was considered a “modern” system of land tenure. This position was reinforced through the Structural Adjustment Program. Since the 1980s, the IMF and World Bank had been attaching conditionalities to their loans. One of the conditions for developing countries in order to receive loans was for example liberalising trade through abolishing import and export restrictions. In this way these countries would open up for Foreign Direct Investment (FDI) and also for large-scale acquisition of agricultural land as we have seen since the food crisis. The SAPs are supposed to allow the economies of the developing countries to become more market oriented. This then forces them to concentrate more on trade and production so it can stimulate their economy. Key elements of the SAPs are privatisation, democracy and reducing governance spending (L. Smith, personal communication, June 2011).

Thus, it is clear that the commoditization of land has been facilitated by the capitalist, market based land reforms encouraged by the World Bank (Kulemeka in Africa for sale). But in the end, it failed to achieve the expected increase in agricultural production and economic development. It did not lead to a success for Africa. Furthermore, the SAPs were being criticized for the lack of involvement from the countries where these were applied (whirledbank.org).

A ‘new wave’ of land reforms, emerged from the 1990s onwards with more attention for poverty reduction, through redistributive land reforms. Ambreeja Manji (2006) mentions in her book that the 1990s are not the age of land reform, but land law reform. The main thrust of the new legislation is to liberalize land tenure and to facilitate the creation of markets in land. The SAPs were being replaced by the Poverty Reduction Strategy Paper (PRSP). This approach is in line with the Millennium Development Goals, agreed in 2000. The eight goals are all related to poverty reduction. And of course bilateral donors are responsible for achieving these goals. Land governance plays a major role in this.

Land governance

Land law structures the land tenure system. Land policy is meant as a mechanism to govern ownership, use, and management of land resources. Ensuring equitable access to land, and secure tenure of this resource and other natural resources is in principal a governance issue (FAO, 2010).

“Land governance is the process by which decisions are made regarding the access to and use of land and natural resources, the manner in which those decisions are implemented and the way that conflicting interests are reconciled” - Global Land Tool Network, gltn.net

‘Land policy’ is crucial to sustainable livelihoods and food security (AU et al., 2009). If land rights are not adequately documented indigenous people basically have no formal legal basis. According to the FAO the basic principles of good land governance are: equity, efficiency, transparency and accountability, sustainability, subsidiary civic engagement, and security (Land tenure studies 9, 2007). Land issues are a highly political thing. However, customary land tenure systems are for the most part not legally acknowledged and this makes them vulnerable to external influences.

National governments have a role to play in both securing customary rights and the re-direction of agricultural policy to secure indigenous peoples for these threats (Hall, PowerPoint Presentation). And it is important to consider these threats having relations with government policies and actions (ILC, 2008).

Major reforms in land laws or policies are usually accompanied by land law reform. Land reform can refer to the redistribution of land more equally over the population or introducing land title. Land reform involves the change of laws, regulations, or customs regarding land ownership (Stibbe and Dunkley, 1997).

The scope of large-scale land acquisition with a focus on Sub-Saharan Africa

The African continent is increasingly being seen as a source of agricultural land and natural resources for the rest of the world (Friends of the Earth, 2007). Unlike Asia, African agriculture has never experienced a “Green Revolution”. Although, the problem for Africa is often the availability of water resources.

According to the World Bank’s 2009 report entitled “Awakening Africa’s Sleeping Giant: Prospects for Commercial Agriculture in the Guinea Savannah Zone and Beyond”, this area constitutes ‘one of the world’s largest underused land reserves. The World Bank emphasizes its potential would be key to meet the growing food demand.

In 2009, 70 per cent (about 32 million hectares) of the international transactions in agricultural land occurred in Africa (World Bank, 2011). Although, a new study by the International Land Coalition suggests that this figure could be much higher, around 50 million hectares in Africa

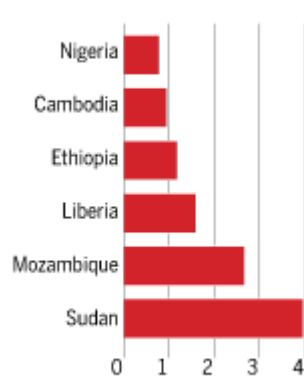
(64 per cent of the total area of transactions in agricultural land) (ILC, 2010). Figure 2 shows the African countries in which large-scale foreign land purchases have been made. Figure 3 illustrates the total scale of land transfers from the years 2004 until 2009 for six countries (World Bank, 2011). But why do these particularly occur in Africa?



Fig. 2, Foreign land purchases in Africa (Farmlandgrab.org, May 2010)

This can be either led back on the fact that customary tenure is in most cases unrecognised by African states and investors, and that the land is being represented as unused and available (Hall, PowerPoint presentation). The World Conference on Agrarian Reform and Rural Development noted in 1989 that land availability was not a problem in most of the African countries. And the World Bank (2011) emphasizes that in many African countries suitable land is abundant, transfers of technology could provide large benefits for the local populations, thus clearly appointing it as an opportunity or, in fact encouraging the large scale acquisition for land. This large availability of land in Africa is measured by the Global Agro-ecological Assessment (Fischer, van Velthuis, Shah, and Nachtergaele, 2002), based on satellite imagery in 1995-1996, which gives an overview of the global agricultural potential. It suggests that 80% of the world's reserve agricultural land is in Africa and South America. The total acreage of cultivable land in Africa is estimated at around 807 million ha, of which 197 million ha are yet under cultivation. However, it is not clear how land under shifting cultivation is included (Fischer et al., 2002). Furthermore, land is cheap in Africa.

Large land transfers
2004-2009 (million hectares)



Source: World Bank

Fig. 3, Large land transfers

But, according to the African Centre for Technology Studies (2008, in Manji, 2006) the challenges on the issue of land for Africa are the following:

Insecurity of tenure, subdivision of land, informal land markets, the alienation of land and its concentration and the role of undemocratic structures of local government in dealing with land disputes.

Especially, the rapid commercialisation of land markets in Africa plus the social inequality and how to deal with this issue are currently high on the agenda. In 2011, the World Bank examined the scope of large-scale land acquisition in developing countries. Nevertheless, we have to be careful adopting figures about this phenomenon. Figures need to be treated with caution because these could rely on media reports and plans that have never been carried out.

The need for a response towards the current rush for farmland

Empirical evidence about this phenomenon can be derived from the World Bank's recent report behind the large-scale acquisition of farmland, which in fact confirms some of the negative effects. The World Bank's "Rising Global Interest In Farmland: Can it yield sustainable and equitable benefits?" (2011) reviewed land transactions carried out in 14 countries. The case studies have shown that investments often did not achieve their full potential in terms of productivity and poverty reduction because of:

- "Weak land governance and a failure to recognize or protect local communities' land rights;
- Lack of country capacity to process and manage large-scale investments;
- Investor proposals that were insufficiently elaborated or technically non-viable; and
- Lack of a development strategy to determine whether large-scale investment can be instrumental in helping the host country to achieve its development objectives, and if it is suitable, where and how investment can contribute to those objectives." (World Bank, 2011)

According to Palmer (2010) there is “plenty of evidence” in the report for the negative effects of the influx of investors, as well as the evidence that many deals are surrounded by secrecy and corruption. Wily (2010) warns for the dichotomy that could possibly evolve between the interests of governments, backing investors, and the interests of their population. Today, the demand for good land governance is high on the agenda. The enormous demand makes it more important to define and protect land resources. This points to the need for more transparency and negotiations around these land transactions. Because of the fact that many large-scale land acquisitions occur in countries with weak land governance and high corruption, their legitimacy is disputable (IFAD, 2010). Contractual arrangements are key to this.

In response to these failures, an essential element of this document is the Code of Conduct launched by the World Bank in partnership with the FAO, IFAD and UNCTAD (see below). More recently the FAO drafted guidelines, as well as the AU, AfDB and UNECA. However, prior to this, in 2004, the EU already launched land policy guidelines before this trend emerged. The guidelines are explicitly meant to contribute to the implementation of suitable land law in developing countries, while the Code of Conduct investors in land as their target group as well. Nonetheless, the Code of Conduct also provides a framework for discussion for governments.

Land policy guidelines

EU guidelines

The EU was the first to launch land policy guidelines in 2004. The EU Land Policy Guidelines were meant as a directive to support the design and implementation of land policy and administration in developing countries. Furthermore, van der Wal (personal communication, June 1, 2011) mentions the willingness within the EU member states to think about land issues more equally and to cooperate jointly on this issue, and to become a discussion partner for the World Bank as incentives. The EU acknowledged that harmonization of donor policies and approaches would help to improve the effectiveness of donor funding in support of national processes. It is up to employees of embassies (of the EU member states) based in developing countries, to employ these guidelines (F. van der Wal, personal communication, June 1, 2011)

Following the guidelines, the EU Member States share the belief that broad and equitable access to land is instrumental in promoting peace, reducing rural poverty and discouraging mass migration to urban areas (Mikos, 2004). The EU mentions that large-scale acquisitions and long term leases can bring about either great risks or provide opportunities for sustainable rural development (Blok and Kruse, 2010).

By means of these guidelines the EU would take in a more neutral position on the topic of land policy as compared to the World Bank’s land policy published in 2002. After 2004, the European Task Force on Land Tenure ceased to exist. But, in 2009 it was reinstalled by the European Working Group on Land Issues, this was for three reasons: to share information, exchange experiences and, develop common EU positions and recommendations on land policy and reform initiatives in developing countries (F. van der Wal, personal communication, June 1, 2011).

Indirectly the EU backs the World Bank by their provision of financial means and vice-versa the EU is bound to the World Bank's policies, although they do influence each other's (draft) policy proposals. Yet they also provide financial support to developing countries bilaterally and as such have an impact on a specific country's economic development. Because of this financial support they are a strategic partner, especially where their support is substantial and conditional, and do influence local policies and through these money allocations.

The EU land policy guidelines are one instrument, but, also through other lines of development cooperation, trade policies and their involvement in multilateral financing the EU and its member states, and likewise World Bank, IMF, and other multilateral donors influence land distribution and land reforms in developing countries (EUWGL, 2011).

AU guidelines

In reaction to the challenges for Africa the NEPAD planning and coordinating agency for Africa came up with the Comprehensive Africa Agriculture development Programme (CAADP). As part of the CAADP programme of the United Nations Economic Commission for Africa (UNECA) in collaboration with the African Union and African Development Bank came up with a Land Policy Initiative in July 2009. Through the Land Policy Initiative consultations, it appeared that most countries have cited the lack of resources and capacity at country level for land reform, mapping, surveying, collecting and documenting information as some of the main reasons behind low levels of land policy implementation. Several regions have also condemned the lack of adequate tools and mechanisms for monitoring land governance as a key constraint. Given the small nature of many African economies and the similarities in their conditions across boundaries, a regional approach to addressing land related issues and improving access to land related information is critical (ec.europa.eu, 2009)

Concerned about the rush for Africa's resources, the guidelines for Africa are based around three principles: strengthening land rights, enhance productivity and secure livelihoods. In the framework, the involved organisations claim that the struggle for land and natural resources remains one of the key factors fuelling instability in Africa (Van Der Zwan, 2010).

The vision of the organisations involved, for the future of the African continent appears from the following quotation:

"Sustainable growth and development in Africa as well the continent's contribution to the world economy in the 21st century will continue to depend largely on the manner in which land and land-related resources are secured, used and managed" – AU et al., 2009.

It would be more appropriate if African countries would focus for the most part on the African initiative, since these guidelines have a closer link to the African countries. The African Union emphasizes that it is up to the African state to decide to what extent to implement the guidelines. The AU puts emphasize on the countries' sovereignty (AU et al., 2009).

FAO guidelines

The first draft for the FAO guidelines published in April 2011, was the output of consultation with governments and civil society organisations over several years in each continent and within different regions. (Gerstter et al., 2011). Prior to this consultation, the FAO presented its zero draft version of the, 'Voluntary Guidelines on Land and Natural Resources Management'. These directives should help member states to develop a stronger legislation in order to protect vulnerable groups against the negative impacts of (inter)national purchases of land. The voluntary character of these guidelines means that they generate no binding obligations and they will not replace existing national or international laws, treaties or agreements (EUWGL, 2011). They intend to provide guidance to all states, civil society (groups) and the private sector. The guidelines of the FAO are universal.

The FAO is specifically directed towards food and agriculture. In this respect we could possibly notice a difference on the contents compared with the view of the EU and World Bank on land governance.

Principles for Responsible Agricultural Investment (RAI principles)

Due to the "Rising Global Interest in Farmland" the World Bank initiated in 2011, in cooperation with the FAO, IFAD and UNCTAD, a set of seven principles for responsible agricultural investments. The seven core issues are developed in the hope that investors will adhere to a number of key principles. This should make sure that also the investing companies take their responsibility for a sustainable future. And it is also in their own interest not to deplete resources and keep the local inhabitants pleased. It is particularly necessary that contractual arrangements become more transparent and that local populations have better opportunities to get involved in the negotiations (Zoomers, 2010; IFAD, 2010). According to the World Bank, the challenge is to ensure that investments made by foreign actors respect the rights of existing land users and increase productivity and welfare. It concerns the following principles (World Bank, 2011):

1. Respecting land and resource rights
2. Ensuring food security
3. Ensuring transparency, good governance, and a proper enabling environment
4. Consultation and participation
5. Responsible agro-investing
6. Social sustainability
7. Environmental sustainability

Though these principles have a different intention than the guidelines, they are relevant for potential investors and can contribute to Corporate Social Responsible (CSR) business. As with the voluntary guidelines, the principle aim is to give guidance and provide a framework for discussion. The principles are still under development, but the four institutions who launched them already agreed (EUWGL, 2011). Furthermore, it has become apparent that it is difficult to establish obligatory rules, due to numerous and various interests. It is supposed that voluntary guidelines or principles will be sufficient in order to mobilize support (IFAD, 2010), although the way they are perceived, and thus applied can differ largely per case.

In chapter 3, the different guidelines will be further discussed.

2.2 Theoretical framework

When it comes to the large-scale acquisition of farmland, and agriculture in the developing world, the debate revolves around two main themes: enhancing land tenure security and land productivity or ensuring food security. Land reforms have taken place in a considerable number of African countries to promote equitable land distribution on the one side and promote land title on the other side, thereby facilitating economic growth and social development (EU, 2011). Payne (2000) makes the distinction between a title-based approach and a rights-based approach. The first approach can be characterized as an economic market approach, whereas the second can be characterized as a socio-economic welfare approach.

Below, I will further elaborate on the distinction made by Payne, which is in fact closely related to the debate around the functioning of individual and common property, in terms of equity, efficiency and sustainability (Ostrom and Hess, 2007). The structure of property rights has long been considered one of the most important factors affecting economic development and efficiency (Grafton, Squires, Fox, 1998).

Moreover, the discussion also is about large-scale vs. small-scale agriculture. The website future-agricultures.org calls for comments by raising the question: "*Are large-scale commercial farms the answer to Africa's agricultural needs?*"

Both discourses (tenure security and large-scale vs. small-scale agriculture) will be addressed in this paragraph. Subsequently, it will be possible to clarify which position the organisations relevant for this research take in through their guidelines. Since, it is to expect that in particular on both these discourses their position will differ.

Statutory vs. customary tenure

A title-based approach

Among economists there is a common assumption that private property is an essential condition for economic development. This is an inherently neoclassical belief, based on the idea that secured and individualized tenure will lead to greater productivity (Smith, 2003; Ostrom and Hess, 2007). The appropriate approach towards the establishment of statutory tenure would be land titling and land administration.

From the late 1960s to the early 1980s there was a widespread belief that customary systems did not provide the necessary security, which would be a disincentive to the investments needed to increase productivity and efficiency (Peters, 2007). Communal tenure was often considered as opposite to the European individual ownership model and was generally seen as backward. In 20th century African reforms were mainly in the form of titling initiatives to aim for statutory ownership. This has been most systematically pursued in Kenya (Wily, 2006).

In the 1980s titling policies were justified by evidence from southeast Asia, particularly Thailand. However, in Africa this did not turn out into a success (Peters, 2007). It did not facilitate the use of land as collateral for small farmers and often encouraged speculation in land by outsiders. In fact, the aspired increase in tenure security for the local inhabitants, decreased.

Furthermore private property was in the past stressed by several theorists as to avoid “The tragedy of the commons” (Bromley, 1992) (e.g. Grafton et al., 1998). In 1968, Garrett Hardin warned for the dangers of overpopulation. Central is the sharing of Common Pool Resources (CPR). The tragedy arises when there are no rules and these resources can be applied unlimited by everyone, thus in the end these resources will be exhausted. Hardin concluded that communal tenure systems were doomed to overexploitation. A possible resolution would be the allocation of specific property rights or the imposition of enforceable rules to its individual members (Wageningen.nl).

Even though, many theorists today are convinced that common property regimes may be more effective for a sustainable use of resources, for example ILC (2008).

In 1993, John Bruce and Shem Migot-Adholla examined the actual appropriateness of customary land use practices for more capital-intensive agriculture in ‘Searching for land tenure security in Africa’ . The book assessed the working of communal systems in eight Sub-Saharan countries. This brought in some mixed results. Smith critically reflects on the outcomes of the study of Bruce and Migot-Adholla. Most important findings were that there seems to be a weak relationship between land rights and the use of formal credit, which is in fact necessary for a liberal system. Furthermore Bruce and Migot-Adholla notice that where agriculture is generally , titling will have no effect; weak or constrained titles will not stimulate investment.

And thus, the neoliberal stance that presumed that enhancing tenure security and transferability could lead to economic growth has failed to yield empirical evidence (Smith, 2003). There is little empirical evidence that individual titling would result in increased productivity or better access to credit (FAO, 2002). This led subsequently to a debate with a shift from an offensive to a defensive stance (Smith, 2003). Furthermore, Smith notes that the debate now has a more pro-poor, safety-first perspective. Securing access rights of the people who rely on common property for their livelihoods is seen as key to reduce poverty in rural areas, today (ILC, 2008)

Many theorists today argue for the legal recognition of customary rights. The previously clear distinction between statutory and customary tenure is becoming blurred, for example in countries such as Uganda which nowadays provide legal recognition of customary rights (FAO, 2008 in Assies, 2009). Smith (2003) argues that it will no longer be useful to hold customary and statutory tenure in contradistinction because within the literature the boundary between the two is dissolving. Where land grabbing by powerful actors is resulting in land dispossession, registration of smallholders may be a desirable solution to ensure security and equity (Bruce and Migot-Adholla, 1993). This is for example what Owen Lynch aspires. Lynch is committed to Community-Based Property Rights (CBPR’s) and their legal recognition in national and international law. This is key to the human-rights based approach, described below.

A rights-based approach

Since the late 1980s land tenure reform has become a development priority. Due to the failure of the Western model that did not bring development in Africa, a green revolution has not occurred. A move towards a more human centred approach emerged, which was less economic driven (Peters, 2007). It’s proponents argue that the denial of customary lands as private property is the cause of

insecurity and this renders indigenous people vulnerable (Wily, 2006). And thus, a possible solution would be the recognition of (customary) land rights and the inclusion of customary tenure in land administration (van Asperen and Zevenbergen, 2006).

The following quotation exemplifies this:

“Remedy lies in... legal acknowledgement that customary and other longstanding unregistered land tenancy amounts to a real property interest, registered or not.” – Wily, 2010, 1

One influential theorist is Hernando de Soto. In his book “the mystery of capital: why capitalism triumphs in the west and fails everywhere else” (2000) de Soto argues that it’s the lack of formalized property rights which explains the failure of non-western countries to develop. De Soto emphasizes that the developing world has assets but holds these in defective forms (‘dead capital’), this is in opposition to the West where almost everything is defined as property. De Soto argues that assets of the poor need to be incorporated into the legal system (by means of title and administration) in order to be able to develop themselves. The formalization of property rights has become a central component of development policy, giving the law an important role in development (Manji, 2006). The influence of de Soto’s theory can be derived from the fact that many countries are influenced by his ideas and introduced policies based on his ideas. Furthermore, de Soto expects that formal titling will assist access to credit. However, this claim is highly contested (Assies, 2009), as appears, for instance, from the research of Bruce and Mighot-Adholla in 1993.

Nonetheless, customary rights require the support of national law to exist as legal land tenure regimes (Wily, 2006). The state can create, encourage or sustain community rights in various ways, with national legislation to recognize common property being one means. Through a more involved process of decentralizing authority and rights, states may provide a basis for creating or strengthening common property regimes. By mandating joint management, the state may also create access and legitimise local use (ILC, 2008).

Nevertheless, to date, less than 10 percent of African land is registered within a legal system (IFAD, 2010).

A 'rights-based' approach is the starting point for most cooperation efforts to reduce poverty (IIED and HIVOS, 2011), and here there is a central role for the state. States should pay more attention to safeguard customary land rights of the poor and this can be done by acknowledging, through formalizing their rights to land (Prosterman and Hanstad, 2006). It is obvious that the policy guidelines are closely related to this second orientation. These are in fact human rights based instruments. Through the guidelines foreign donors can encourage and influence either the setting up of land policies and enhance these in developing countries. According to Hall (in new-ag.info, 2010) many countries in this region have developed land policy frameworks and land laws, but implementation is very poor. And this is a thing that needs to be improved.

But increasingly, development policymakers are also embracing business as a valid tool for alleviating poverty among smallholders and thus adopting ‘market-based’ approaches (unrisd.org). And the recently launched RAI principles are a good example of this. Doing CSR business is becoming more

and more important these days. Given the scope of the present needs, the starting point must be that access to land and secure land rights play a crucial role (Prosterman and Hanstad, 2006).

The report “Securing Common Property Regimes in a Globalizing World” (2008) of the ILC clearly reflects the current topic of debate, securing access to land for indigenous people is key for most of the development approaches in order to alleviate poverty.

Large-scale vs. small-scale agriculture

Whether large-scale agriculture is the solution for the future of Africa’s agricultural sector inspires both strong support as well as strong criticism. This theoretical debate has been rekindled after the food crisis and the influx of large-scale commercial farmers in developing countries. Which is in fact mainly about either the risks or opportunities these investors will bring for the host country. What is important here to ask: “Can the deals work for development?” (IIED, 2009).

Paul Collier, professor of Economics at Oxford University and author of ‘The Bottom Billion: Why the Poorest Countries are Failing and What can be Done about’, made the case for encouraging large-scale commercial farming as a way to get African farming moving forward. By doing so in fact he instigated the discussion. In an article in the Times (timesonline.co.uk, 2008) Collier emphasizes that the remedy to high food prices would logically be to increase the supply of food; favouring small farmers is romantic but unhelpful (timesonline.co.uk, 2008). He states that *“African agriculture has fallen further and further behind the advancing commercial productivity frontier, and based on present trends, the region’s food imports are projected to double over the next quarter century”* (Collier in undp.org, 2009). Collier perceives Brazil as a model. The following quotation reveals this: *“large, technologically sophisticated agricultural companies have demonstrated how successfully food can be mass-produced”* (undp.org, 2009). For the website Futureagriculture.org Collier’s position gave rise to invite people to respond to this position, which led to mixed results.

Steve Wiggins disagrees, by saying that large-scale farms are unnecessary for Africa. Wiggins starts his article by posing the question: *“Do small-scale farms in Africa have a future?”* Wiggins argues that it is not a lack of large-scale farms that lies behind the limited achievement of African agriculture, but rather a lack of conditions to facilitate small farmers to fulfil their potential. He doesn’t have a negative stance towards large-scale private investors seeking to produce more in Africa. Their capital and expertise can be well-used, so that both companies, as well as African small farmers can benefit. He emphasizes that each of the two actors could practice what they do best. This means leave the farming to the locals, and the supply chains and leave the activities of the companies to the economies of scale where they are needed: in supply chains, in processing, transport and marketing. Wiggins believes that small-scale farmers can increase production if they are supported (future-agricultures.org).

In a newsarticle on the website new-ag.info a similar question is posed: *“What is the right way forward for agriculture in Africa?”*, referring to the same debate. The article focuses on a recently published report of the World Bank, ‘Awakening Africa’s Sleeping Giant’, in which the two possible models in the context of Africa’s Guinea Savannah zone have been examined. In many cases the reports suggest that the aim is to farm the land on a large scale, rather than to contract production through existing family smallholdings (future-agricultures.org). As I already showed in the previous chapter this region has a huge potential in terms of agricultural output. But, on the other hand this

perception has to be treated with caution, because it is possible that this land is already being used or claimed (Cotula, Vermeulen, Leonard and Keeley, 2009; Scoones on future-agricultures.org).

On the other hand, this area is highly biodiverse and therefore it is risky to leave it up for commercial farms. So, large developments to decrease poverty may be at the expense of the ecosystem (Jones in future-agricultures.org). But here in return, large-scale commercial farms also may stimulate new farm and off-farm jobs, boost incomes of rural people, facilitate transfers of new technologies in production and processing, increase production of food crops, build up infrastructure and improve access to basic services. These are in brief the advantages that could be achieved through more investments in the sector (Borras et al., 2010).

However, an organisation totally opposed to the position of Collier is Via Campesina, a global network of small-farmer organisations, which strongly campaigns against the influx of large-scale agricultural companies in the developing World. The organisation is very lucid about its stance, exemplified by the following statement posted on their website: *“Land-grabbing causes hunger! Let small-scale farmers feed the world!”*. Via Campesina demands for:

- 1) *“The complete dismantling of agribusiness companies: they are stealing the land of small producers, producing junk food and creating environmental disasters”.*
- 2) *“The replacement of industrialized agriculture and animal production by small-scale sustainable agriculture supported by genuine agrarian reform programs.”* (viacampesina.org)

Sustainability is one element often used as an argument to oppose large-scale farming. And the proponents of large-scale farming of course have not much to say against this.

Ahead of the World Bank's report from 2011, the organisation Friends of the Earth came up with a research report. The report, 'Africa: Up For Grabs' reveals how local communities are having their land taken and there are few safeguards for local community land rights. Forests and natural vegetation are being cleared, and biofuels are competing with food crops for farmland. The position of Friends of the Earth is similar. This organisation proposes the following actions:

- 1) *“Put a brake on land grabbing*
Stopping the drivers -- political targets that increase demand for agrofuels should be scrapped, in particular the EU's mandatory target. African states should immediately suspend further land acquisitions and investments in agrofuels.
- 2) *The real political priorities*
Farming revolution -- Investments and priorities given to develop food sovereignty-- the right of people to adequate, healthy, locally produced and controlled food
- 3) *Dealing with land grabbers*
Full environmental and social impact assessments of land use changes before any land sale or lease takes place must be carried out with the participation of local communities”(in Developmentwatch.net, 2010)

In sum, the risks associated with large-scale farmland investments are the following: natural resource degradation, livelihood shortfalls for smallholder-farmers, loss of indigenous farming practices, rising

in-country food insecurity, and the potential suffering from the natural resource curse (Meinzen-Dick and Markelova, 2009).

A more nuanced stance in favour of small-scale farming comes for instance from the WorldWatch Institute. The heading of an article in the Guardian (guardian.co.uk) on the 13th of January 2011 says “*World hunger best cured by small-scale agriculture*”. Worldwatch Institute states that a move from industrial farming towards local food projects is our healthiest, most sustainable choice.

Olivier de Schutter, UN special rapporteur on the right to food, argues “*Small-scale farming is creating employment and contributing to rural development... It is better at preserving ecosystems because ... farmers combine various plants, trees and animals on the same piece of land,*” (Lewis on iied.org, 2011). He emphasizes that it is important to support small-scale farming.

Amanor, in a newsarticle from the website New Agriculturalist (new-ag.info, 2010), argues that a focus on the smallholder is a better option but often governments would prefer to promote large-scale agriculture given the constraints on agricultural services. It is easier for them to leave it up to large-scale commercial farmers rather than to organise the services for smallholder production.

Thus, it is obvious that there are several real advocates and opponents of large-scale farming. Since it is not to expect that the tide will turn it would be more valuable to look for opportunities, instead of sticking to this dichotomy, and to focus on cooperation between smallholders and investors. Recently, Cotula and Vermeulen investigated ways to contract production through existing family smallholdings. In ‘Making the Most of Agricultural Investment’ (2010) they come up with five possible options or business models. This could be a good alternative for the future to seek the middle-ground

Chapter 3: Guidelines

In this chapter the effectiveness of international governance mechanisms to prevent negative impacts from large-scale investments in farmland is examined.

Earlier in this report these guidelines have been discussed briefly. Two different instruments that tend to regulate large-scale land acquisitions can be distinguished: 1) the policy guidelines, and 2) the principles for Responsible Agricultural Investments. The RAI principles have to be interpreted differently because these are in fact guidelines mainly as an instrument for businesses to encourage responsible business in developing countries. However, a code could support local people, host governments, and investors for constructive negotiations (Meinzen-Dick and Markelova, 2009).

Each of the policy guidelines provides a very comprehensive ‘checklist’ – that describes:

- 1) numerous basic aspects related to land policy
- 2) how to approach land policy development, and
- 3) how to implement land policies.

This first component has been addressed already in chapter 2. It is of more value to analyse the reciprocal differences between these instruments and also pay attention to the critique that has been aired against these frameworks. This should allow us to assess the effectiveness of the various sets of guidelines.

3.1 The EU Land Policy Guidelines

The EU guidelines were established long before the food crisis of 2007/2008. As mentioned in the introductory chapter, the driving force for these guidelines was the fact that the EU wanted to become a discussion partner for the World Bank on land issues. Moreover, the EU desired to counterbalance the World Bank’s 2003 report on land policy, ‘Land Policies for Growth and Poverty Reduction’ and provide a joint EU perspective (EUWGL, 2011). The EU guidelines are different from other guidelines because these were put in place first and foremost to assist their own employees. For this reason the EU guidelines are not very often mentioned in the political debate.

Key to the guidelines of the EU is the protection of the rights of vulnerable groups and securing their access to land. The EU held an internet consultation in order to gather stakeholders’ views. The framework defined some specific problems and required actions per region. Specifically for Africa the following actions are proposed by the EU (right side of the table):

<p>Africa</p>	<p>Strong customary and colonial legacy, colonial administration, structures and legislation. Very low % of land subject to title.</p> <p>Legal pluralism with many conflicting and overlapping law and systems for land administration, establishing land claims and conflict resolution.</p> <p>Common property resources key to poorer groups.</p> <p>Majority of urban dwellers living in slums</p> <p>Major disparity within the continent between:</p> <ul style="list-style-type: none"> • E & S Africa where large scale alienation of land by colonial powers, commercial farmers, and national parks. • W Africa, where limited white settlement, continued strength of customary powers, overlaid by sequence of legal, political and institutional changes. • North Africa, where a legacy of strong central government control has meant few incentives for local management. 	<p>Land redistribution and restitution where great inequities remain.</p> <p>Gradual formalisation of local land rights through decentralised land administration and more accountable processes.</p> <p>Build bridges between customary & statutory rights, to provide greater security to former.</p> <p>Provide greater security to poor and vulnerable groups</p> <p>Address implications of high HIV/AIDS prevalence on land issues.</p> <p>Strengthen alternative sources of credit.</p> <p>Establish and protect rights over common property.</p> <p>Support negotiation between state and local people to enable consensus re. new rules.</p> <p>Strengthen women land rights in both local/customary and formal systems</p> <p>Reflect land policy in PRSPs</p>
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Table 1, Actions proposed for Africa by the EU (EU Task Force on Land Tenure, 2004)

Table 1 provides an overview of the priorities for Africa. However, the required actions may differ per region as there is no-one-size fits all approach towards land reforms. The kind of recommendations proposed very much take a human-rights based approach.

In 2009, the re-installed EU Working Group On Land Issues (EUWGL) reviewed its guidelines and concluded that these were still satisfactory and there was no need to adapt them since the rush for farmland (F. van der Wal, personal communication, June 1, 2011). Additionally, in 2011, the EUWGL prepared a background paper that tends to describe the current debate and developments. The working group acknowledges that “secure access to land and other natural resources and secure tenure and use rights are decisive and crucial requirements to increase food security and to enhance sustainable rural development.” Additionally, the paper suggests the following approach to enhance tenure security in developing countries:

- “The development and the implementation of national land policy reforms, systems and structures for land administration and improved land governance including capacity development;
- The certification of land (e.g. documentation of land rights including customary rights) as an important element of a comprehensive land reform;
- The establishment of instruments, such as participatory land use planning and land management as well as strategic social and environmental assessments;
- The strengthening of capacities and public awareness creation to enhance sustainable land use and to overcome the institutional constraints related with land use planning and land management” (EUWGL, 2011)

Nevertheless the European Parliament recently published a report that came up with some recommendations pertaining to its own role in relation with the rush for land, Some of these are the following:

- “Actively support the process of setting up the FAO Voluntary Guidelines
- Increase official development assistance (ODA) dedicated to agriculture

- Strengthen the role of the EU Land Policy Guidelines
- Improve reporting and monitoring on large scale land acquisitions involving European investors
- Implement the EU Communication “An EU policy framework to assist developing countries in addressing food security challenges”
- Acknowledge and help implement the findings of the International Assessment of Agricultural
- Knowledge, Science and Technology for Development (IAASTD)
- Strengthen the sustainability criteria for bio-fuel production in the EU Renewable Energy Directive
- Strengthen human rights in international agreements and treaties
- Support developing countries in decision-making on the framework for investments” (Gerstter et al., 2011)

However, the EU does not take in a clear stance about the current rush for land and large-scale investments in agricultural land. Its declarations are very much based around development cooperation. In spring 2010, the European Commission endorsed “An EU policy framework to assist developing countries in addressing food security challenges”. This framework expresses support for smallholder family-based farming.

Though, the EU guidelines itself have not received critics, this does not apply to the way Europe influences African agriculture by means of its policies and practices. Graham, Aubry, Künnemann and Monsalve Suárez (2010) discuss in “The Impact of Europe’s Policies and Practices on African Agriculture and Food Security” whether this role is actually consistent with the EU’s commitment to advance agriculture in Africa (as part of the Millennium Goals). The report sheds light on the EU’s involvement in land acquisition in Africa and on the EU members States’ responsibility in implementing policies that have increased demand for land acquisition. In this sense, the EU is different from the FAO and World Bank because the EU itself and its member states can involve in the process of land acquisition. One of the EU’s policies that drives pressures for land is the EU’s Biofuel directive, which requires that 10 per cent of transport fuels must be biofuel by 2020 (HLPE, 2011). Graham, et al. (2010) argue that the EU is ignoring its obligations under international human rights law. They recommend the EU to drop this target and prevent large-scale land acquisitions (plus some other recommendations that are already included in the list stemming from the European Parliament).

3.2 The Framework and Guidelines on Land Policy in Africa

In 2007 the Economic Commission for Africa took an initiative to draft guidelines related to the African continent. This process was conducted through extensive consultations involving the participation of regional economic communities in all the five regions of the continent, civil society organisations, centres of excellence in Africa and elsewhere, practitioners and researchers in land

policy development and implementation, government agencies and Africa's development partners (uneca.org, 2010)

The land policy initiative of the ECA was approved by the Heads of State of African countries. So, in that sense these are in fact an obligation for States to really reform and improve land governance. You could say that these are much more restrictive to follow. This is an essential difference with the EU guidelines.

The implementation of the guidelines for Africa is supported by the EU (as well as by IFAD and UNECA) under the heading 'Capacity Building in Support of Land Policy Development & Implementation in Africa' (EUWGL, 2011). Therefore the EU distinguishes between capacity building and Land policies development/implementation (ec.europa.eu, 2009). The EU is a significant donor of the African Land Policy Initiative (EUWGL, 2011). The African guidelines are the result of this initiative. Furthermore, the EU will also facilitate the monitoring and evaluation of land policy evaluation and implementation. The EU stresses the following topics for the African Land Policy Initiative:

- Gender equality
- Good governance
- Climate change and environmental sustainability

3.3 The Principles for Responsible Agricultural Investment

According to Manji (2006) the World Bank still retains a neo-liberal market ideology, although its stance became more nuanced these days. Nevertheless, the World Bank beholds the large-scale acquisition of farmland as something rather positive, and perceives new land deals as a potential opportunity for rural development (Borras, Saturnino and Franco, 2010; Scoones, 2010). The principles seem to be a good initiative and encourage (potential) investors to do CSR business, nonetheless the principles have been strongly criticized as well, mainly by academics and NGOs (EUWGL, 2011). However, within civil society there are highly differentiated movements, as well as farmers movements (Borras et al., 2010).

The most opposing reactions come from La Via Campesina, FIAN and the Land Research Action Network GRAIN. In an article entitled, "Say NO to the principles of "responsible" agro-enterprise investment promoted by the World Bank", (La Via Campesina, FIAN, LRAIN and GRAIN April 2010) they call organisations to sign a petition against these principles. Numerous civil society organisations have signed. However, these organisations are basically against the large-scale acquisition of farmland and thus it is understandable why they also oppose the RAI principles.

The three organisations are convinced that the RAI principles would in fact encourage land grabbing, because these principles would make it more legitimate. They believe that the food crisis will not be solved through industrial agriculture. The three organisations propose the following approach:

- "Keep land in the hands of local communities and implement genuine agrarian reform in order to ensure equitable access to land and natural resources.

- Heavily support agro-ecological peasant, smallholder farming, fishing and pastoralism, including participatory research and training programmes so that small-scale food providers can produce ample, healthy and safe food for everybody.
- Overhaul farm and trade policies to embrace food sovereignty and support local and regional markets that people can participate in and benefit from.
- Promote community-oriented food and farming systems hinged on local people's control over land, water and biodiversity. Enforce strict mandatory regulations that curb the access of corporations and other powerful actors (state and private) to agricultural, coastal and grazing lands, forests, and wetlands".

Borras Saturnino and Franco (2010) did research on the consequences of a "Code of Conduct". Their opinion on these measures is that it would be better to stop these large-scale deals. The research concludes with the following quotation:

"The proposed CoC-framed response to the global land grab veers away from questioning the fundamental roots of land-grabbing, i.e., the existing industrial pattern of food and energy production and consumption controlled by TNCs, while engaging in the problematic notion of win-win scenarios." - Borras et al., 2010

Furthermore, the entire development process of the principles has left out some main stakeholders, such as civil society and farmer organizations. The RAI principles have been further criticized by civil society representatives for their lack of reference to human rights (EUWGL, 2011). Besides, the RAI do not include any reference to human rights law and rather build on corporate social responsibility frameworks (landaction.org). At present, the principles are under discussion by the Committee on World Food Security as a possible adjunct to the voluntary guidelines (EUWGL, 2011).

The organisations involved in the initiative have set up a knowledge exchange platform for Responsible Agro-Investment. The platform is a framework for the sharing of data and information for international agricultural investments. There are numerous publications available on this website, but no real experience is shared of the practical application of the guidelines by one particular commercial farming company in a developing country. This would have been very useful. Furthermore, Scoones (2010) argues that there has not been made a political analyses of how they might work in a certain setting either. And thus, actual practice is needed. Just an enumeration of principles is too broad, some more explanation of the principles is needed. Besides, there is some criticism pertained to the formulation of individual principles. In spite of these critical, remarks, there also appears to be broad support for the principles, although it seems quite difficult to find a way to operationalize and implement them (Hallam, 2009). In my opinion, acknowledging the difficulty of defining standards, it would also be necessary to define some consequences if companies misbehave.

3.4 The Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources

The Voluntary Guidelines are jointly prepared with governments, civil society, private sector, academia and other development partners. The FAO organised multi-stakeholder thematic and regional consultations which assessed issues and actions to be included in the guidelines by a participatory and inclusive process. The guidelines will adopt an interdisciplinary approach

recognizing rural and urban linkages and considering a variety of natural resources including land, forests, fisheries and water. On its contents the guidelines reaffirm the importance of wider, secure and sustainable access to land, water and other natural resources and of agrarian reform for the eradication of hunger and poverty; economic, social and cultural rights, in particular of women, marginalised and vulnerable groups are essential considerations in dealing with land and natural resources issues. What is striking, is that special efforts have been made to facilitate the participation of the groups most affected by landlessness and tenure insecurity, namely landless and land-scarce people such as rural women, peasants, indigenous peoples and fisherfolks (EUWGL, 2011).

The FAO voluntary guidelines are thus based on a broad consensus. The final declaration will be adopted by the 92 FAO member states (landaction.org). But, we have not got that far yet. It is likely that the final draft will be submitted to FAO member countries and other stakeholders for review and approval in 2011 (fao.org). In March 2010, a regional consultation was held on the proposed voluntary guidelines in the EU. Due to the multistakeholder approach for the development of the Voluntary Guidelines van der Wal (personal communication, June 1, 2011) expects that it will become a “thin” document, since there will be widespread interests at stake. But, on the other hand this will lead to a broad consensus and in the end a universally agreed document. The EUWGL (2011) mentions that the Voluntary Guidelines are closely linked to all relevant international and regional initiatives, such as the African guidelines.

In the FAO guidelines special attention is given to the topic of resources. This aspect received less attention in the EU policy guidelines. An important difference with the RAI principles is that these are not signed by states or other groups and did not involve a broad consultation process for the drafting of these principles. It is just the four organisations that initiated them. It is unclear what nations say about it. The Landaction Network states that the principles should refer to the Voluntary Guidelines as the internationally accepted standard for all investment matters pertaining to land and natural resources (landaction.org).

Chapter 4: Two case studies

On the basis of two case studies the social, economic, and environmental implications of the presence of two specific large scale commercial farming companies for the local livelihood are determined. (Cotula et al., 2009) argue that the impact certain deals have for the environment is dependent on several aspects:

“The extent to which international land deals seize opportunities and mitigate risks depends on their terms and conditions: how are risks assessed and mitigated – for instance through considerations in project location? What business models are favoured in project implementation (from plantations to contract farming, purchase agreements, policy incentives, or joint ventures)? How are costs and benefits shared – for example, in terms of safeguards against arbitrary land takings, or revenue-sharing arrangements? And who decides on these issues and how?” - Cotula et al., 2009, 6

Prior to the analyses of the two cases, I will briefly introduce the policy direction that the countries in which the two case studies are situated pursue, in order to understand the context. It will demonstrate how these countries have reacted towards this current trend. The explicit policy direction of an increasing number of African countries, including Tanzania, Ethiopia, Madagascar, and Sudan, is to attract foreign investments (Cotula et al., 2009). This framework for development is promoted through nominal rental fees, tax holidays, duty exemptions and other financial incentives (Cotula et al., 2009). Additionally, several governments have established investment promotion agencies responsible for attracting investment, particularly foreign investment (Cotula et al., 2009).

In many African countries land is primarily under control of the state, as is the case in Ethiopia, where land is nationalized (Vermeulen and Cotula, 2010), and thus the government has a lot to say. Other countries do allow private land ownership, which may be acquired through land registration procedures, which is the case in Kenya (Cotula et al., 2009)

After this short policy review the research extends on the two cases:

- The Dominion Farms Ltd.
- The Omo Kuraz Sugar Plantation Project

The impact of both cases will be examined through employing the RAI principles.

4.1 The Dominion Farms limited

Land policy in Kenya

A New Land Policy for Kenya was adopted in 2009. Before that time, land policy in Kenya was not explicitly articulated in any policy document (FIAN International, 2010). Prior to this new policy, communities were rarely consulted. Both the county councils and central government treated trust land as if it were government land and the communities were simply informed when trust land was leased or even sold. The New Land Policy designates all land in Kenya as Public, Community or Private. Most significantly, it recognizes and protects customary rights to land (Ministry of Lands, 2009). According to USAID (2010) developing a strategy for effective implementation of the National

Land Policy should be a priority and the Ministry needs support to maintain dialogue on land policy issues.

More than 80 percent of the Kenyan population depends on agriculture for their livelihood (FIAN, 2010). This shows that the sector is important for poverty reduction. However, this is not acknowledged in the Vision 2030. Against a backdrop of as many as one-third of Kenyan people facing starvation on a regular basis, the Kenyan government developed a Vision on the outlook of the year 2030, which, among other things, encouraged leasing lands to companies like the Dominion Group that would invest private capital to develop agricultural production capacity. The government has been especially interested in irrigation projects because 95% of Kenya's crop land has been dependent on rain alone, which leads to periodic food shortages resulting from drought (Goodfortunefilm.com). Despite some failures of the introduction of these systems, the Kenyan government still adheres to irrigation projects.

A case study from Kenya: The Dominion Farms Limited

In 2003, the Dominion Farms Ltd. made its appearance in Kenya. The farming operation is a division of the Dominion Group, based in Guthrie, Oklahoma, USA. Dominion Farm Limited is a diversified farming operation situated in Western Kenya within the Yala Swamp delta. The Yala Swamp is a complex of freshwater wetlands in the delta of the Yala River on the northeast shore of Lake Victoria. In more recent years efforts to increase agricultural production to feed a growing population are in an ongoing struggle with efforts to preserve this key ecosystem (Goodfortunefilm.com).

The commodities produced by the Dominion Farm Ltd. are rice, fish, and some other agricultural products. Dominion Farms owns 17,000 acre leasehold based agricultural land (dominion-farms.com). Figure 4, shows the area covered by Dominion Farms Ltd, in the meanwhile both area I and II.

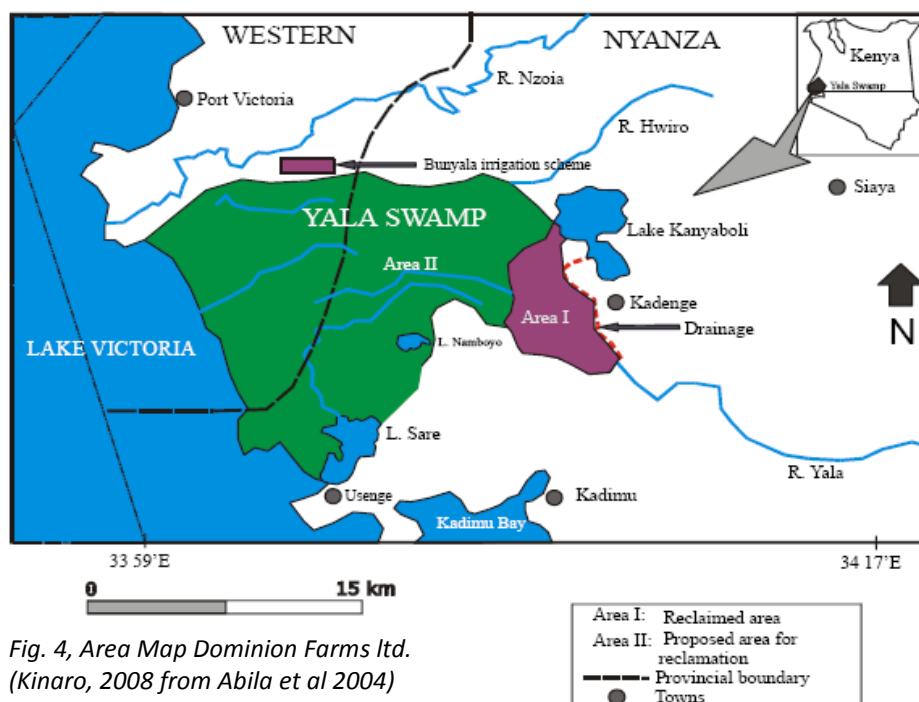


Fig. 4, Area Map Dominion Farms Ltd. (Kinaro, 2008 from Abila et al 2004)

Dominions' CEO Calvin Burgess first came to the area on a mission trip with his church and says the area's poverty inspired him to invest millions of dollars in a commercial farm to stimulate the local economy (goodfortunefilm.com).

The mission of Dominion Farms Limited is *"to produce quality foods and also to enhance the lives of their employees and the social and physical environment in which they operate"* (dominion-farms.com). In order to fortify these goals they started programs to enhance the community in which they operate. Dominion promised to:

- "Alleviate poverty;
- ensure food security;
- establish flood controls;
- build infrastructure, including schools and clinics;
- create employment;
- demonstrate successful irrigation technologies and train Kenyans in modern agricultural methods;
- attract other businesses;
- earn a profit (to provide a model for Kenya to end dependence on foreign aid)" (goodfortunefilm.com).

It sounds like a nice plan, not only to cultivate agricultural products, but also to enhance the community in which Dominion Farms is situated. Nonetheless, it is not as easy as that. The conversion of the wetland into large-scale agricultural production will have a major impact on rural people's livelihoods.

An article published in Businessweek.com, written by J. Silver-Greenberg (2006), challenged some of the promises made by Dominion Farms and its impact on its immediate surroundings. The article reveals a very negative opinion to the company and points out that many of the arrangements haven't all gone according to the plan, six years later. Subsequently, the article had been responded by Calvin Burgess, who totally disagrees on the content of the article, and wrote a letter as a reaction. Burgess is indignant about the fact that the article is written as "an outsider", from a small perspective, and argues that *"this could have been a stepping stone for the media to explore a new social business model"*. Burgess continues in his letter *"my mission is about bringing the people of Kenya out of that poverty by helping to build their economy by producing and distributing as much rice as possible and by demonstrating a reproducible agricultural model."* All the uttered accusations are swept away by Burgess in his letter.

Furthermore, the Dominion Farm has a key role in the film Good Fortune. The film explores how massive, international efforts to alleviate poverty in Africa may undermine the communities they actually aimed to benefit. And this probably exactly exemplifies the whole narrative. The film highlights two Kenyans targeted by massive "aid" projects. And one of the projects is the Dominion Farms limited (goodfortunefilm.com). The producers of the movie seem to rely heavily on the article from Businessweek, this appears from a background document about the movie. Furthermore, the movie is disputable because it isn't an objective source, it shows only one persons' perspective

However, a comprehensive field study is undertaken by Kinoro (2008), who assessed the swamp in relation to activities by Dominion Farms and how this has impacted on the livelihood situation of the

rural community. The research was done through a multi-stakeholder approach. And therefore, it would be more right to trust on this document.

The scheme below provides a sound overview of the different stances through employing the RAI principles.

Principle 1: *Existing rights to land and associated natural resources are recognized and respected.*

The Yala Swamp land is a 'trust land' under the holding of the government (Kinaro, 2008). The arrival of Dominion has led to a conversion from communal extensive uses for natural resource extraction into agricultural use.

According to Silver-Greenberg (2009), subsistence farmers and cattle herders complain that they were being displaced without compensation. In the same article she states that 300 families were driven from their land and they were only given a compensation of 60 dollars average. Kinaro (2008) notes that this was the case for private land acquired from private people. Although, some refused the amount of money, arguing that it was not enough (Kinaro, 2008; Silver-Greenberg, 2009). Although, according to Kidoro from his study it did not come across that *"anybody evicted completely and without compensation."* According to Kinaro, the local community adapted to the changes with little harm, although an exception is the community who traditionally used the swamp for a living. But, *"those who had indirect uses and not very close to the swamp felt benefit through increased employment opportunities, improved rural infrastructure, increased food production"*.

The remaining part of the Swamp is still a trust land under the local government, with open access to the community and other stakeholders. This continues to generate a lot of concern from different stakeholders. However the entry of Dominion seems to have caused a major impact that has elicited the present controversy over ownership and use of the swamp. Besides, people around Lake Kanyaboli fear that the lake is in danger of pollution. This would result in a loss of biodiversity, including the fish (Kinaro, 2008)

Principle 2: *Investments do not jeopardize food security but rather strengthen it.*

From the study from Kinaro half of the respondents said that loss of access to the swamp had made them more vulnerable to hunger and poverty. However, Burgess argues in his letter, that once Dominion is fully in gear, it plans to sell rice to African governments and export farm-raised fish to Europe. Furthermore, Dominion Farms wants to grow a variety of new crops. The companies' objective is to improve crop outputs and seed development for the community and region. According to Silver-Greenberg, Burgess had argued that *"if you preserve the local culture people would starve"*. But, this seems to be an attempt to denigrate the whole project.

Kinaro puts food security next to food sovereignty in his study. On the one hand, he argues, the increasing food demand puts pressure on arable land, but on the other hand access to natural resources is the most important asset of rural people, this appears from the fact that the people had rated the company lowly in terms of livelihood contribution.

Principle 3: *Processes for accessing land and other resources and then making associated investments are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.*

From the literature it seems that the local population was hardly consulted (see principle four) and thus, the level of transparency was low. Most of the actors said there was a low participatory approach in the running of the swamp affairs, there was documentary evidence. Kinaro argues that there was clear evidence of a lack of participatory approaches between stakeholders. This is in the interest of the company as well, because it will have consequences for the relationship with other stakeholders. Precisely because various stakeholders claim interest on the Yala wetland it is necessary to organise consultations in order to prevent conflicts (Kinaro, 2008).

The local Government authority (Siaya and Bondo) can benefit from the swamp in terms of revenue they get from the leased land to the Dominion Farms (Kinaro, 2008). Silver-Greenberg writes “Dominion is obligated to pay a total of \$140,000 in rent annually. On top of that, Burgess says he paid the Siaya County Council \$100,000 two years ago. A county official conceded that the \$100,000 vanished, according to local newspaper reports. Separately, Burgess says he paid \$120,000 to the local Lake Basin Development Authority in 2003. That money also disappeared, he says. Neither the authority nor the county council responded to several requests for comment.”

Although, the company and government agencies seemed to collaborate well, most of the respondents from the community felt neglected in the decision-making process about the swamp (Kinaro, 2008). While, actually they will feel the consequences of the establishment of a large-scale farming company. Most respondents blame the local authorities for this (Kinaro, 2008).

Principle 4: *All those materially affected are consulted, and agreements from consultations are recorded and enforced.*

Silver-Greenberg argues that many of the original residents of the area have lost access to the land they considered theirs. Land rights were held by the various government bodies that leased tracts to Dominion, according to the Lands Ministry. Homes were relocated to make way for a dam and reservoir the company built. Burgess says about 50 families were compensated as a result. However, Chris Owalla, a local community organizer, estimates that 300 families were displaced (Silver-Greenberg, 2009). The research of Kinaro showed out that more than half of the respondents from the community had never understood the whole transition process of the wetland.

Principle 5: *Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically,*

Dominion Farms secured a 25-year lease on 17,000 acres (Silver-Greenberg, 2009). Burgess (2009) says that to obtain the lease he made a series of agreements signed by members of local councils and tribal chiefs. These agreements were then approved by the Kenyan Lands Ministry in Nairobi.

Although, an opposing story comes from Kenya Wetlands Forum and the East African Wildlife Society. They claim that Dominion proposed to cover the entire swamp region of 17,500 hectares, and in fact did without that there was being made a comprehensive impact assessments prior to the

initiation of the project. And it is therefore that the two organisations decided to undertake a rapid assessment of the swamp in relation to the Dominion projects. Their study showed how the company proceeded to enlarge its intended size of rice cultivation (initially the plan was only to cover Area I) and further proposed to undertake a number of new development projects within the Yala Swamp, under what was now called “an integrated project” (Area II). It formed a real threat to the wetlands as an ecosystem as well for the local population who were dependent on this ecosystem for their living. The organisations recommended the following actions:

1. “The EIA Report submitted to NEMA (National Environment Management Authority) by Dominion Farms Ltd is rejected in totality to allow for a new comprehensive and independent EIA to be undertaken.
2. Dominion Farms Ltd is compelled to STOP immediately all activities subject to regulation by EMCA (Environmental Management and Coordination Act) 1999 as they are in clear breach of the Law.” (The Kenya Wetlands Forum and East African Wildlife Society, 2006) Both organisations seem to be a critic of the project, since they are both environmental organisations.

Although, in the end the study didn’t make a difference because the company actually had extended its scale. Although, it is clear that the company didn’t actually operate according to the environmental laws.

Principle 6: *Investments generate desirable social and distributional impacts and do not increase vulnerability.*

The company has initiated different programmes in terms of corporate social responsibility, which include construction of a man-made dam and shallow water wells for use by the people and animals; assisted in equipping local schools and the two health centres with equipment and free distribution of mosquito nets for the local community for fighting malaria. The writer of the article on kenya.politicalblogspot.com (2007) argues that it is pleased with the infrastructural investments Dominion Farms has made and he believes that this will enhance the community even further. An article on kenyapolitical.blogspot.com (2007) states that the settlement of Dominion Farms in Kenya has led to more prosperity in general. What comes forward in the article is that the percentage of people living under the poverty line dropped to 65 percent since 2003. However, no clear proof is given for this claim

Dominion also agreed to clear 300 acres of its land for residents to use it communally. In addition, it said it would build at least one school and one health facility in both the Siaya- and Bondo district (dominion-farms.com). Dominion has renovated one of the two promised health centers. But, according to Silver-Greenberg (2009), residents have trouble reaching the facility because the road to it runs through Dominion's farm and company security officers sometimes deny them access. No schools have been renovated, although Dominion has donated building materials for those projects. However, Kinaro (2008) found out that there was consensus by all stakeholder groups on general improvements on roads, electricity and health facilities. Additionally, 50 per cent of the respondents agreed that the educational system has improved (Kinaro, 2008). And, not to forget, the company created employment opportunities and increased food production on a large scale.

Although, Silver-Greenberg accuses Dominion for the fact that only 300 locals were working at the farm instead of the promised 1200 jobs. In the article the author describes that families said that Dominion hasn't offered as many jobs as it claims. Moreover, local residents argued that due to mechanization the number of workers felt well short of the original number of promised jobs. The study from Kinaro showed out that the company employs over 260 people on a full-time basis and about 1000 people on a seasonal basis. Kinaro also shows that there are equal and priori opportunities for the local residents. Interactions with company employees revealed that they were satisfied with the terms and conditions of their employment. On the contrary, seasonal workers were not sure about the future. Nevertheless, the company noted it will attract more people from the community as it plans to diversify and expand its activities, namely growing of cotton, Artemisia and fish farming.

Although, the article from Businessweek argues that employees said in interviews that they earn only \$3 a day. They declined to give their names for fear of losing their jobs. However, taking into account the currency value in Kenya it would maybe be possible for rural people to make a living from this amount of money in Kenya.

The website of the company says that beginning in 2010, Dominion Farms will be converting a considerable portion of its leasehold development to community based rice and fish farms. It is likely that this proportion is related to the original proposed 300 acres destined for community residents. Although, it is not clear if it is implemented yet. Moreover, Kinaro supposes that in the long-term the presence of the company could enhance peasant farming in the form of technology transfer. Besides the study of Kinaro shows that there is evidence that people are also seeking alternative ways to make a living, for example self-employment and small-scale businesses due to the multiplier effect of new markets and trade opportunities from the agricultural activities of Dominion Farms.

Principle 7: *Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.*

According to Silver-Greenberg (2009) and Kinaro (2008), local residents argued that they had suffered health problems and accuse the company of polluting water and sickening farm animals and poultry and destruction of horticultural produce due to chemical spill from aerial spraying. This is confirmed by the research of Kinaro, many respondents talked about pollution of the swamp. The community blames the company for the eutrophication of the wetland, although government agencies are responsible for water research and management. However, Burgess denied the use of pesticides, a claim a former Dominion manager opposes (goodfortune.com). Although, Kinaro states that the company had acknowledged the use of aerial sprays, but said that they were using recommended chemicals.

On the other hand, Omolo (2004) says that Dominion Farm intends to release some of the fish produced at the Yala Swamp to Lake Victoria, in order to re-stock the lake, since there is a rapid decline of fish species and population in the lake, due to over fishing and the use of wrong fishing gears. Besides this, it is not clear what else the company does in terms of sustainability.

In the end, 62,3% of the respondents from the study of Kinaro stated that their livelihoods had changed negatively (of which 12% had seen no change) and 37.7% reported that they had seen positive impacts with the coming of the company into the area. The positive aspects mentioned by the respondents were the following: employment and good salary, good business, improved standard of living, good infrastructure and schools, increased production of maize and reduced cases of malaria, accounting for a 40% positive change. Those saying they had experienced negative livelihood changes mentioned: less farming land, loss of grazing field, loss of livestock, less papyrus and building materials, low fish catches and increased incidences of sexual immorality (Kinaro)

The Kenyan government had described the project as a success story (Omolo, 2006). Despite the company experiencing initial problems in establishment, the agricultural production is now on course and plans are underway for expansion of its activities and realizing development of the region. The improvement of several facilities has (partly) compensated the losses of local inhabitants (Kinaro).

4.2 The Omo Kuraz Sugar Plantation Project

Land policy in Ethiopia

The citation below clearly describes the direction of land policy in Ethiopia, and the government's intended policy direction.

“Ethiopia has made much progress with registering farmland. Landlessness in rural areas is widespread and rental markets are therefore important too. Women’s rights over land are recognized during registration. The decision of Ethiopia to promote large-scale land acquisitions raises new challenges for land governance and land management, and is locally a source of conflict.” – Dutch Ministry of Foreign Affairs, Factsheet Ethiopia, 2010

It is clear that Ethiopia's poverty reduction strategy focuses on commercial agriculture. Additionally, the Ethiopian government aspires export diversification (Teshome, 2006 in Shete 2011). Another strategy of the government is to increase food security, since Ethiopia is Africa's largest recipient of food aid (World Bank, 2011). Land is primarily under control of the state (Vermeulen and Cotula, 2010). In 2000, 87.4% of the population depended on smallholder agriculture. Tenure insecurity is very high, due to the absence of any contractual or lease agreement with the government. In recent years the government tried to deal with this problem through granting certificates of land use rights to peasants (future-agriculture.org)

In an article 'Doing business with African dictators', the Solidarity Movement for a New Ethiopia warns for the risks of “doing business” with the current Ethiopian prime minister, Meles Zenawi (media.oaklandinstitute.org). The writer of the article, Obang Metho, is Executive Director of the SMNE which is a solidarity movement that calls the current Ethiopian government to account for allegations of human rights violations (solidaritymovement.org).

The Omo Kuraz Plantation Project

Southwest Ethiopia is experiencing rapid development of large-scale plantations by both foreign investors and state-run agriculture. Recently, Prime Minister Zenawi (2011) announced “150,000 hectare sugarcane development” of land in the South Omo region in a speech. This deal had been made possible, due to the construction of the Gibe III Dam. The Gibe III Dam is scheduled to be finished in 2012. In the same speech president Zanawi, emphasized the need for building a dam for the region. This dam would prevent floods (which had been a huge problem for the region) and will make it possible to create a big irrigation system in the area. In opposition, the Oakland Institute argues that the controversial Gibe III Dam is fuelling land grabs in Southwestern Ethiopia right now and this will impact on poor communities’ living conditions and the ecosystem.

In September 2011, Sugar Corp., Ethiopia’s state-owned producer, kicked off the Omo Kuraz Plantation Project. In contrast to the other major land deals that have occurred in Ethiopia since 2008, these sugar plantations are state-owned (OI, 2011). The project comprises the construction of six sugar factories, sugar cane plantations, housing units, and roads. It forms part of the ten sugar factories planned to be constructed nationwide. 245,000 ha for sugar plantations in South Omo - made up of three separate blocks of approximately 80,000 ha each (see figure 5) (OI, 2011).

The government believes the farming deal would make the people in the area, and many other Ethiopians, benefit, through creating employment. The pastoralists will be given some fertile land for their own agriculture plus they will be supported for modern cattle herding (Zenawi, 2011).

The first factories to crush sugar cane are expected to start by 2013/14, according to Dereje Gutema, deputy director general of factory projects and preparation at Sugar Corp (in Zewdie, 2011).

Principle 1: *Existing rights to land and associated natural resources are recognized and respected.*

The people living in the South Omo region are very traditional ethnic groups. Their land tenure rights are not acknowledged by the Ethiopian government. The largest part of the people living in this area are pastoralists, who live from flood-retreat agriculture. Although, with the coming of the sugar plantations a very large area will be covered by large-scale agriculture and this means a major change for the original inhabitants of the area (OI and SMNE, 2011).

Abay Tsehaye, director general of the Addis Ababa-based company argues that local communities support the scheme and the displaced population will be “very minimal” as the farms are in “barren areas.” (Davidson, 2011)

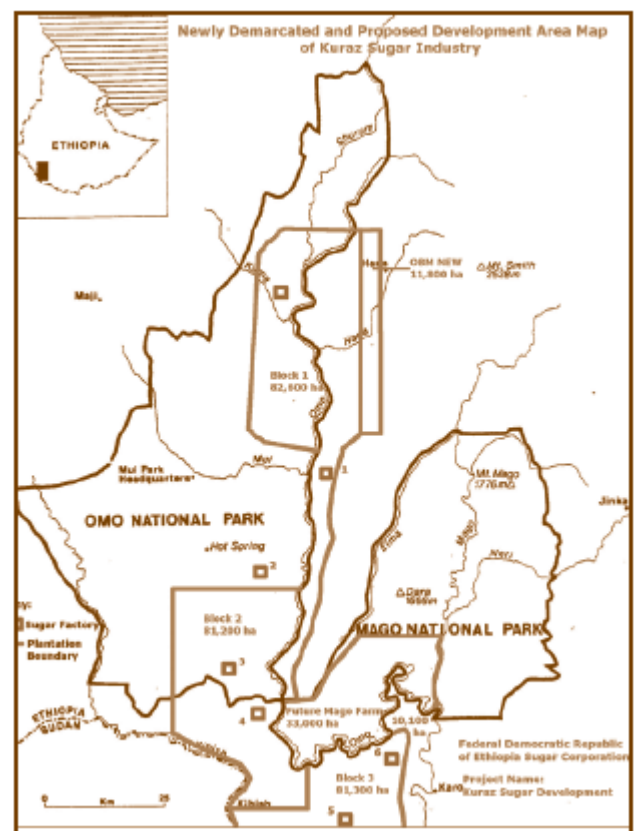


Fig. 5, Area Map of Kuraz Sugar Industry. (OI, 2011)

Although, in opposition, the Oakland Institute states that without intervention the cultural traditions of indigenous people will be gone and future livelihoods are threatened.

At this moment, the indigenous population is threatened by villagization, national park management, the massive Gibe III hydroelectric facility, as well as now commercial agriculture are serious threats to the very existence of these groups. People are being forced by governments to retreat from their land and are being resettled into villages (OI and SMNE, 2011).

Principle 2: *Investments do not jeopardize food security but rather strengthen it.*

The Kenyan prime Minister Zenawi said in his speech (2011) that the development would be necessary in order to ensure food supply. According to Tsehaye Ethiopia imported 150,000 metric tons of sugar last year. The government aims to become self-sufficient in the crop by the end of 2013. This means an increase of production almost eightfold.

Tsehaye argues that Ethiopia has big potential in terms of climate and in terms of soil and water resources, which is very favourable for sugar production (in Davidson, 2011).

Principle 3: *Processes for accessing land and other resources and then making associated investments are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.*

The upcoming five years there will be a very big irrigation project and related agricultural development. Nonetheless the Oakland Institute argues that this rapid development has led to involuntary resettlement and human rights violations to indigenous peoples.

Principle 4: *All those materially affected are consulted, and agreements from consultations are recorded and enforced.*

The population, comprising mostly pastoralists, were included in discussions on the project, and would benefit from the project, according to Molloka (in Zewdie, 2011). Although, the OI and SMNE argue that the impacts for indigenous people will be displacement of land, loss of life-giving floodwaters (flood retreat agriculture), and considerable impacts to downstream Lake Turkana in Kenya.

Tsehaye, argued that those affected will be compensated for lost earnings and given land at least equal to previous holdings (in Davidson, 2011). On the other side, Davidson (2011) writes that people have been put in jail because they had opposed the plan and others have been repressed. So, this shows that they had not much or nothing to say in the whole process.

Principle 5: *Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically.*

According to Prime Minister Meles Zenawi (2011), the Hydroenergy project would solve a national energy crisis and furthermore will create more profit through the export of energy. However, whether it is best practice is arguable.

Principle 6: *Investments generate desirable social and distributional impacts and do not increase vulnerability.*

Previously impoverished communities will be “far better off” as they will benefit from irrigated land, improved social services, support from agricultural experts and job opportunities, according to Tsehaye (in Davidson, 2011).

According to Dereje Gutema, deputy director general of factory projects and preparation at Sugar Corp., “The project would create huge employment opportunities for the local community, and furthermore the project will allow the community to irrigate their own agriculture (Zewdie, 2011). There will be built a village for employees, plus around 750km of internal roads (in total) are to be constructed, according to Molloka (in Davidson, 2011). Although, the London-based advocacy group for tribal peoples, Survival International, argued that tens of thousands of workers will move to the area (in Davidson, 2011).

Principle 7: *Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.*

The project raised a lot of concern among environmental activists (Davidson, 2011). On the one hand you could say that hydroenergy is a clean source of energy, although the scale on which it occurs is probably not responsible in terms of the hydrological impacts (BBC news, 2009).

Nonetheless, several studies have shown the massive impacts the building of the dam would have downstream and into Lake Turkana in Kenya. Sugarcane is a water-intensive crop. Development of such large-scale plantations will further exacerbate the already serious water scarcity problems downstream. In short, it would lead to displacement of land, loss of life-giving floodwaters (flood retreat agriculture), and considerable impacts to downstream Lake Turkana in Kenya.

However, the Omo Kuraz Sugar Plantation Project itself has not yet received much media attention, rather the building of the Gibe III Dam and its impact for the environment and local residents. But, in fact we can not see them separately, the projects largely coincide. The Sugar Plantation project is just recently launched. It is a very ambitious plan, but it is the question how it will all turn out after the implementation. Although, it will be clear that the local inhabitants will be directly confronted with the consequences of the project. Nonetheless, it is possible that Ethiopia as a whole will benefit, either through the increasing supply of sugar, energy, as well as through export, but this remains to be seen.

Chapter 5: Conclusion & Critical Reflection

Conclusion

Frequently the term “land grab” is used in the debate about large-scale land deals. Although, the issue is in many cases not as black and white as it is being presented. Concerning Dominion Farms there are mixed opinions. On the one hand these depend of course on the type of stakeholder, but also within the group local residents opinions are divided. Although, the largest group answered that they had seen negative impacts from the establishment of the company, there were also residents that stated that their livelihood had changed positively after the coming of the company. It seems that the company is taking responsibility for the community through the initiation of several community projects. Furthermore, it will take some time for the traditional residents to adjust to the major change.

The Sugar Plantation Project in Ethiopia seems to be more disputable. It is clear that there was a lack of consultation of civil society and environmental groups. It has resulted into conflicts of interest between the Ethiopian government and the population and environmental groups, which is an ensuring controversy. Further to this, there should be made a distinction between the establishment of a company, and the long-term effects of its presence. Governments would almost certainly point to the long-term effects, increasing food supply for example and creating employment, while local populations are directly confronted with the establishment of large-scale farming companies, for example through dispossession and loss of their original livelihood.

However, the deals that receive the most (media) attention are most often the largest ones, that have very badly impacted upon the environment. The term “land grab” carries a very negative connotation, but it will be more valuable to look for opportunities, how investors can stimulate the local economy and the standard of living of local residents. And thus move from challenge to opportunity, towards a win-win situation. The demand for farmland is unlikely to slow down due to higher commodity demand and prices. I think a combination of both state-led and market-based interventions could certainly help to prevent excesses and could largely complement one another, with this I mean on the one hand the policy guidelines and on the other hand the RAI principles.

The different guidelines discussed in this thesis, namely the ones provided by the EU, FAO and the guidelines for Africa are quite similar to each other, although in their contents there are some differences. The guidelines for Africa are of course more related towards specific African problems concerning land governance. The FAO Voluntary guidelines, in the end, will be more like a universal standard in terms of land governance and how to treat and protect natural resources. And by means of its guidelines the EU provides some sort of development assistance in developing countries.

In my view the principles for Responsible Agricultural Investment can prompt changes, although, until now, these instruments are barely applied. Private companies should be strongly supported by states and international organisations to adhere to the principles. In this sense market-based approaches will require accompanying government policies and funding (EUWGL, 2011).

The need for a multi-stakeholder approach through a process of consultation is obvious, but additionally it is important as well to monitor the implementation of the agreements (IFAD, 2010;

Meinzen-Dick and Markelova, 2009). Besides, mobilizing both types of instruments depends on political will and international backing. Nevertheless, it would be necessary to look for consequences when large investors have a negative impact on the rural livelihood. Furthermore, through tax legislation national governments can increase the treasury, and then spend it in favour of development, e.g.: education, health care, food aid.

Critical reflection

It is obvious that this whole debate about the large-scale land acquisition is a highly controversial one. It costs some time to understand this debate, moreover because prior to this research I was quite unfamiliar with it. I have gained much knowledge around the topic through studying the literature.

Nonetheless, I had some problems with the start-up, I found it hard to decide on which topic exactly to concentrate, due to the enormous amount of literature. And I wanted to study something new, not repeat other studies. Finally, I surely did focus on a specific topic, which became more interesting the deeper I studied it. The novelty of the research topic has contributed to my attention for the research. Additionally, It taught me a lesson to clearly decide which references are of importance to be taken into account and try focus particularly on the topic of the research questions, in order to prevent getting lost in the literature. On the opposite, for the chapter related to the guidelines it was not always very easy to find literature that challenges the workings of these instruments because most of them are very recently released. Nonetheless, I hope that this thesis has provided a clear overview of the different mechanisms and their workings.

Besides, it would be wiser to write the texts one by one, instead of writing pieces of several chapters so that it is more easy to send texts to my supervisor for comments. And of course for me to have a clear overview and to comply with predetermined deadlines, in order to prevent postponement. Furthermore, I plan to have a meeting with the Academic Writing Center (although it is afterwards) to ask for some recommendations because the writing process took way too much time.

Through this research I have learned how to deal with these obstacles for future research. Besides, it was instructive for me to write this thesis in English and I see it as a good preparation for next year's Master thesis. And I recognized that it really improved while writing this thesis.

Furthermore, I noticed that I actually prefer a more 'pragmatic' research. This research is mostly drawing on the existing literature and that makes it very theoretical. For the Masters' thesis I would like to write a thesis for an organisation, so that it can really contribute. Through carrying out this research I have thus gained several experiences that are useful to take into account for the Master thesis.

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