

Discourses, fragmentation and coalitions: The case of Herakles Farms' large-scale land deal in Cameroon.



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1. **SETTING THE SCENE: GLOBAL TRENDS OF CONTEMPORARY LARGE SCALE LAND DEALS**

Over the past decade the world has witnessed an unprecedented increase in the rush for land by transnational corporations. This phenomenon has been labeled in many different ways: as ‘land grab’ or ‘large-scale land acquisitions’ to highlight its intrusive character; as ‘land deals’, ‘land transactions’, ‘land transfers’ or ‘large-scale investments in land’ to underscore its commercial character. It has been triggered by several factors, including the increasing demand for natural resources by emerging countries, population growth, rising food prices, growing demand for biofuels, expansion of carbon offset markets and speculative capital flows (Mullea, et al., 2013; Anseeuw, et al., 2012; German, et al., 2013). While many governments see large-scale investments in farmland as an opportunity to increase agricultural productivity of supposedly ‘underutilized land’, these land deals have spurred a huge debate on dispossession and/or displacement of local communities, human rights violations (CHRGJ, 2010; De Schutter, 2011) and their effects on poverty and food insecurity (Deininger, 2011; De Schutter, 2011) as well as on the environment (Arezki, et al., 2011; Karsenty, 2010).

Indeed, the increasing transfer of farmland to multinational companies is jeopardizing land access and tenure security of smallholders and rural communities. Still, the majority of the world’s rural poor depend on agriculture for their livelihoods, while many also depend on livestock and non-timber forest products. Also in view of combating global food insecurity, access to land is crucial. Although agricultural production increased faster than population growth in the last fifty years, an estimated one in nine people still suffer from hunger¹. Therefore, AGTER (2010) calls for agricultural reforms that prioritize the type of agricultural investments that guarantee affordable food production and meet the basic food needs of the poorest segment of the population (AGTER, 2010). Most current large-scale investments in farmland however are focused on production of biofuel or export oriented crops, thereby increasing the danger of food insecurity in host countries. Moreover, vast concessions are not being held for productive, but for speculative and credit purposes (Cotula & al, 2009; Cotula, 2011; Deininger, 2011; De Schutter, 2011; Oxfam, 2011).

Although large-scale investments in land as such are not new – just think about colonialism - the recent wave of large-scale land deals has some specific features, which Peluso and Lund (2011) highlight in their article on ‘land control’. While the concept of land control is broader than ‘land grab’² – land control refers to *all* practices of claiming access for some groups, while excluding other groups (for some time) from the land – Peluso and Lund (2011: 668) identify ‘new frontiers’ involving “new crops with new labor processes and objectives for the growers, new actors and subjects, and new legal and practical instruments for possessing, expropriating, or challenging previous land controls”.

Following these authors we draw attention to three important features of current large-scale land deals. First, the mere scale of the deals is impressive (Borras, et al., 2011). Though there are no precise figures, approximately 2,042 land deals covering an area of about 203 million hectares of land were reported worldwide between 2000 and 2011 (Anseeuw, et al., 2012). An estimated 35% to 65% of these large scale land deals have taken place in sub-Saharan Africa (German et al., 2013)³. Second, these deals involve new actors and coalitions. Land deals

[1] World Food Programme, Hunger Statistics (<http://www.wfp.org/hunger/stats>, accessed 11/05/2015).

[2] For Peluso & Lund (2011: 669) the ‘grab’ itself “only marks the beginning of a process of gaining (or grabbing) access”.

[3] These figures recorded by the Land Matrix includes land deals reported as approved or under negotiation in different countries between 2000 and 2010.

are often concluded between (host) state actors on the one hand and foreign actors on the other (Cotula, 2011). First of all, the notion of the 'state' needs to be unpacked as it never operates as one monolithic body (Hall, et al., 2015). Wolford et al (2013: 189) emphasize the need to "see the government and governance as processes, people and relationships [...]. Understanding the dynamic nature of these relationships is critical to understanding the highly variable form and content of large scale land deals [...]" The foreign actors include transnational companies, parastatal enterprises and international financial institutions that either fund such investments or actively promote foreign direct investments (AGTER, 2010). But in spite of the standard narrative on northern companies investing in southern states, there are also many South-South alliances (White, et al., 2012). In addition, the growing importance of globally operating NGOs, who typically fight against the land deals and claim to represent local communities, should be noted (Peluso & Lund, 2011; Sassen, 2013). Those foreign land deals are the most mediatized and debated, but in fact may represent only a minority of 'grabs' in developing countries. Recent studies have demonstrated that in some countries national and local elites are buying large tracts of land, with identical harmful effects on more marginalized groups (Ansoms & Hilhorst, 2015; Fairbairn, 2013; Kandel, 2015; Hall, et al., 2015). Third, the recent wave of large-scale land deals is altering structural and power dynamics within host states, thereby posing a threat to national sovereignty. The nature and scale of land deals increases the power of land control by investors to the detriment of local right holders (Peluso & Lund, 2011). Sassen (2013: 27-28), argues that this partial disassembling of national territory reduces national sovereignty of host states in the sense that national laws and the formal state apparatus are not the only – and often not the most important – decision-making spaces anymore. As land deals often involve a transfer of property or ownership rights to foreign investors, this creates new poles of power and authority. Foreign investors may abide by the laws of their home countries and by international legislation and guidelines. And even when the deals do not involve foreign actors, state power is "disassembled" in non-statutory law, or even in ambiguities *within* state law.

Indeed, a number of initiatives aimed at mitigating the negative effects of land deals have already been taken at the international level. The World Bank has, together with FAO (Food and Agricultural Organization), UNCTAD (United Nations Conference on Trade and Development) and IFAD (International Fund for Agricultural Development), adopted a set of seven 'principles for responsible land investments', among which respect for land and resource rights, guarantees for food security, transparency and participation (World Bank, 2010). In 2012, after difficult negotiations with government and civil society organizations, FAO published the 'Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security' (FAO, 2012). What these initiatives have in common, is a belief that large-scale investments in land offer a development opportunity as long as some principles of good governance are respected. Yet as has been demonstrated, these deals often take place in countries with poor governance track records and weak safeguards for local communities, which renders some authors skeptical about the application of 'good governance' practices (Cotula, 2011). More critical authors object to the fact that large-scale investments in land are presented as 'inevitable' and that self-regulation is sufficient to prevent destructive outcomes (Borras & Francott, 2010; De Schutter, 2011). At the more radical end of the spectrum, some activist groups such as the Via Campesina movement have called for an immediate stop on all projects for large-scale investment in land (White et al, 2012: 637).

2. EXPLORING THE ISSUES: PROBLEM STATEMENT, RESEARCH QUESTIONS AND METHODS

Cameroon is no exception to this new upsurge of large-scale land deals in Sub-Saharan Africa. The country's rich biodiversity and natural resource base with a variety of agro-ecological zones suitable for the production of a variety of agricultural products, makes Cameroon a favorable destination for multinational corporations. The recently elaborated economic growth and employment strategy "Vision 2035", also creates an enabling environment for large-scale land deals. In 2011, President Biya announced the decision to modernize agriculture by promoting 'second generation production' through plantation agriculture. This growth strategy, accompanied by attractive investment incentives, has recently attracted substantial foreign investments in land and natural resource exploitation. There are no comprehensive statistics on recent land deals in Cameroon, but some scattered figures may give an idea of their scale. In 2006 a land lease of 11,980 hectares was issued to an investor for sugarcane. In 2008 a Chinese multinational acquired 10,000 hectares for the cultivation of rice (Mbougouen, 2008; Cotula, 2011). A Brazilian-Japanese joint venture planned to acquire over 500,000 hectares of land for production of soy, and over one million hectares of land were demanded by investors for palm oil production alone (Hydromine: 2013; Hoyle & Levang, 2012). Other land concessions requested or controlled include; 155,000, by Justin Sugar Mills from India, 45,200, by Sud Hévée from China 38,000, by Cargill from the USA, 100,000 by Moscow Coffee House and 20,000 by Guta both from Russia, and 60,000 hectares by a Cameroonian company Green Field (Azur) (Nguiffo & Sonkoue, 2015:23). There are equally huge expanses of land attributed to investors for mining, carbon offsets, timber exploitation and conservation (Schwartz, et al., 2012; Bongben, 2013).

Though most of the large scale land transfers, especially for agro-industries, are yet to be concluded, there are already cases of land use conflicts, civil protest and disputes over land rights by affected local communities and other actors (Schwartz et al. 2012). This paper analyzes the case of the acquisition of over 73,086 hectares of land by Sithe Global Sustainable Oils Cameroon (SGSOC) a subsidiary of Herakles Farms. In 2009, the government of Cameroon signed a memorandum of understanding (MOU) with Herakles Farms to develop a plantation in the South West Region of Cameroon for a duration of 99 years. The company equally signed MOU's with communities and concluded an ESIA study (Environmental and Social Impact Assessment) which was approved by the government in September 2011. However, there were several allegations that these MOU's were signed without due sensitization and on the basis of fragmented information provided by the company to the local populations and traditional authorities. Claims were also being made about forgery of signatures of traditional leaders and community representatives. Besides, it was argued that the proposed project area was an environmental hotspot and acted as a buffer zone and wildlife corridor between four protected areas (Nguiffo & Schwartz, 2012). In this paper we argue that the case of Herakles Farms has rightly been classified as 'land grab' because of the scale of the project, the procedures used by the company to claim land rights and the controversy around social and environmental safeguards. This particular deal indeed spurred the 'land grabbing debate' to the limelight in Cameroon. The contestations eventually led to the abrogation of the 2009 agreement and the issuance of a presidential decree reducing the concession to 19,843 hectares for a three year provisional period.

In this paper we will concentrate on the following questions: How did the different actors claim their rights to land in the case of the SGSOC - Herakles Farms land deal in Cameroon? What strategies and narratives did they use? And what were the outcomes of these competing claims over land rights? Conceptually the analysis is framed in a legal plural-

ist approach. Such an approach allows to consider the case in its broader socio-institutional context. It acknowledges the existence of multiple, overlapping rights and semi-autonomous social fields interacting in the attribution of land, as well as actors' unequal power relations and conflicting interests. Through an analysis of this specific Cameroonian case the paper also seeks to contribute to the ongoing policy and academic debates around large-scale land transfers. In this respect, the paper makes two main arguments: 1) different sub-groups that are opposing or supporting the large-scale land deal make use of particular (and sometimes similar) discourses; their narratives are manifestations of power relations and have real effects, leading to action and/or legitimation. But on the other hand they are also pretty mainstream in echoing prevailing development discourses; 2) agency in this struggle translates into fragmentation within and between groups as well as (un)likely old and new coalitions. Former allies start to compete and become divided, while former opponents unite on a common ground. A large-scale land deal cannot be analyzed as the outcome or the product of negotiations; it is a process. It is constantly (re)negotiated, even and especially after the contract has been signed. That is why it is worth looking- as we have done in this paper – at the process of the struggle as such and the provisional outcomes, rather than to make an impact evaluation of the deal.

We use a qualitative methodology and rely on the collection of both primary and secondary data. The primary data used in this study include recorded interviews and field reports. These were collected between 2011 and September 2013, when the first author was an employee of WWF Cameroon and attended several local sensitization and protest meetings. She also conducted interviews with the traditional leaders, elites and local civil society activists. In addition, she obtained complaint letters and court rulings from the traditional authorities, associations and elites as well as from local and international NGO's. The secondary data were provided by local and international NGOs such as WWF, Greenpeace or Oakland Institute, or collected from the websites of these organizations.

All these data were organized in a spread sheet, based on the source (i.e. government agencies, local communities, local and international NGOs and Herakles Farms). Through a process of open coding, several initial themes arose, which formed the basis of our analysis (i.e. livelihood and local development, environmental impacts, transparency and local participation and legality). Coding the data made it easy to link associated ideas under specific themes. It also exposed the interconnections and variations in the narratives of different sub-groups. We then did a discourse analysis of the data that had been grouped under the different themes, trying to discover (hidden) meaning and reflections of power relations in the narratives (Wodak, 2008). Certain narratives can, for example, become extremely powerful and have a real impact on situations. Some narratives are adopted by different groups of people who use the emerging discourse as a tool for joint action; others are differently interpreted by contesting groups; still others oppose different groups and in this way reflect underlying power relations.

Our research methods reveal our constructivist approach. Indeed, we believe that actors' practices and narratives are social constructions. Rather than revealing the 'truth' about who holds the rights to the land, they teach us something about contesting claims, interests and power relations. Similarly, our analysis has been constructed and influenced by our own identity and position as researchers. For that reason two caveats are in order at this point. First, given that the primary data were collected in the context of the first author's work with WWF, there may be a bias in the data collection and reporting process as the data were initially oriented to suit particular narratives on environmental conservation and local livelihoods. However, in this paper we try to address this by taking a more critical stance, by triangulating with other

sources and by being as transparent as possible about the data collection and analysis. Second, since some of the data have been derived from secondary sources, we also recognize a lack of precision in data and figures. Moreover, the use of secondary data sources and the relatively limited amount of primary field research, also did not always allow us to take due account of the heterogeneity within communities. That is why we also talk about 'local communities' in a more generic sense. Yet it should be noted that this term needs to be interpreted with caution and that, just like 'the state' or 'the company', 'the community' is not one homogenous block.

3. EXPLORING LAND AS A 'BUNDLE OF RIGHTS': A LEGAL PLURALISM APPROACH

Land constitutes a crucial capital stock for most rural households due to its importance for agricultural production and other livelihood activities. Mainstream economists argue that it is important to have clear, formal and secure land rights, which are attributed and enforced by the state. For property economists such as Steiger (2006), De Soto (2000, 2002), Eggertsson (1990), Barzel (1989), Alchian and Demsetz (1973), Demsetz, (1967) and Coase (1959, 1960), the basic condition for economic growth is to guarantee full property rights, which are transferable and protected by state law. Formal titles, so they argue, create incentives for investments and development of a resource, they allow access to credit and can be transformed into standardized instruments of exchange and capital. In this way people will be included in the market economy.

According to the property rights school, problems of access to land are linked to market failures and institutional gaps. State intervention is needed in order to reduce such market failures and increase efficiency. This view, which has been very influential in policy circles, calls for a process of titling, registration and formalization (De Soto, 2000). Yet it fails to recognize the structural and relational dynamics which are at the center of the challenges of land governance (Deininger, 2000; Toulmin, 2008). This explains why property formalization through titling has not produced the anticipated results in many countries. In Cameroon for example, only 2% of the owners of 2.6 million plots identified held legal titles (AFDB, 2009; Javelle, 2013:2).

Many authors have criticized this mainstream view on formalization. Daniel Bromley (2008) for example argues that formalization of land rights wears away existing social networks and arrangements that offer security, yet offers little assurance and in so doing reduces land titles to mere "symbols of willful deceit" (Bromley, 2008:21). Because formalization does not incorporate the different rights over a particular piece of land, such strategies often result in increasing conflicts and tenure insecurity. Besides, the opportunity cost of formalization of land rights including scale economies and risk reduction under common property regimes, makes it inefficient and unbeneficial to individualize communal resources (Platteau, 2002).

A competing view therefore does not consider land as a mere production factor or instrument of exchange and capital. It also considers the social, environmental and cultural meaning of land. In this socio-institutional approach, land rights are "the outcome of dynamic and complex social processes, involving both state and non-state arenas" (Merlet and Bastiaensen, 2012: 10). This means that different actors may have overlapping and superposed rights over the same piece of land, a phenomenon that is commonly known as the 'bundle of rights'⁴. Due to the intrinsic complexities of land rights, this paper builds on the socio-institutional theories of land rights. As many authors have done before (Mulleeta, et al., 2013; Bastiaesen & Merlet, 2012; Bastiaensen, et al., 2006), it takes a legal pluralist approach, as legal pluralism helps to disen-

[4] The notion of 'bundles of rights' refers to different rights such as right to own, inherit, use or dispose of the same area of land by different individuals (Ribot & Peluso, 2003).

tangle the ‘bundle of rights’ and to study the diversity of normative orders governing land rights. We do not consider legal pluralism as a theory but as an approach, a conceptual starting point. There are some basic tenets that guide most legal pluralist analyses.

The concept of legal pluralism was coined by John Griffiths (1986:1) referring to “the presence in a social field of more than one legal order”. The concept was first used to explain the existence of several legal orders (colonial laws and customary laws) in the context of decolonization. But legal pluralism equally describes the presence of multiple sub-groups within societies (family, village, religious groups, amongst others), which may all produce their own rules: “Every functioning sub-group in a society has its own legal system which is necessarily different in some respects from those of the other sub-groups” (Pospisil, 1971 in Merry, 1988:870). Nonetheless, the conceptualization of legal pluralism goes beyond the mere recognition of different legal systems and normative orders.

A first focal point of legal pluralism is the rejection of legal centralism wherein the state law is seen as exclusive or superior to other legal systems and administered uniformly for all citizens by a single set of state institutions (Griffiths, 1986). Legal pluralism claims that the state (and state law) is neither the only, nor the superior normative order. Other actors have a margin of maneuver and the capacity to influence negotiations in political arenas in their favor (Bastiaensen et al., 2005; Merry, 1988). Legal pluralism thus focuses on the analysis of complex power relations between competing normative orders. It also adopts a two way analysis of the relationship between society and law to understand the effect of society on law and vice versa (Merry, 1988).

In order to better understand this, it is important to see that behind the diversity of normative orders also lies a diversity of social spaces. The notion of ‘semi-autonomous social field’ has been introduced by Sally Moore (1973). These social fields have the capacity to produce and enforce rules and norms internally. But as social fields are only ‘semi- autonomous’, they also influence each other, and they are influenced by the broader socio-institutional context in which they are embedded (Meinzen-Dick & Pradhan, 2002). This perspective introduces the need to move away from the narrow state centric conception of law and to integrate all existing social and political normative orders within a society (Bastiaesen & Merlet, 2012). At the same time, this perspective claims that there is no hierarchy in normative orders and no superiority of the state order over other social orders.

The legal pluralist view equally emphasizes the inherent heterogeneity within groups. The state for example is fragmented into multiple subunits each of which has its own rules, but they are influenced by the rules of other subunits. What is more, institutions and laws do not occur in a vacuum and their sustenance depends on people who often belong to more than one social field. This may lead to ‘crowding in’ of norms from one social field into another (Frey, 1997; Fehr & Klaus, 2007). Furthermore, the existence of multiple normative orders also provides opportunities for ‘forum shopping’. Forum shopping refers to actors’ ability to select different normative repertoires (law, custom, convention etc.) depending on which law best supports their claims (Ribot & Peluso, 2003:157; Meinzen-Dick & Pradhan, 2002:5). They can do so because individuals belong to more than one sub-group in a society, which allows them to use more than one law to legitimize their actions. Indeed, there is also heterogeneity at the level of communities.

Finally, because multiple orderings operate simultaneously without any hierarchy, there are continuous discursive and practical struggles over which norms will prevail, both with-

in and between social fields in different arenas. Often the positions of individuals are neither coherent nor representative of the sub-group to which they belong, but they are geared towards promoting their personal interests. Alternatively, such struggles also create opportunities for individuals or sub-groups to form coalitions with others who share their interest (Meinzen-Dick & Pradhan, 2002). The outcomes of these struggles not only depend on the claims made, or the references to particular sources of law to justify actions, but above all on the individuals' or groups' power position (Bastiaensen & Merlet, 2012; Mullela et al., 2013). This is one point this paper aims to highlight.

Indeed, 'power' is a central issue in the discussion on land rights. While market based approaches call for the redistribution of common property, privatization and formalization of land rights in order to enhance efficient use of land, they fail to recognize how underlying structural factors and power dynamics between competing groups determine the outcome of such policies. In a similar way, a context of legal pluralism is riven by power inequalities and offers plenty of opportunities for elite capture and exclusion. Platteau (2002) for example argues that power dynamics often create perverse distributive effects and greater distributional inequalities among right holders, thereby increasing contestations over land rights. Mosse (1997) states that institutions often encode interest of some individuals better than others and thereby contributes to maintaining the dominant position of elite groups, which can be state or non-state elites. Socio-institutional theorists have therefore called for a recognition of the social embeddedness and power laden nature of institutions and policy interventions that increase the risk of elite capture and exclusion of the poorer groups (Mehta et al., 2001; Mosse, 1997).

4. EXPLORING THE CONTEXT: LEGAL PLURALISM AND LAND RIGHTS IN CAMEROON

De facto Cameroon has a dual tenure regime embedded in the historical processes of colonial rule. Prior to colonization, land was communal property, governed by an indigenous tenure system. Private property in land was introduced during the German colonial rule (1884-1919) through the appropriation of land for plantation crops. The French tenure system (1919-1960) declared all unoccupied land 'vacant land without landlord'. In the southern Cameroons administered by the British (1919-1961), the colonial administration acted as a custodian of native lands. In fact the British land policy considered all unregistered land to be 'native land' administered by the prime minister on behalf of the natives (Fonjong et al., 2010; Ahidjo, 2012; Njoh, 2013; Nguiffo et al., 2009; Tchawa, 2012).

The 1974 tenure regime of the newly independent state reflected the land tenure systems of the colonial era. The 1974 Land Ordinance classified all unregistered land to be administered by the state for the public good and granted customary communities occupancy rights and access to land and resources of their ancestral lands (Cameroon, 1974:1-2). The 1985 law on expropriation for public purposes and its subsequent decree of implementation in 1987 gave the state the authorization to evict all occupants of national lands and holders of private property titles from any area which has been earmarked for public utility, on condition of payment of a compensation based on the value of the property.⁵

However, the notions of 'unused land' and 'public good' or 'public utility' as well as the legitimacy of state to administer land are often contested. The notion of 'unused land' is equally problematic, as it implies that land that is not used for productive purposes is useless, whereas it may be used for other purposes, or it may be used seasonally. Yet as said before,

[5] *Loi 85/9 du 4 juillet 1985 à l'expropriation pour cause d'utilités publiques et aux modalités d'indemnisation.*

land may have a social, environmental and cultural meaning that goes beyond its market value. These meanings are also important to the 'public good', which is equally difficult to define and raises the question: good for whom? Besides, as said before, 'the state' is not homogenous. It consists of sub-groups and government agencies intervening in the different sectors and at different levels. Its fragmented nature causes conflict between groups with competing responsibilities and interests. An illustration of such competition and fragmented government action was the case of the Forest Management Unit⁶ 09-001. This FMU was first designated by the Ministry of Forestry in 2008 as 'Mintom council forest'. In 2010, the same FMU was earmarked for oil palm plantation by the Ministry of Agriculture while the Ministry of Economy also declared a portion of this FMU as Public Utility for the construction of the CAMIRON railway corridor. In 2011, the Ministry of Mines attributed the same land to a mining company for iron ore exploration (Schwartz et al. 2012:12).

The customary tenure system continues to play an important role in the discussion on land rights in Cameroon, although the autonomy of customary chiefs has been eroded as a result of socio-cultural, economic and political evolutions. Investors who need to negotiate with communities, still talk to the chiefs in order to get consent for obtaining the land. So traditional authorities still have considerable leverage in decision making on large-scale land transfers, as is happening in several African countries (Toulmin, 2008). As chiefs are considered to be custodians of local custom and tradition, the state also acknowledges their role in the management of customary lands. However, customary communities are rarely homogenous as different subgroups have divergent interests, values and allegiances. This leads to fragmentation and weakening of the chiefs' power especially in cases where the chief, council of elders and/or elites have opposing interests. Power relations indeed play a key role in determining how communal land is distributed. In many cases, chiefs and other elites sell land to outsiders for personal gains. An example of this was the redistribution of portions of former colonial plantations to local communities in Fako Division in the South West Region of Cameroon, where most of the land redistributed to natives was either withheld by political elites or distributed within the patronage networks (Same, 2006).

The recent rush for communal land and the increasing heterogeneity within local communities have pushed customary tenure systems to reinvent themselves. Customary right holders are now preparing written documentation of land transactions which are used as proof of ownership in case of a dispute over rights to the said land (Teyssier, 2004 in Javelle, 2013). Local communities have equally adapted their livelihood strategies. There is increasing conversion of communal lands into private, individual farmlands, especially cash crops, in order to maintain tenure security. This was the case of the villages around the proposed Herakles Farms concession, which we analyze in this paper (see also Dupuy & Mor Achankap, 2013).

But 'the state' (albeit fragmented) and 'the customary system' (albeit dynamic) are not the only normative orders at play when it comes to land rights. In the context of this paper, we need to take into account a group of what we will call 'external actors': donors, international organizations, NGOs, foreign investors and so on. Just like the other groups, this one is not homogenous either, but in the context of the 'land grabbing' debate, they have all been attracted by the opportunities and risks presented by Cameroon's natural resource base, its rich biodiversity and the attempts to exploit those. These external actors differ in terms of their types (multinational companies, donors, international organizations etc.), origins (Asia, Europe and

[6] A Forest Management Unit is a well-defined and demarcated land area, predominantly covered by forests, managed on a long-term basis and having a set of clear objectives specified in a forest management plan.

the Americas) and interests (conservation, mineral exploitation, plantation agriculture etc.).

The conflicting interests amongst external actors have been the source of several contestations over land rights. For example, there is increasing conflict between actors whose goal is conservation, and those whose goal is exploitation. This is the case of the conflict between Herakles Farms and several international conservation organizations investing in the management of several national parks and protected areas (Nguiffo & Schwartz, 2013), which will be the object of our analysis. In addition, the influx of multinationals has led to increased competition within and between natural resource sectors. This can be illustrated by the competition over the Forest Management Units (FMU) of Ngoyla Mintom, between timber exploitation companies, a mining company for use as biodiversity offsets and a REDD project by Wildlife Works Carbon as well as between mining companies (Schwartz et al., 2012).

5. EXPLORING CONTESTATIONS: STRUGGLES AROUND THE SGSOC - HERAKLES FARMS LAND DEAL

In the previous sections we indicated that the rush for land has led to several contestations over land rights in Cameroon (just like in many other countries of the global South) due to the plurality of normative repertoires and the existence of overlapping claims. A prominent example is the Herakles Farms land deal in the South West Region of Cameroon. Since Global Sustainable Oils Cameroon PLC (SGSOC) is 100% owned by Herakles Farms, an Affiliate of Herakles Capital in the United States. The company signed an 'Establishment Convention' with Cameroon's Minister of Economy, Planning and Territorial Development (MINEPAT) on September 17, 2009, for the establishment of a palm oil plantation. The agreement gave the company rights to develop 73,086 hectares of land in Toko, Mundemba and Nguti Sub-divisions of the South West Region for a period of 99 years. According to the agreement, the company was expected to pay to the state treasury a land tax of \$0.50 per hectare of undeveloped land per year and \$1.00 per hectare of developed land, with an annual increase of 2% per year i.e. \$1.22 per hectare after 10 years, and \$2.69 per hectare after 50 years (Nguiffo & Schwartz, 2012:10).

As mentioned earlier, this agreement incited opposition from affected communities and activists and became a topical issue of debate. This section will concentrate on two main dimensions of the struggle: 1) the narratives used by different actors and sub-groups to claim their rights and legitimize their actions. These narratives have real effects, in the sense that they lead to action and/or legitimation. They are also manifestations of power relations. Therefore, we analyze them as 'discourses', and we identify four such discourses; 2) agency, which translates into fragmentation as well as (new) coalitions. Former opponents get united in their fight against the project, but at the same time factions and competition within groups become visible. Of course discourse is closely related to agency as it concerns not only words, but also practices. Yet for reasons of clarity, section 5.1 concentrates on narratives, which are revealed through an analysis of several statements and primary and secondary documents, while section 5.2 focuses on actions and strategies applied by some of the contesting parties. Section 5.3 then examines some provisional outcomes of the struggle.

5.1. The first dimension of the struggle: discourses

The recent investments in farmland have been perceived differently by different actors and sub-groups. Host governments, investors and some financial institutions generally see commercial land deals as an economic opportunity and call – at the best – for improved governance in land deals and better social and environmental safeguards (ACTUAR, 2012; World Bank, 2010; Borras & Francott, 2010). Affected communities, environmental and development

organizations on the other hand perceive land intensive investments as a threat to rural livelihoods, leading to dispossession of indigenous land rights. Of course there are many stances in between these opposite views. In this section we concentrate on four key discourses that the actors predominantly use: local livelihoods and development; environmental sustainability and biodiversity conservation; (il)legality and land occupation; and transparency and local participation. Remarkably, opposing parties use similar discourses to justify their actions, albeit in a different way.

5.1.1. Local livelihoods and development

The 'livelihood' discourse gained prominence in development studies in the 1990s. According to De Haan & Zoomers (2005), environmental concerns and the call to improve human development - following the first Human Development Report in 1990 - were at the basis of the debate on livelihoods. They quote Appendini (2001: 24; in De Haan and Zoomers, 2005: 30) who summarized the objective of the livelihoods approach as follows: "to search for more effective methods to support people and communities in ways that are more meaningful to their daily lives and needs, as opposed to ready-made, interventionist instruments". A livelihood system then comprises the "capabilities, assets (including both material and social resources) and activities required for a means of living" (Carney, 1998: 2). It fits well with Sen's capability approach, which holds that poverty alleviation and overall development policies should focus on improving the basic freedoms and capabilities that provides opportunities for people to live the way of life they have reason to value (Sen, 1999). The livelihood discourse gave rise to several concrete approaches – among which sustainable livelihoods and household livelihoods – developed by academics as well as NGOs and accompanied by grassroot projects in different areas.

Large scale transfer of farmlands has several implications for the way of life and livelihoods of the rural poor, especially in areas where many people depend on subsistence farming (Cotula, 2011; Saturnino, et al., 2011). Host governments, investors and other proponents of land transfers have argued that by optimizing productivity of previously 'unutilized' or 'idle' lands and creating new forms of employment, land deals will improve local livelihoods and reduce poverty. Yet local communities, NGOs and opponents of the deals have stated that local livelihoods are destroyed in the process and poor people are dispossessed of their land. Similarly, in the contestations over the proposed Herakles Farms palm oil plantation, 'livelihoods' and 'local development' were predominant narratives.

Herakles Farms repeatedly highlighted the project's contribution to local livelihoods and development in its public discourses. This contribution is first of all stated in terms of job creation. In a press release on 15 June 2011 the company stated that "Herakles Farms [will be] providing over 10.000 jobs to local people and introducing an important new growth opportunity"⁷. Yet over 80% of Herakles Farms employees are unskilled workers and 50% of those have only a temporal contract. This raises questions about the quality as well as the sustainability of these jobs. What is more, some studies estimate that an average cocoa farmer earns about twice as much as a plantation employee (Save, 2013; Greenpeace, 2013). There are also allegations of recruitment bias and wrongful termination of employment contracts. In 2014, the Fako High court levied a fine of \$4.6 million for special and general damages caused by the wrongful termination of contract of an employee and racial discrimination in recruitment process of the company (Nzohngandembou & Tembang, 2014; Ecofin, 2014). Moreover, the 2009 Convention gave the company the right to set occupational categories and minimum wages

[7] Herakles Farms, 15th June 2011 (op. cit.).

based on their own productivity and efficiency criteria. Thus Herakles Farms has the possibility to set wages lower than average minimum wage in Cameroon (CED & RELUFA, 2013). In a confidential 'value drivers' for prospective investors, Herakles Farms highlighted low salaries of employees as a strategy for profit maximization and added that wage pressures will not be experienced for many years due to high unemployment rates in Cameroon.⁸

Second, the company announced several initiatives 'to meet the social and health needs' of affected communities. In a letter to WWF Cameroon on September 28th 2011, Herakles Farms stated that "SGSOC is providing long term economic and social development to high need areas." According to a press release of 14th September 2011, the company announced the drilling of a water well in Fabe - one of the affected villages - and stated that the development of roads, schools and health clinics were to follow in 2012. In January 2013 Herakles Farms equally announced the donation of eleven tons of rice and ten tons of fish to villages within the project area: "These efforts are part of our long term commitments to develop social programs [...] such programs will enhance livelihood development."⁹

The project's contribution to local livelihoods and development was also a prominent preoccupation of local stakeholders. This was evident in the different memoranda of understanding (MOU), protest declarations, complaint letters and community meetings. A review of some of the MOUs indicates that over 60% of the provisions in each agreement focused on livelihoods and local development. One agreement signed on 25th November 2009 stipulated amongst others that "[SGSOC] shall pay to the Nguti council an annual royalty of 30% of the declared net profit [to] compensate the sacrifice of the local stakeholders [and] shall be used for local development"¹⁰. However this condition was later ejected by the company. This same agreement also had four different provisions to improve livelihoods, such as the payment of monthly stipends to the chiefdoms and the creation of buffer land for local farmers. However, this MOU was eventually suppressed and new agreements were signed between the communities and the company.

On 27 and 30 July 2010¹¹ two other agreements were signed with the communities of Nguti and Ndian respectively. 14 Out of the 18 provisions focused on the project's contribution to local livelihoods by providing or contributing to basic public services; maintaining infrastructure of local schools and providing university scholarships, providing modern wells and drinking water, investing in farm roads, providing medical clinics for personnel and local population, and providing electricity to villagers at low cost. The agreement also stated that "SGSOC will avoid damaging or including any existing farmlands within the concession area; avoid [...] physical or economic displacements [and] provide compensation for loss of assets and offer an equal or better livelihood; [...] leave out land for local out growers schemes [and] purchase resulting fresh fruit bunches (FPP); [and] create long term sustainable employment [...] with priority to indigenes." However, an analysis of these agreements illustrates that most terms are rather elusive and vague. For example, "SGSOC will produce electricity and where practicable will make surplus available to the communities at low cost."¹² Given that Herakles Farms has the discretion to determine whether or not electricity is 'surplus' or whether it is 'practicable' they could decide

[8] Cf. Herakles Farms, *Value Drivers*, March 2013.

[9] Herakles Farms press release, *Herakles farms initiates programs to meet community health and social needs*, 16th January 2013.

[10] *Specific demands presented by local stakeholders before the official and traditional handing over of land to SGSOC to carry out an oil palm plantation project in Nguti subdivision*, 25th November 2009.

[11] Two separate Memoranda were renegotiated and signed between the indigenes of Nguti, Mundemba and Toko sub-divisions and SGSOC in July 2010 after the company had bridged previous agreements with communities.

[12] Memorandum of understanding between the indigenes of Nguti Sub-Division and SGSOC, 27 July 2010

not to provide electricity to the communities.

Over 78% of all documents ensuing from communities in opposition to the project highlighted the adverse effect to local livelihoods. In this sense, most attention was focused on the damages done to farmland. For example, some communities protested against the planting of large pillars on farmlands to demarcate the land, which made it difficult for people to continue cultivating. The Communities also regretted the unavailability of land for future use due to previous allocation of large tracts for the creation of national parks and the Pamol oil palm plantation. In a complaint letter to the governor of the South West Region. The Lipenja II traditional council stated “[...] most painful to us is [SGSOC’s] deliberate destruction of our cocoa farms. It will be unfair to pledge the limited land we have left with SGSOC [...] after we have given so much to the Korup National Park (KNP) [...], Pamol plantation.”¹³ Another protest letter stated “to dispossess the communities of this lands will be tantamount to denying the people of the main source of their livelihoods.”¹⁴ Communities in Nguti sub-division expressed similar concerns regarding the adverse livelihood impacts of the project arguing that the available lands are insufficient for farming and other livelihood activities as well as for use by future generations.

National and international activists have argued that the conversion of the forest into a palm oil plantation has huge opportunity costs as it alters the local economy and culture and transforms the way of life that people value (Rainforest, 2013; Nelson & Lomax, 2013). These activists make use of the same narratives, but are more radical in their formulation than some local communities. A September 2012 article by Greenpeace is provokingly entitled “How to make forest destruction look like development”¹⁵. A blog post by an international Greenpeace campaigner puts it very bluntly as well, saying that the company destroys community assets:

“[Herakles Farms has] that wow factor that Greenpeace and other environmental organisations just love: a stubborn insistence on publicly communicating and branding themselves as truly sustainable investors while flouting the most basic principles of sustainability and community development. The contrast between their bombastic public declarations and the often unpleasant reality is stark. Herakles would have us all believe they are addressing a “dire humanitarian need” by developing a palm oil project in Cameroon, while, in reality, the company is destroying local communities’ most valuable assets; the land and forests”¹⁶.

To sum up, the narrative on livelihoods and local development is used by all actors as a tool for making claims and legitimizing actions. In this respect this section highlights two points. First, there are numerous references to the company’s impact on community access to forests and farmland, and hence its impact on their livelihoods. This impact is seen as negative, or potentially negative at least. For that reason the community needs to be compensated. This compensation – and this is the second point – comes in the form of voluntary actions the company undertakes. Such actions are in line with company’s CSR policies and are an attempt to win the ‘social license to operate’. They take two main forms: employment creation and the provision of public services. On the side of the communities, they are often very happy to accept

[13] Complaint letter against SGSOC issued by Lipenja II traditional council to the Governor of the South West on July 10th, 2010.

[14] Complaint letter by representatives of the three cultural and development associations in Mundemba and Toko sub-divisions to the Minister of State Property and Land Tenure to oppose the granting of land to SGSOC signed on 5th December 2011.

[15] Greenpeace, “How to make forest destruction look like development”, 5th September 2012, <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/forest-destruction-development-wrobel-herakles-farms/blog/42002/>

[16] <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/herakles-farms-investing-in-africa/blog/48098/>.

those. Even more, they may expect the company to create jobs for local people, to build roads and other infrastructure, to provide schools and hospitals, especially in contexts where the state has insufficient capacity to do so. Indeed, as Hall et al (2015: 472) point out, “struggles around land deals are not just either for or against land deals. Important struggles by the working class are fought *within* land deals – to (re)negotiate the *terms of their incorporation* into the emerging enterprises”. Of course, the fact that communities do not necessarily oppose inclusion and have expectations from the company, does not mean they are always satisfied with the outcomes. With respect to employment creation, questions may be raised about the quality and sustainability of jobs. With respect to social services, as was said, promises may be vague and difficult to enforce, which leaves the communities, after all, with very little power to make demands. One of the few ways to make such demands, then, is making use of the discourse of local livelihood and development and emphasizing not only the responsibility companies have to mitigate negative effects they may cause, but also the *human right* (cf. “it would be unfair to take this land away from us”) communities have to maintain their livelihoods. The fact that communities use words like ‘destruction’ and ‘dispossession’, indicates that they have partly taken over the discourses of opponents of land grabbing. Yet they may also be more careful in their formulation, as they often still have to negotiate with the company.

5.1.2. Environmental sustainability and biodiversity conservation

Another predominant narrative in the contestations against Herakles Farms was environmental sustainability and biodiversity conservation. (Environmental) sustainability has become a buzzword in the wake of the Brundtland Report on Limits to Growth and global movements against climate change and declining biodiversity. It is defined as the “maintenance of natural capital” (Goodland, 1995), meaning that natural assets such as soil, forests, water and air need to be maintained and protected for use in the future, or at least not depleted.

The overlap of the Herakles palm oil plantation within four protected areas was the main reason for which environmental activists have strongly opposed the project. Based on the data available to us, over 80% of all documents ensuing from local and international organizations mention the adverse environmental impacts including destruction of biodiversity, wildlife habitats and endangered species. Environmental activists and researchers argue that establishing a palm plantation in this area will lead to ecological fragmentation as the protected areas will become isolated from each other. This will also lead to the destruction of the wildlife corridors, thus preventing free movement of wildlife (Linder, 2013). However, different sub-groups use the discourse on environmental sustainability in different ways, depending on their interests and positions.

First of all, Herakles Farms also highlights its commitment to promote environmental sustainability in almost all public documents. It has frequently declared that no planting will be done in high conservation value areas, critical habitats, or peat-land or primary forests. Herakles Farms also commits to a no burning policy and stated its intentions to pursue strategies to maintain biodiversity and trade carbon emission reductions. For all these pledges and actions they refer to international standards on environmental protection, such as those set by the Roundtable on Sustainable Palm Oil (RSPO), a non-profit organization with over 1600 members, representing 40% of the palm oil industry. RSPO’s mission is to “unite stakeholders from the palm oil industry to develop and implement global standards for sustainable palm oil”¹⁷ As part of its ‘sustainability and green campaign’ Herakles Farms became a member of the RSPO. Yet

[17] <http://www.rspo.org/>.

following a complaint filed to RSPO secretariat by environmental NGOs alleging that the company was not respecting RSPO principles and criteria, the company again withdrew its membership in 2012. But Herakles Farms emphasized that it still maintained its commitment to develop its plantation following the highest environmental and social standards in compliance with RSPO and put in place measures to avoid and mitigate potential negative impacts. In a letter to the RSPO Secretary General, announcing its decision to withdraw its membership, Herakles Farms stated: “we remain committed to sustainable development and will follow RSPO and IFC guidelines as our standards for any development related to palm oil”.

Of course, international NGOs also made use of the discourse on environmental sustainability and biodiversity conservation. Greenpeace (2014) for example insisted that the project area has been classified as one of the 25 most important biodiversity hotspots on earth. The latter fact frequently figures in international organizations’ publications and websites and is appealing to the broader public, which should be concerned about biodiversity on a global scale. With pictures of elephants and chimpanzees, Greenpeace (2013: 9) draws attention to the “massive threats to biodiversity” as

“[T]he protected areas are home to many threatened species, including the Drill, Preuss’s red colobus, the Nigerian subspecies of the chimpanzee as well as rare amphibians, birds and plants. [Moreover] larger animals, such as elephants, chimpanzees and the endangered Drill, use the forests in the Herakles project area to forage and move among the different protected areas”.

A Greenpeace study (2013) including analysis of geo-satellite images illustrates that between 60% and 85% of the proposed area contains dense natural forest. According to a Rainforest (2013) report, an estimated 75% of the biodiversity in the area will be lost and forest clearing will lead to huge emissions of greenhouse gases thereby contributing to climate change. With such evidence, these organizations try to refute the claims made by the company that it is adhering to environmental standards, such as those included in the International Finance Corporation’s (IFC) investment guidelines (Greenpeace, 2014a). In a press release issued on 5 June 2011, the company claimed that they will avoid planting in primary forest and high conservation value forest. In the open letter of the CEO in 2012 he stated “we have performed studies that mapped out areas of old growth forest and those areas will not be touched”. Yet evidence from the company’s operations indicates over 6000 hectares of primary forest has already been cleared.

Local communities equally made reference to environmental sustainability and climate change. In an agreement signed by the elites of the Nguti Sub-divisional Cultural and Development Association (NGUSCUD), it stated “SGSOC shall prevent environmental, natural or health hazards and put in place strategies to immediately resolve them.”¹⁸ In a memorandum protesting against the land transfer, the Bassosi Cultural and Development Association (MBOUM NSUASE) noted amongst others that the project is unsustainable and will aggravate climate change problems in the area.¹⁹ In another motion against the land transfer, the traditional leaders of the Ngolo ethnic group regretted that the project will have serious environmental implications and adverse effects on conservation.²⁰

In conclusion this discourse, including the use of terms such as ‘environmental

[18] Specific demands presented by local stakeholders before the official and traditional handing over of land to SGSOC, 25th November 2009.

[19] MBOUM NSUASE submitted a memorandum to NGUSCUD on 23rd February 2011.

[20] The Ngolo chiefs’ conference signed a motion against SGSOC on 15th December 2011.

sustainability', 'biodiversity' or 'climate change', creates a common ground for local communities and international organizations to build alliances. It is more than just a narrative. Through the ideological connotation of the vocabulary that is being used, these narratives may translate into concrete collective action, as will be further illustrated. The company similarly uses the discourse of environmental sustainability and thereby refers to international laws and guidelines. Remarkably, they continue to emphasize their commitments to the principle even after their withdrawal from RSPO, precisely on those grounds.

5.1.3. (II)legality and rights

As legal pluralism teaches us, 'legality' and 'illegality' are relative notions, depending on what is considered to be law and contingent upon context, time and space. For example, the state decides, at a particular moment in time, what is in accordance with statutory law and what is not. As a consequence, the boundary between 'legal' and 'illegal' is susceptible to quite some political pressures and closely reflects power relations. In the case of Herakles Farms, competing sub groups have made claims of illegality by referring to the legal system that best represents their interests. Government agencies, local communities and NGOs accused the company for failing to respect national, customary and international law related to human rights, acquisition and demarcation of farmlands, occupation of community land, and clearing of forest. Herakles Farms based its claims in the first place on the 2009 Establishment Convention signed with the government of Cameroon, but they also frequently refer to transnational guidelines.

Several activists and researchers have questioned the legality of the 2009 Convention between the government and the company in relation to statutory and international law (Badgley, 2014; CED & RELUFA, 2012; CED & RELUFA, 2013; Dupuy & Mor Achankap, 2013; Greenpeace, 2013; Greenpeace, 2014b; Nguiffo & Schwartz, 2012; AGRECO-CEW, 2012; Mousseau, 2013). Activists argue that the convention signed by the Minister of Economy violated all legal provisions and procedures for land transfers given that only the President of the Republic has the statutory right to sign land deals involving more than 50 hectares of land. In addition, preliminary procedures such as the identification and choice of a suitable location rest with the Ministry of Land in consultation with other relevant government departments such as MINFOF (Ministry of Forestry and Wildlife) and MINADER (Ministry of Agriculture and Rural Development). Nguiffo & Schwartz (2013) noted that the convention violates national laws, breaches several international commitments and restricts government authority to intervene in situations of violation of human rights and equality of Camneronian citizens (CED & RELUFA, 2012; 2013).

According to Greenpeace (2014a), the Convention granted Herakles Farms 'legal extraterritoriality' by exempting the company from national law in areas of contradiction between the Convention and the said law. As mentioned earlier, conferring such powers to foreign investors will weaken national sovereignty and foster the disassembling of national territory (Sassen, 2013; Peluso & Lund, 2011) The Convention also violates the provision of the state tenure regime, which states that a land lease above 50 hectares can only granted by presidential decree for a temporal period of no more than 5 years. Herakles Farms was also criticized for violating a number of other statutory laws and procedures. According to Decree No 2005/0577PM of 23 February 2005, ESIA's must be completed before the commencement of any work or construction by a company. However, the company had already cleared large portions of forest in 2010 prior to the ESIA study and issuance of a certificate of environmental conformity by the Ministry of Environment.

Moreover, other ministerial agencies directly affected by the project were never consulted prior to the planning and installation of the project. AGRECO-CEW (2012), notes that the failure to associate MINADER and MINFOF in the planning and implementation of the project was a violation of the regulations in force. According to a MINFOF report, Herakles Farms illegally acquired additional land outside the proposed project area where an ESIA was conducted. The report stated that over 11.000 hectares of land had already been negotiated in different communities in Ndian and Nguti. In addition, there was evidence of illegal logging and encroachment into permanent and non-permanent forest estate, and allegations of intimidation and bribery of traditional leaders of affected villages (Badgley, 2014; Dupuy & Mor Achankap, February 2013; AGRECO-CEW, 2012). Following the allegations of illegal logging, the European Commission in June 2012 funded a fact finding mission of the independent observer for monitoring and evaluation of violations of the forest law in Cameroon (Greenpeace, 2013). The independent forest observer charged Herakles Farms for violating articles 45(1) and 46(2) of the 1994 forest law regarding unauthorized timber exploitation in a permanent forest domain (FMU 11.007). The company was levied a penalty of 24.506.000 FCFA equivalent to 50.339 USD (AGRECO-CEW, 2012:3).²¹

Local communities reproached the company for ‘illegal’ occupation of native land and ‘illegal’ planting of pillars on community land, including farmlands. According the statutory land laws, demarcation of land has to be done by a multi-stakeholder consultative board after consultation with the affected communities. On 14 August 2011, the Senior Divisional Officer for Kupe-Muanenguba made a visit to three villages in Nguti to supervise the removal of beacons planted in community lands without due respect of the procedures for demarcation of land concessions. Communities also accused the company of violating the terms of the common agreements (MOU), of forging signatures of community leaders and violating their fundamental right to development and self determination. While claiming land rights based on the customary land tenure, local communities also refer to state law and administration to adjudicate cases of violation of local land rights in order to gain more legitimacy. This was evident in a letter addressed to the Divisional Officer of Nguti Sub Division by the traditional ruler of Ebanga (a village in Nguti) on the 31 March 2012. The chief solicited the intervention of the public administration to remove the beacons planted by Herakles Farms in their community land. The letter also referred to the decree creating the sub division which designates the Divisional Officer as the competent government agent to intervene in local dispute resolutions. This illustrates the existence of forum shopping which prevails in a situation of legal pluralism.

Prior to the issuance of a land lease in November 2013, Herakles Farms had repeatedly stated that the company had obtained all relevant documents and authorizations for the project: “Herakles Farms has a long term agreement with the government of Cameroon which clearly identifies the boundaries of the project area and all necessary consents, approvals and permits required to operate legally within the country.”²² Herakles Farms equally refuted allegations of illegalities in its operations and maintained its operations have always been in compliance with state law and in collaboration with relevant government agencies. Following the suspension of its activities by MINFOF in April 2013 Herakles Farms reiterated that “the company had obtained permission to proceed and always has and will comply fully and transparently with government regulations in force.”²³

[21] Penalty levied based on article 158 of law no 94/01 of 20th January 1994.

[22] Herakles Farms Responds to Recent Reports on its Cameroon Project, 2013b.

[23] Press release of 18 may 2013 following the suspension order by MINFOF for violation of forest laws.

The findings in this section are completely in line with legal pluralism, in the sense that actors and sub-groups all have their own interpretation of (il)legality which is also, of course, connected to legitimacy and thus emphasizes the *right* to undertake certain actions (see also Hall et al, 2015). Particular groups do not confine themselves to one legal repertoire or *level* (local, customary, national, and transnational), they pick the elements that suit their claims. Perhaps a more important question then rises: which claims are the most effective? This will be addressed in section 5.3.

5.1.4. Transparency and community participation

Since the 1990s there has been a remarkable move in development practice towards participation and empowerment. Development interventions needed to be based on ‘participatory development’, ‘community participation’ and ‘local knowledge’. In other words, they needed to involve local people in decision-making processes. This discourse has also been used by some of the key players in the Herakles dispute. Yet, quite some critiques have been formulated on these kinds of discourses, as they tend to represent communities as homogenous and harmonious, and underplay a number of power inequalities *within* communities (Mohan and Stokke, 2010). We acknowledge this risk in our own research. Although we try to illustrate this heterogeneity in our analysis, the nature of our data did not allow us to fully explore it in the case of Herakles Farms.

In the view of the company, they involved ‘local communities’ through negotiating with customary chiefs. Given that the latter are perceived as the ‘custodians of customs’ and are responsible for the management of indigenous lands, it was important to obtain consent from them to enable the company to install its plantation in any village. However, seeing chiefs as community representatives can be problematic, considering the fact that chiefs are part of the elite, and do not necessarily act in the interest of the whole community. In addition, opponents of the project said that the company was using deceit, intimidation, bribery and corruption to gain support among the chiefs, and that at the same time they tried to legitimize their claims over land by referring to agreements with customary chiefs (Dupuy & MorAchankap, 2013; Badgley, 2014; Greenpeace, 2013).

These critics argued that ‘communities’ were not really involved; that the process was marred by corruption and that the company only provided fragmented information and failed to communicate the risks associated with the establishment of a plantation on community lands. Nelson & Lomax (2013) for example note that communities were asked to sign pre written documents and agreements prepared by the company without having sufficient time to review the terms of the agreement. The company refused to share these documents with the community representatives once documents were signed. The company was also accused of forging signatures and using attendance sheets signed by community representatives during public meetings. These signatures were reportedly later attached to documents that were paraded as consent documents. Local consultation during ESIA focused mainly on sharing information with some traditional authorities through a limited number of short meetings held in nearby towns. Dupuy & Mor Achankap (2013) note that where communities were consulted such negotiations often happened around crates of beer and in some cases traditional rulers were intimidated and offered money to sign documents. It was also argued that the communities did not have any comprehensive knowledge of the available land and existing land uses because there were no village land use maps. Thus, communities were unable to make informed decisions (Dupuy & Mor Achankap, 2013).

The latter issue refers to the Free Prior and Informed Consent (FPIC)²⁴ standard, which obliges companies to inform communities and seek their consent before embarking on a project (Franco, 2014). As a member of RSPO, Herakles Farms should have adopted this principle. Yet on the side of the communities there were a lot of complaints about non-involvement and misinformation. Some communities claimed that agreements with the company were understood as preliminary agreements and concrete negotiations were to proceed later. Other communities accused Herakles Farms of falsifying documents and providing false information with the intention of misleading the local administration and population.²⁵ In addition, a motion against Herakles Farms signed on 15th December 2010 by the Ngolo chiefs' conference accused the company of planting pillars and demarcating community land without prior consultation and approval of the community. One of the farmers confirmed this in an interview:

“When I returned the next day the pillar was here on my land, in the middle of my cocoa farm. [There] are hundreds of them all over, drawing out lines across our fields and forest. No one had come to talk to me about any of this” (Nelson & Lomax, 2013:19).

Some reports noted that there were variations in the information provided to investors and to local stakeholders, including the government of Cameroon. Contrary to claims in the Open letter of the CEO of Herakles Farms that the company will hand over timber from the area to government, this document states that “[...] the commercial value of the timber in the concession [...] has the potential to generate \$1000 to \$1500 of additional revenue per hectare during the land clearing process. This is a potential upside of \$60 million to \$90 million over the next 7 years.” (Herakles, 2013). Another case of such misinformation may be the information contained in the confidential value driver's document which highlights the company's intention to increase profits by paying lower salaries.

In response to these kinds of allegations, the defunct CEO of Herakles Farms issued an open letter (September 2012) in which he stated:

“There are 38 communities with approximately 8,500 inhabitants within the area surrounding the project. Support is generally widespread. It will always be difficult to satisfy everyone, so you will find a small portion of the population still unsure of the project. [T]hroughout any project's development, there will be challenges with communications between the company developers and the local people. However, we respect that there is still some hesitation toward us in the area, and we are patiently working to demonstrate that we are serious about inclusive economic development. We are incorporating best practices for such engagement into our development and have consulted with the local communities from the very beginning, from acquiring the land [...] to jointly identifying land where communities feel it is appropriate for us to plant.”²⁶

The tone in this letter seems to be euphemistic, as is illustrated by expressions such as “a small portion still unsure of the project”, “challenges” and “hesitation”. The discourse on community participation is very much present in the company's communication. Herakles Farms constantly stated that transparency and participation of stakeholders were important objectives. It highlighted several efforts to keep stakeholders informed about the development of the project:

“SGSOC has held over nine formal meetings and numerous informal discussions with communities.

[24] ‘Free prior and informed consent’ (FPIC), is the principle that a community has the right to give or withhold its consent to proposed projects. It implies informed, non-coercive negotiations between investors, companies or governments and indigenous peoples prior to the development and establishment of large-scale land deals.

[25] Complaint letter addressed to the minister of state property and land tenure by BICUD, opposing the decision to grant a land concession to SGSOC in Mundemba and Toko sub divisions, 5th September 2011.

[26] Open letter by Bruce Wrobel, CEO of Herakles Farms

The company has hired clan representatives to facilitate two-way communications with local communities. When working with local communities, we also hope to provide information in a timely and useful manner while avoiding statements that are inaccurate or unconfirmed.”²⁷

The fact that they talk about “best practices” shows to what extent the company is enmeshed in the “transnational legal system” (Szablowski, 2007) that is made up of a multitude of voluntary codes of conduct, standards and principles. Most of these principles are very much in line with the abovementioned ‘participatory turn’ in development discourse. But as is the case in many other development projects, the Herakles Farms case illustrates that practicing participation is difficult. As Cotula (2010, quoted in White et al, 2012: 633) has demonstrated, “local people and communities are rarely partners to the deal, and rarely consulted or even aware of them before they happen”. Moreover, allying with particular groups within the community (such as chiefs or other elites), risks leading to more exclusion and more opposition against the project. As will be demonstrated in the next section, the chiefs in the Herakles concession also reacted in different ways. So a large-scale land deal inevitably sets in motion some local political processes as well.

5.2. The second dimension of the struggle: agency, fragmentation and coalitions

In this section we concentrate on the agency of some of the contesting groups. We respectively discuss 1) an example of fragmentation, more particularly within ‘the state’. State agencies are supposed to act according to clear and unambiguous laws, decrees and procedures. Yet in practice, there appears to be a lot of space for interpretation and disagreement. But fragmentation also occurs within companies or within communities. Hall et al (2015) refer to the latter as “poor-on-poor conflict”; 2) an example of new coalitions that were made between communities and civil society organizations.

5.2.1. Fragmented state action

In Cameroon various government agencies intervene in different natural resource sectors, as well as at different levels and stages of the land attribution process. They each have their responsibilities and their actions are based on statutory provisions which are sometimes in conflict. This makes the land governance system quite complex. Due to competition between state agencies, state agents often make decisions without due consultation of other ministries. In the case of the Herakles land deal for example, the agreement was signed by the Ministry of Economy and Planning (MINEPAT) responsible for preparing and implementing the economic policy of the nation, as well as for planning regional development. They did not consult first – as is required by statutory law²⁸ – with the Ministry of Lands (MINCAF), which is responsible for the management of state lands, and MINADER, which is responsible for overall agricultural policy and promoting agricultural investments.

As another example of such lack of coordination between state agencies, the Ministry of Mines (MINMINDT) issued several permits inside protected areas without prior consultation and authorization from MINFOF, the agency responsible for the creation and management of all protected areas (Schwartz et al., 2012). The signing of the 2009 Convention with Herakles also violated regulations related to the procedure, type and duration of the lease as well as the signatory of the agreement. Decree No 76-166 for example requires that “unoccupied

[27] Letter from the CEO of Herakles Farms to WWF Cameroon on 28 September 2011.

[28] Article 6(2) of Decree No. 76-166 of 27 April 1976, to establish the terms and conditions of management of national lands.

national lands” can only be subject to temporary permits of not more than five years. Permits pertaining to more than fifty hectares of land can only be allocated by presidential decree.²⁹

These examples indicate that there was fragmentation of state action. As MINFOF was not involved in the initial planning and land transfer to Herakles Farms, it felt sidelined. It put in place several actions to impose its authority and control over activities in the forest sector and oppose the activities of the company. Pursuant to reports of overlap between the initial project area and the FMU11-007, the Minister of Forestry issued a notice to the company advising that an alternative site should be selected for the project in March 2009.³⁰ However, in October of the same year the Minister issued a contradictory attestation of conformity stating that “the entire concession granted to [SGSOC] have been logged and farmed repeatedly [...] the area is classified as secondary forest.”³¹ Nonetheless, a certificate of environmental conformity was issued to the company in September 2011, despite criticisms regarding the poor quality of the environmental impact study.

Several fact finding missions were organized by the South West Regional delegation of MINFOF and a technical team of the Programme for the Sustainable Management of Natural Resources South West Region (PSMNR-SWR) to investigate allegations of illegal logging and encroachment into permanent forest estates. MINFOF South West Region equally commissioned a GIS mapping of the entire proposed area and the control and evaluation of economic trees found within the area as well as to assess the existing local land uses in the area. As part of its advocacy campaign around the Herakles Farms project Technical Operation Units (TOU) of MINFOF-SWR and PSMNR-SWR organized a series of technical committee meetings on land use in March 2013 with the objective of sensitizing the affected communities on the current land use situation.

Based on the provisions of article 158 of the 1994 Forest Law, Herakles farms was eventually levied a penalty of 24,506,000 FCFA (equivalent to \$50,798.1) for unauthorized forest exploitation and violation of the 1994 forest law (MINFOF, 1994: 45(1) & 46(2); AGRECO-CEW, 2012:3). Several correspondences were also issued summoning the company to present charges but the company failed to turn up for the meetings. Due the non-adherence of the company to recommendations of MINFOF and continuous encroachment and illegal forest exploitation by the company, in April 2013, the Minister of Forestry issued a notice suspending all activities of the project in the field pending the acquisition of all required permits. According to a senior official at MINADER this suspension was later uplifted following requests from the Prime Minister, and a provisionary area of 2500 hectares was allocated by MINFOF to enable the company plant its overgrown nurseries. The decision of the prime minister was motivated by the fear of deterring investors given that the company had been acting based on the convention it signed with MINEPAT.³²

[29] *Decret N° 87/1872 du 18 décembre 1987 portant applications de la loi 85/9 du 4 juillet 1985 à l'expropriation pour cause d'utilité publiques et aux modalités d'indemnisation.*

[30] MINFOF, *approval of site of the project of the agro industrial Sithe Global Sustainable Oil Cameroon Limited*, 31st March 2009.

[31] MINFOF, *Attestation of conformity of forest map*, 6th October 2009.

[32] This information was collected during a working session with MINADER in 2013 after the suspension had been uplifted.

5.2.2. (Un)likely coalitions

In order to build a common position, increase the bargaining power of local communities and influence the land attribution process, several sub-groups formed coalitions. Ethnic groups such as 'Mboum Nsuase' – the cultural and development association of the Bassosi ethnic group in Nguti - formed coalitions with other villages to oppose the company as one entity rather than engage in individual negotiations or protests. The cultural and development associations and the chiefs' conferences of the respective sub divisions were also actively involved in sensitizing communities and addressing petitions to the government. The Nguti Sub-division Cultural and Development Association (NGUSCUDA) for example set up a think tank to investigate the opportunities and challenges of the project, to review all agreements between the communities and the company and to make recommendations for future negotiations. At one point this think tank suggested to abrogate all previous agreements between the communities in Nguti and Herakles Farms. The affected communities also solicited information sharing and capacity building support from MINFOF and several NGOs. As a result, several information sharing and sensitization meetings were organized in the villages as well as at the level of the sub divisions. Alliances were also formed between local communities and conservation organizations. Remarkably, those two had previously been competing over rights to land and use of the forest and other resources.

These coalitions were instrumental in the protest actions and complaint letters against the project. In December 2012 for example, a protest meeting organized in Nguti brought together over 1000 people as well as the traditional leaders of the villages in the area. Although the public demonstration had not been authorized by the local administration because of alleged disruption of public peace, the chiefs held a meeting with the administration to express their disapproval. The traditional authorities emphasized the need for all villages to make a unanimous stand against handing over of communal lands to the project³³ (Greenpeace, 2013). Yet, given the fact that the mandate of traditional chiefs includes supporting the government in administering the local population and that they receive a monthly stipend, the chiefs are supposed to work in collaboration with the government and local public administration, and their actions are constrained. Several protest declarations and complaint letters were addressed to the government, including the presidency, the Prime Minister, Ministers and local administration, as well as to CEO of Herakles Farms in New York and to the management of Herakles Farms. Some of these letters passed through the hands of political elites who had connections both at the village level and at the level of the central government.

But not all traditional chiefs opposed the project. Some considered it to be an economic opportunity that will create jobs, provide public services and stimulate development. Over time, several traditional rulers who initially opposed the project, changed their position and became active in lobbying local support. The chief of Talangaye for example has put in place several mechanisms to prevent any critical views from infiltrating his village. He acknowledged having single handedly decided to welcome the project in his village because he 'knows what is good for his people' (Badgley, 2014). On 4 April 2012, the Paramount Chief of the Batangas and president of the Ndian Chiefs Conference addressed an open letter to the Prime Minister, stating that NGOs were misrepresenting the position of the Ndian people. This shows that views and opinions differed and changed over time, not only among the traditional authorities, but also among the 'local population'. Thus corporate land deals are neither straightforward nor linear but a dynamic process of negotiation among diverse actors (Buckley, 2013). As was said before,

[33] Based on notes taken during the rally attended by the first author in 2013 while working for WWF Cameroon.

the communities under discussion are certainly not homogeneous.

An interesting point is that most of these coalitions, rather than just being collective action of ‘poor people’, involve some elite actors or groups. These can be politically well-connected individuals, traditional authorities or some development organization with the capacity to organize and mobilize. Local opponents of the project even managed to expand their struggle and get support from international NGOs. The advocacy campaigns carried out by environmental NGOs such as Greenpeace, WWF and Oakland Institute gave prominence to the case beyond national borders. NGOs attacked the quality and integrity of the environmental studies and community consultation processes. There were several protest demonstrations, press conferences and media campaigns organized in France, Germany, USA and a host of other countries in the west. As already mentioned, in their discourses these NGOs referred to international law and guidelines to oppose the land transfer. In this sense, they were also actively monitoring the implementation of different regulatory frameworks and voluntary standards and certification schemes such as FPIC (Free Prior Informed Consent), HCV (High Conservation Value), RSPO (Round Table for Sustainable Palm Oil), etc. These campaigns benefited from extensive local and international media coverage, including several documentaries, news reports and articles. Nonetheless, the company was also involved in extensive media campaigns to counter claims made against its project, using the media primarily as a public relations tool to disseminate information regarding its CSR activities.

However, the activities of the abovementioned NGOs with their local partners often met with disapproval from local administration. Several activists were arrested and detained and their NGOs banned for allegedly obstructing public peace. On 14 November 2012 for example, the coordinator and four staff of SEFE (Struggle to Economize Future Environment) were arrested and detained for organizing a peaceful protest during a visit of the Governor of the South West Region to Ndian. On 11 September 2013, Nature Cameroon, a local NGO, was banned from carrying out any sensitization meetings in communities within Nguti subdivision. The coordinator of SEFE was physically assaulted by personnel of Herakles Farms while he was traveling to one of the sensitization programs in August 2012 (Badgley, 2014; Jacques, 2013; Achobang, 2013).

5-3. Exploring the provisional outcomes: (re)negotiations of the Herakles Farms land deal

As seen in the previous sections, Herakles Farms faced fierce contestation. Local protest attracted international attention and became a major source of debate amongst policy makers at the national level. All these contestations also influenced the decision making process regarding the land transfer to Herakles Farms as well as the development of the palm oil plantation. Although it is too early to make an assessment of the whole process, in this section we shall examine the provisional outcomes of the struggles over land rights.

First, the company’s activities were suspended for some time. As elaborated above, a dominant narrative used against Herakles Farms’ land deal was ‘illegality’ and ‘violation of land acquisition procedures’. Following a suit against Herakles Farms by a local NGO SEFE, the High Court of Ndian Division issued an order for the company to restrain from all activities within the jurisdiction of the court. However, this court injunction was never respected by the company.³⁴ Following allegations of illegal logging and encroachment into permanent forest estates, several fact finding missions were made by MINFOF and fines were levied. In June 2012,

[34] A subsequent law suit was filed by SEFE on October 5th following the non-respect of the ruling of the Ndian High Court on 31st August 2011 ordering the restrained of Herakles/SGSOC activities.

the independent forest observer levied a penalty of \$50,000 for illegal logging. The company was also summoned by South West Regional Delegation of MINFOF on different occasions to address the situation yet failed to respect the summons.³⁵ In April 2013, the Minister of Forestry issued a notice suspending all activities of the project in the field. The suspension order stated that the company could only resume its activities after the issuance of all permits required. This suspension was uplifted in May 2013 and a provisional area of 2,500 hectares was allocated by MINFOF to enable the company to plant its overgrown nurseries. With respect to its RSPO membership, a group of complainants consisting of over ten local and international organizations, independent environmental consultants, academics and researchers filed complaints to the RSPO secretariat regarding non-compliance with principle 7 of the RSPO principles and criteria relative to responsible development of new plantings. This made it difficult for the company to obtain the necessary endorsement from the government and RSPO secretariat for planting their nurseries. After the complaint procedure, RSPO requested the suspension of forest clearing activities and organization of bilateral discussions with the complainants. On 24 August 2012 Herakles Farms withdrew its membership from RSPO.

Second, the procedure for land transfer was reinitiated in June 2013. A land consultative board was organized in Nguti, Mundemba and Toko sub-divisions with the objective of attributing a three year provisional land lease to Herakles Farms. The sitting of the land consultative board took place in Nguti on 8 June 2013 with representatives (chief and two notables) of eight villages in Nguti Sub-Division. In its allocation MINCAF said that not more than 30% of the villages' land, or a maximum of 12,248 hectares, was to be attributed to Herakles Farms. A similar meeting for thirteen villages in Mundemba and Toko Sub-Divisions took place in Mundemba on 7 June 2013. After that, a land demarcation was done with the representatives of these villages as well as the land committee and a land lease was granted to the company by presidential decree N°2013/416 of 25 November 2013. The presidential decree reduced the concession area to 19,843 hectares from the initial 73,086 hectares. The renewal and extension of the three years provisional land lease will depend upon an evaluation of the project. This is a remarkable shift from the initial 99 years land lease agreed upon in the 2009 Convention. Moreover, land was only attributed to Herakles Farms in the villages that were willing to negotiate. No land was transferred in communities that were opposed to the project and refused to give consent such as the villages in the Bassosi area in Nguti Sub-Division. Third, there was an upwards revision of the annual surface rent from the initial 250 FCFA (\$0.5) per hectare set by the 2009 Convention to 3,330 FCFA (\$6.79) per hectare. Despite the increase in land rent, this amount is still lower than the average land rents (up to \$13, 80 per hectare) paid by other agribusinesses in the country (Cotula, 2011:24).

Despite these changes, civil society activists continue to criticize the attribution of land to Herakles Farms. In a joint press release by Greenpeace and Oakland Institute the Executive Director of Oakland stated: "the Cameroonian government has shot itself in the foot with this decision. They are making it clear that under the guise of 'investment' virtually anybody can get away with illegal activities in the country and be rewarded for it..." The press release also noted that downsizing the project does not resolve the impacts of the project on local livelihoods and environment.³⁶ CED and RELUFA also expressed skepticism regarding the ability of the new terms of the land lease to transform the project into an "acceptable investment".³⁷

[35] Field report of MINFOF south west on 27 April 2012

[36] Greenpeace and Oakland Institute, Cameroon Herakles land lease signature is an alarming development, Press release 26 November 2013.

[37] Joint press release by CED and RELUFA on 25 November 2013.

It is too early though to evaluate the outcomes in terms of improved livelihoods or local development. Further research will be needed to assess whether, for example, outcomes have been more positive for villages that have been excluded from the concession.

In conclusion, we may say that these outcomes seem to testify to the significance of human agency in influencing decision making. Agency is an important concept in (development) sociology and refers to the actions of individuals or groups that alter pre-existing state of affairs (Bastiaensen, et al., 2005; Long, 2001). Though the poor often occupy the most marginal positions in political arenas, agency provides a margin of maneuver through which they can influence decisions in their favor. In the case under discussion, the contestations about the land transfer resulted in the reduction of the concession area, an increase of the rent, and the fact that land was attributed only in communities where consent was obtained. As our analysis has demonstrated, coalitions between various groups have been crucial in achieving this. Long (2001) notes that, although the agency of a group is constrained by its resources and the institutional arrangements within which it is embedded, subordinate groups can exercise some power by mobilizing their networks of social relations.

In the case of Herakles Farms, some local communities indeed mobilized networks and formed coalitions with other communities of the same ethnic groups, but they also acted at the level of the sub-divisions through the municipal councils and development associations such as NGUSCUDAs. The leaders of these ethnic groups and associations belonged to different political and social networks which gave them access to decision makers. Some local communities also solicited support and formed alliances with conservation NGOs despite the preceding conflicting land use interest. Although these subgroups have different interests, they jointly opposed the land transfer and conversion of the forest into palm plantations. Conservation organizations in a way needed the communities in order to legitimize their opposition as well as substantiate the debate around possible negative livelihood impacts. On the other hand the local communities needed the conservation organizations to gain leverage for their cause at the national and international level.

Indeed, De Haan (2000, quoted in De Haan & Zoomers, 2005:34) states that “cooperating actors are not permanent social groups [but] groups of differing composition, which present themselves depending on the problem.” In other words, coalitions are formed on the basis of shared interests, and coalitions may change in view of changing interests as well. The interventions of international organizations were significant in strengthening local opposition through information sharing, sensitization and capacity building of elites and local population. Moreover, international organizations took the campaign beyond the national borders by organizing international protest marches and lobbying with multilateral agencies and financial institutions. International organizations also provided financial support to sustain the activities of local NGOs. However, these outcomes should not be overstated as a victory of the project’s opponents. As we have said, the scale of the plantation remains quite big, and the taxes the company needs to pay are still limited. But as was said before, not all opponents were radically *against* the project. Some also just attempted to negotiate the *terms of their inclusion* (McCarthy, 2010). It is too early to do a real evaluation of the outcomes for local and national development.

6. CONCLUSION AND POLICY RECOMMENDATIONS

Given the co-existence of multiple actors and ‘bundles of rights’ associated to land, large-scale land deals often result in land use conflicts and subsequent struggles over land rights between contending sub-groups. In the case of the Herakles Farms, the proposed concession for the development of a palm oil plantation included the customary lands of about 38 villages whose population depends on agriculture, hunting and non-timber forest products. The project area is also situated within four protected areas where several conservation organizations have provided decades of technical and financial support to the Cameroonian government for the protection of endangered flora and fauna species. Moreover, the concession area encroached on the FMU 11.007 concession classified for commercial logging by MINFOF. As a consequence, the transfer of land rights to Herakles Farms was opposed by several sub-groups who perceived the project as a threat. Eventually, the government of Cameroon in 2013 revoked the 2009 Convention following an order issued by MINFOF suspending forest clearing activities. In November 2013 a new three years provisional land lease for a total of 19,843 hectares was issued.

We argue that the case of Herakles Farms has rightly been classified as ‘land grab’ because of the scale of the project, the procedures used by the company to claim land rights and the controversy around social and environmental safeguards. Land grabs often occur where there is weak governance and law enforcement. Investors may take advantage of an ambiguous land management system, lack of coordination between state agencies and corrupt public officials. Additionally, the absence of safeguards increases the risks associated with large scale land transfer and the possibility of conflicts over land rights. The Herakles Farms land transfer has implications for similar land deals in the country. Firstly, it demonstrates that the state centric approach to land management which ignores non-statutory land rights and imposes a development model without due consultation and consent of affected communities causes contestations and conflicts. In addition, it proves that notion of ‘unused land’ used by the government to justify its decision to transfer land to investors is problematic. Classifying forest areas as ‘idle’ or ‘underutilized’ ignores local land rights and leads to dispossession. Moreover, land transfer also alters the way of life that communities have reason to value. This is at the center of land use conflicts and contestations over land rights. In addition, the study reveals that conflicts over land rights are further aggravated by fragmented and uncoordinated government actions and unclear land acquisition procedures. In any case, the lessons learnt from the highly contested Herakles Farms case has already prompted similar projects in Cameroon to follow the official procedures for land deals, actively consult local populations and involve all stakeholders. As a result of the challenges encountered by Herakles Farms, some companies such as Sime Darby³⁸ left the country, while other companies have increased efforts to respect statutory procedures for land deals.

This study makes two arguments: 1) different sub-groups that are opposing or supporting the large-scale land deal make use of particular (and sometimes similar) discourses; their narratives are manifestations of power relations and have real effects, leading to action and/or legitimation. But on the other hand they are also pretty mainstream in echoing prevailing development discourses; 2) agency in this struggle translates into fragmentation within and

[38] Sime Darby is a Malaysian palm oil company which requested 300,000 hectares of land for the establishment of a palm oil plantation in Cameroon. The company later withdrew because the area allocated in the East region was close to several national parks and was overlapping with mining, biodiversity offset and timber concessions as well as indigenous rights (Hoyle & Levang, 2012).

between groups as well as (un)likely old and new coalitions. Former allies start to compete and become divided, while former opponents unite on a common ground. A large-scale land deal cannot be analyzed as the outcome or the product of negotiations; it is a process. It is constantly (re)negotiated, even and especially after the contract has been signed. That is why it is worth looking- as we have done in this paper – at the process of the struggle as such and the provisional outcomes, rather than to make an impact evaluation of the deal.

Our analysis shows that the contending sub-groups used particular narratives – some of them very similar to narratives used by the company, albeit in a different way - to contest the land transfer and mobilize international as well as local support. Coalitions were formed between and within villages, ethnic groups and NGOs, but also between previously conflicting actors such as environmental NGOs and local communities. This highlights the importance of agency and collective action around common stakes. Indeed, although social relations may reinforce the subordination of the poor in some instances, the possibility of mobilizing networks by the poor also provides a window of opportunity for empowerment. But one should keep in mind that these networks rarely consist of ‘poor’ or ‘marginalized’ groups only. They generally involve some ‘elite’ individuals or groups, being politically well-connected or having the right resources, skills and capacities to mobilize the *right* networks (not just *any* network). In the case of Herakles Farms for example, the alliance between local communities and international NGOs drew international attention to local struggles and increased pressure for the government to act and change the situation. Yet in this context it should be noted that within the communities, not everyone opposed the project. This raises crucial questions about how to define ‘the community’ and how representative self-claimed representatives are. The provisional outcomes of the struggles around the Herakles land transfer, namely the revision of the 2009 Convention, are known and have been presented in this paper. Yet it is too early to assess their impact on livelihoods and development in the villages in the concession area.

This paper concludes with some reflections on the effective consultation and participation of all stakeholders. In order to increase the bargaining power of the most marginalized groups, policies should first of all address the underlying structural factors that determine the power dynamics between sub-groups and reproduce relationships of dominance and control, thereby maintaining the poor in a subordinate position. Merlet (2007) suggests that policy interventions should focus on empowerment of the marginalized groups in different political arenas. This is not an easy task, but the Herakles case suggests that collective action may play a key role in such empowerment. The government should in any case create an enabling environment in which collective action can thrive, and not discourage it, as some local administrations did by banning sensitization meetings and harassing local NGO representatives. The local NGOs had a crucial role in sensitization and information sharing, which is very important for communities who need to make informed decisions when negotiating with investors. In addition, there should be effective consultation and participation of all stakeholders prior to any land transfer agreements with investors. Presently consultation and participation of affected communities only occur after the government has signed preliminary agreements with the investor. Thus communities see consultation as a mere formality and feel they can no longer oppose the land transfer. According to the ESIA study, consultations were only carried out in few villages. Companies only provide fragmented information focusing on the project’s benefits. Moreover, negotiations happen around crates of beer and communities are often required to instantly sign agreements already prepared by the legal counsel of the companies. Finally, communities should not feel compelled to accept a project and villages where consent was not ob-

tained should be excluded from the land deal. This principle was eventually adopted in the case of Herakles. Though consultation will not eliminate land use conflicts and it will be difficult to make sure that 'all' stakeholders are included on equal terms, it could considerably reduce the struggles over land rights.

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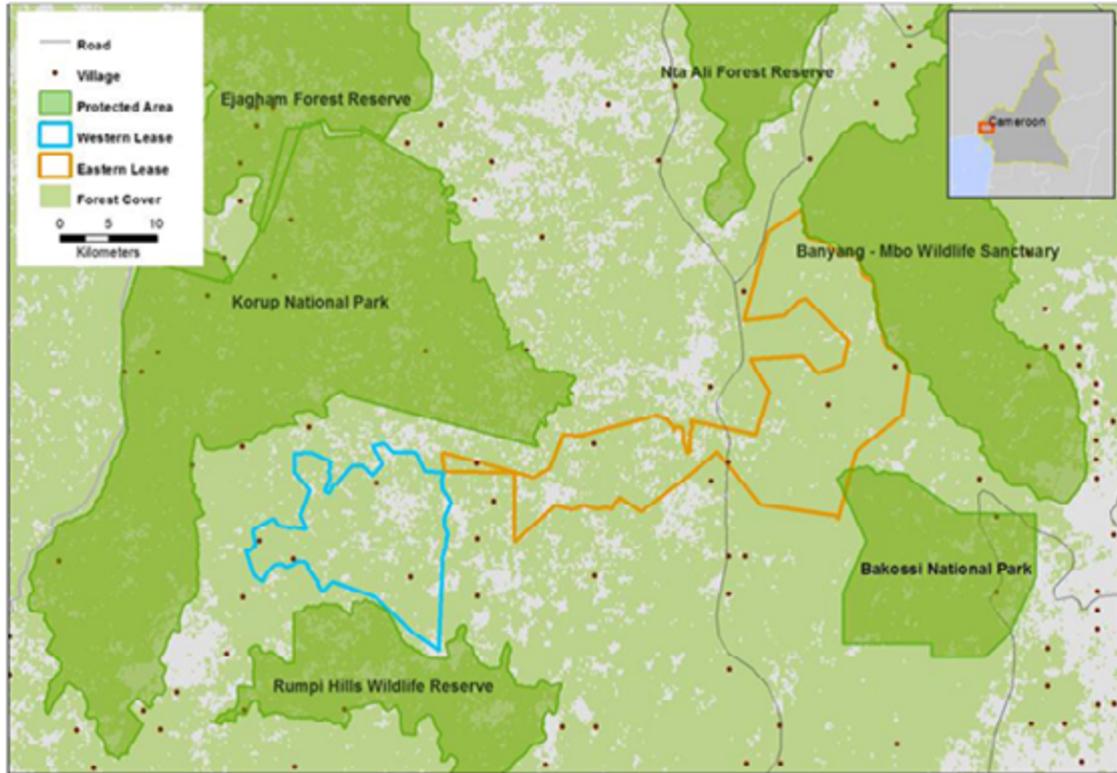
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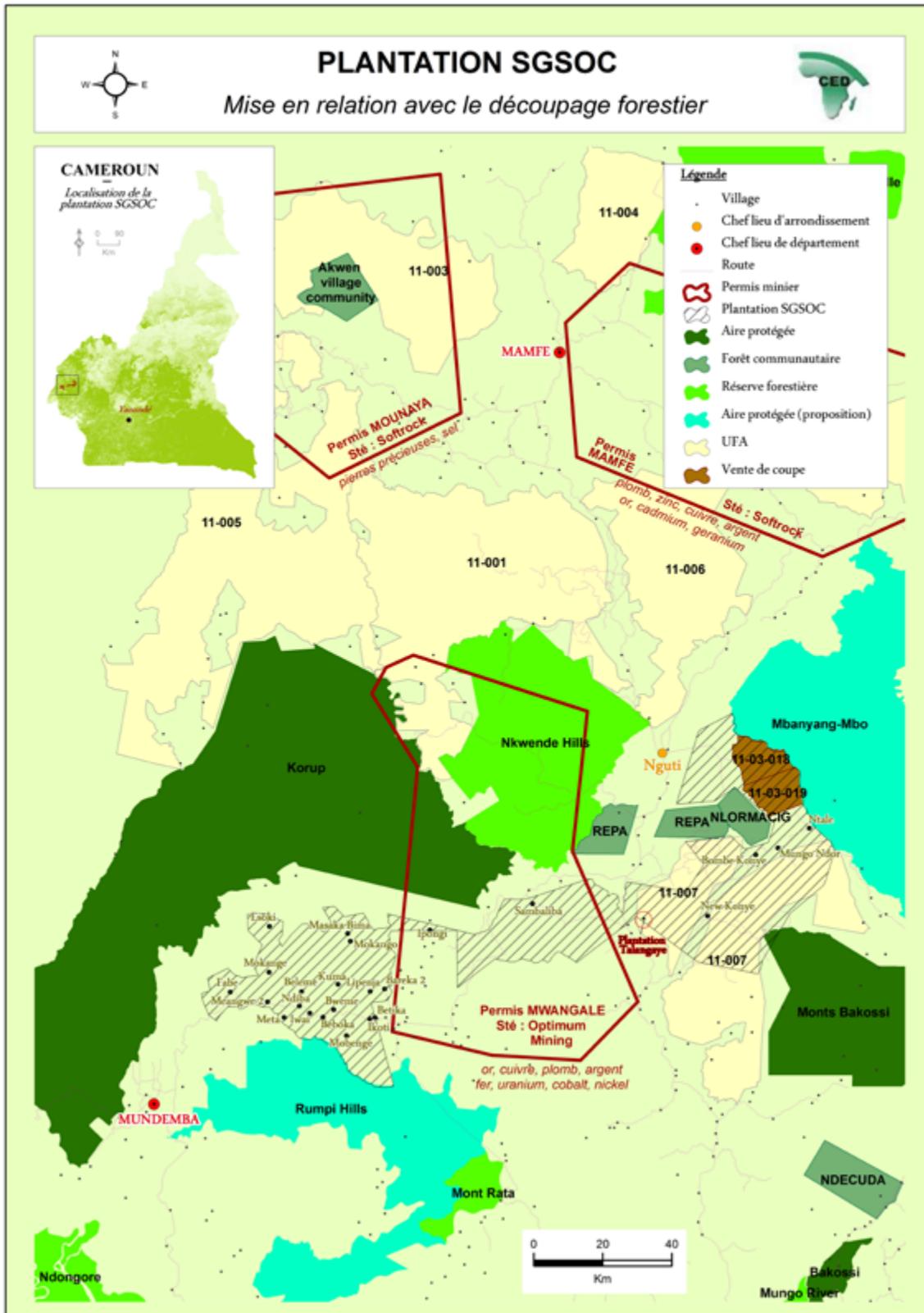
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MAPS OF THE **SGSOC** CONCESSION







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